

Income/Franchise:

Florida: Service Providers Must Source Receipts Based on Costs of Performance Sourcing Methodology

Case No. 2020 CA 000435, Fla. Cir. Ct., Leon County (3/1/23). In a case involving primarily out-of-state financial technology service providers, a Florida circuit court (Court) recently held that Florida's corporate income tax administrative rule on sourcing receipts from services, Rule 12C-1.0155(2)(l), F.A.C., requires application of a "cost of performance" sourcing methodology rather than the Florida Department of Revenue's (Department) attempt to impose a "market-based" sourcing methodology on the taxpayers pursuant to a corporate income tax audit. In doing so, the Court referenced a Florida circuit court decision from 2022 that permitted the taxpayer to source the service receipts at issue outside of Florida based on costs of performance [see *State Tax Matters*, Issue 2022-47, for more details on the earlier ruling], and held that the Department's interpretations in this case contradict the plain language of its administrative rule and Florida law. The Court also concluded that the Department's "inconsistent interpretation of its own regulations violates Florida's Taxpayer Bill of Rights, which ensures to all Florida taxpayers the fair and consistent application of tax laws." As such, the Court granted the taxpayers' request for summary judgment reversing the Department's "market-based" sales factor audit assessments and sustaining the taxpayers' costs of performance sourcing methodology. The Court also stated that it will issue a final order in this case at a later date; therefore, this decision may not be final. Please contact us with any questions.

[URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2022/STM/221202_7.html](https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2022/STM/221202_7.html)

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