

## Sales/Use/Indirect:

### Wisconsin Tax Appeals Commission Holds Online Platform's Secondary Ticket Sales are Taxable

*Case No. 16-S-268*, Wis. Tax. App. Comm. (2/28/23). A three-member panel of the Wisconsin Tax Appeals Commission (Commission) held that an out-of-state company operating an online marketplace where tickets to sporting events, concerts, theater and other live entertainment services were bought and sold owed state sales and use tax on the full purchase price of all tickets sold to events in Wisconsin during the prior periods at issue, concluding that such sale of tickets for admission on the marketplace constituted a sale at retail under Wisconsin law. In this respect, the Commission reasoned that the sale at retail of admissions to venues located in Wisconsin constitutes a sale at retail in Wisconsin. The company unsuccessfully claimed that because the tickets were merely representations of the admissions being sold, and it was only involved in selling the tickets for admissions, it could not be held liable for tax on those sales. Rejecting this argument, the Commission did agree with the company that it was not a "ticket broker" as that phrase is commonly understood because it did not buy tickets, hold an inventory of tickets, and then sell those same tickets to buyers; accordingly, the Commission held that the Wisconsin Department of Revenue's (Department) imposition of underlying penalties was inappropriate given the facts, law, and Department publications in place at the time of the transactions at issue. Please contact us with any questions.

**URL:** <https://taxappeals.wi.gov/Documents/Decisions/2022-/StubHub%20Final%20RO.pdf>

— Linda Joers (Milwaukee)  
Managing Director  
Deloitte Tax LLP  
ljoers@deloitte.com

Inna Volfson (Boston)  
Managing Director  
Deloitte Tax LLP  
ivolfson@deloitte.com

Jeremy Blodgett (Milwaukee)  
Senior Manager  
Deloitte Tax LLP  
jblodgett@deloitte.com

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms or their related entities (collectively, the “Deloitte organization”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.

#### **About Deloitte**

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see [www.deloitte.com/about](http://www.deloitte.com/about) to learn more.

Deloitte provides industry-leading audit and assurance, tax and legal, consulting, financial advisory, and risk advisory services to nearly 90% of the Fortune Global 500® and thousands of private companies. Our professionals deliver measurable and lasting results that help reinforce public trust in capital markets, enable clients to transform and thrive, and lead the way toward a stronger economy, a more equitable society and a sustainable world. Building on its 175-plus year history, Deloitte spans more than 150 countries and territories. Learn how Deloitte’s approximately 415,000 people worldwide make an impact that matters at [www.deloitte.com](http://www.deloitte.com).