

Sales/Use/Indirect:

Missouri High Court Affirms Intercompany Resales of Configured IT Equipment Qualify for Exemption

Case No. SC99998, Mo. (11/7/23). The Missouri Supreme Court (Court) affirmed [see *State Tax Matters*, Issue 2023-6, for details on the Missouri Administrative Hearing Commission's earlier ruling] that a wholly owned limited liability company (LLC) organized under a tiered structure that purchased information technology (IT) equipment that it intended to resell to its retail store affiliates, but which installed software and otherwise processed and configured the IT equipment for its affiliates before reselling it to them with a fixed markup, nevertheless qualified for Missouri's resale exemption. In doing so, the Court explained that because the LLC resold the IT equipment with a fixed markup, any added value from preparing the IT equipment for resale was reflected in the resale price and was subject to taxation. Moreover, the Court rejected the Missouri Department of Revenue's claims that the LLC's installation of software and hardware, testing, and repackaging for delivery showed that it did not hold the IT equipment solely for resale and, instead, agreed with the Missouri Administrative Hearing Commission that there was no dispute that the LLC purchased the IT equipment with the intention to resell it to purchasers – thus qualifying the intercompany transactions at issue for Missouri's resale exemption. Please contact us with any questions.

URL: <https://www.courts.mo.gov/file.jsp?id=202594>

URL: https://dhub.deloitte.com/Newsletters/Tax/2023/STM/230210_10.html

— Collin Koenig (Kansas City)
Senior Manager
Deloitte Tax LLP
cokoenig@deloitte.com

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