

## Income/Franchise:

### Michigan Appellate Court Says Holding Company Has Nexus for City of Detroit Income Tax Purposes

*Case No. 363984*, Mich. Ct. App. (1/4/24). In an unpublished opinion involving City of Detroit, Michigan (City) corporate income tax nexus, the Michigan Court of Appeals (Court) reversed a 2022 Michigan Tax Tribunal (Tribunal) ruling on remand from the Michigan Supreme Court and Court to reconsider the case facts in light of *Wayfair* [see Docket No. 16-000724-R, Mich. Tax Trib. (8/19/22) and *State Tax Matters*, Issue 2022-34, for more details on this 2022 ruling], concluding instead that the holding company at issue was subject to the City's income tax. In doing so, the Court reasoned that the company's officers and agents, located in the City, took many actions on the company's behalf and their work was primarily done within the City. These actions, the Court explained, were sufficient to show a nexus between the company and the City – and the Tribunal “erred when it ruled otherwise.” Moreover, the Court explained that while there may have been some exceptions – such as reading some documents at home or while traveling – no evidence demonstrated that the company's principal place of business was anywhere but within the City. In this respect, according to the Court, the company had nexus with the City because it availed itself of the substantial privilege of carrying on business in the City.

**URL:** [https://www.courts.michigan.gov/48d1e5/siteassets/case-documents/uploads/opinions/final/coa/20240104\\_c363984\\_42\\_363984.opn.pdf](https://www.courts.michigan.gov/48d1e5/siteassets/case-documents/uploads/opinions/final/coa/20240104_c363984_42_363984.opn.pdf)

**URL:** <https://www.michigan.gov/taxtrib/-/media/Project/Websites/taxtrib/Entire-Tribunal-Decisions/2022/16-000724-sd-final.pdf>

**URL:** [https://dhub.deloitte.com/Newsletters/Tax/2022/STM/220826\\_2.html](https://dhub.deloitte.com/Newsletters/Tax/2022/STM/220826_2.html)

The Court also held that the Tribunal erred when, while granting the company's motion for summary disposition in 2022, it ruled that the three-factor accounting method applied in this case. That is, because the company's business “involves substantial business activities other than sales of goods and services,” the Court explained that another method of allocation must be used pursuant to applicable City income tax act provisions. According to the Court, this other method resides in MCL 141.625, which permits “[a]n alternative method of accounting” to be used. However, what type of method to use “necessarily involves the exercise of discretion and is not properly considered on summary disposition;” therefore, the Court reversed and remanded the case back to the Tribunal “for further non-summary-disposition proceedings.” Please contact us with any questions.

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