

Income/Franchise:

South Carolina: ALJ Denies Second Motion for Reconsideration of Ruling Mandating Combined Return

Docket No. 19-ALJ-17-0416-CC: Order Granting Motion for Reconsideration & Amended Order, S.C. Admin. Law Ct. (1/3/24). Denying the taxpayer's second motion for reconsideration of a mandatory combined reporting ruling from late last year [see Case No. 19-ALJ-17-0416-CC, S.C. Admin. Law Ct. (8/8/23; 12/4/23) and *State Tax Matters*, Issue 2023-48, for details on the original Final Order and Amended Final Order in this case], an administrative law judge (ALJ) with the South Carolina Administrative Law Court (Court) issued another order finding that the taxpayer's offered arguments in the motion have been adequately addressed by the Court's Amended Final Order. In that Amended Final Order, the Court concluded that, under the facts in the 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. Responding to some of the taxpayer's claims in the motion, the ALJ explained that the existence of an incorrect transfer price was not the sole evidence relied upon by this Court in deciding that the taxpayer's in-state business activity was not fairly represented with separate company filing. Moreover, contrary to the taxpayer's assertions that the Court "essentially engaged in its own transfer price analysis," the ALJ stated that nowhere in the Court's original Final Order or in its Amended Final Order did it engage in, or attempt to engage in, its own transfer price analysis. Rather, "to the extent the Court engaged in an analysis of the evidence presented to it for its interpretation, it engaged in a simple mathematical exercise utilizing numbers provided by the experts in this case." Please contact us with any questions.

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