

Sales/Use/Indirect:

South Dakota: Taxpayer Asks US Supreme Court if Use Tax Imposition on Equipment's One-Day Use In-State is Constitutional

Docket No. 23-____, US (petition for cert. filed 5/7/24). In a case involving a Minnesota-based construction company's use of equipment for one day in South Dakota, which was originally purchased outside South Dakota without it having paid sales taxes on the property out-of-state, the taxpayer has petitioned the US Supreme Court to consider whether South Dakota's imposition of an "unapportioned use tax" on the fair market value of its movable construction equipment violates the fair apportionment requirement of the Commerce Clause. Earlier this year, the South Dakota Supreme Court held that South Dakota's use tax imposition on the equipment was valid, satisfying all four prongs of the Complete Auto test, and did not violate the Commerce Clause or Due Process Clause [see Case No. 30280, S.D. (2/7/24) and *State Tax Matters*, Issue 2024-7, for more details on the South Dakota Supreme Court ruling]. Please contact us with any questions.

URL: <https://ujs.sd.gov/uploads/sc/opinions/302805f0f87d.pdf>

URL: https://dhub.deloitte.com/Newsletters/Tax/2024/STM/240216_10.html

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