

## Income/Franchise:

### South Carolina ALJ Holds DOR Authorized to Require Combined Reporting and Taxpayer Must File Combined Return

*Case No. 19-ALJ-17-0416-CC*, S.C. Admin. Law Ct. (8/8/23). In a 65-page opinion, an administrative law judge (ALJ) with the South Carolina Administrative Law Court held that the South Carolina Department of Revenue (Department) has the authority to require combined unitary reporting under state law – specifically, pursuant to South Carolina’s alternative apportionment provisions under S.C. Code subsection 12-6-2320(A)(4). Moreover, the ALJ concluded that, under the facts in this case, separate entity reporting did not fairly reflect the parent company’s in-state business activity during the audit years at issue, and the Department’s decision to require combined unitary reporting was reasonable and equitable under S.C. Code subsection 12-6-2320(A)(4). Commenting on the parent company and its affiliated subsidiaries, the ALJ explained that “while no method of apportionment is perfect, I find that combined unitary reporting has the benefit of removing the unreliable transfer price(s) in this case” while recognizing the value flowing amongst the group and “carving out only the income from retail sales associated with South Carolina” (*i.e.*, the parent company’s in-state business activity). Please contact us with any questions.

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