

## Income/Franchise:

### Michigan Department of Treasury Comments on US Supreme Court's Recent Decision to Not Review Apportionment Case

*Treasury Update Newsletter*, Mich. Dept. of Treasury, Tax Policy Division (11/23). A newsletter published by the Tax Policy Division of the Michigan Department of Treasury (Department) comments on the US Supreme Court's recent decision to not review the Michigan Supreme Court's 2023 ruling that the business income of an out-of-state taxpayer is apportionable even if the sale of a business occurred in another state so long as the tax is assessed in a proportionate manner [see Docket No. 23-443, US (petition for cert. denied 11/20/23) and *State Tax Matters*, Issue 2023-47, for more details on the US Supreme Court's denied review]. According to the Department, "this concludes the case and preserves the opinion of the Michigan Supreme Court that is precedential," as well as confirms that "the relevant question remains whether the sales factor fairly represents the business activity conducted in Michigan during the tax period." The Department also explains that using an apportionment formula that differs from the single sales factor formula requires Department approval pursuant to an alternative apportionment method petition, and taxpayers must prove by clear and cogent evidence that the income in question is not related to their in-state business activities. Please contact us with any questions.

**URL:** [https://www.michigan.gov/treasury/-/media/Project/Websites/treasury/Newsletters/Treasury-Update-Newsletter\\_Nov2023.pdf](https://www.michigan.gov/treasury/-/media/Project/Websites/treasury/Newsletters/Treasury-Update-Newsletter_Nov2023.pdf)

**URL:** <https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/23-443.html>

**URL:** [https://dhub.deloitte.com/Newsletters/Tax/2023/STM/231201\\_3.html](https://dhub.deloitte.com/Newsletters/Tax/2023/STM/231201_3.html)

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