

Income/Franchise:

South Carolina: Amended ALJ Ruling Still Says Taxpayer Must File a Combined Return

Docket No. 19-ALJ-17-0416-CC: Order Granting Motion for Reconsideration & Amended Order, S.C. Admin. Law Ct. (12/4/23). Granting the taxpayer's motion for reconsideration of a combined reporting ruling from earlier this year [see Case No. 19-ALJ-17-0416-CC, S.C. Admin. Law Ct. (8/8/23) and *State Tax Matters*, Issue 2023-32, for details on the earlier ruling], an administrative law judge (ALJ) with the South Carolina Administrative Law Court issued an amended opinion still holding 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 South Carolina Department of Revenue's (Department) decision to require combined unitary reporting was reasonable and equitable. The ALJ continued to explain 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). The ALJ also concluded that in showing by a preponderance of the evidence that combined unitary reporting was reasonable and equitable under the facts, the Department had the authority under state law to require the taxpayer to file its South Carolina income taxes during the audit period using combined reporting. Please contact us with any questions.

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