

Income/Franchise:

Ohio: Couple's Gain from Sale in Equity Interest of Company Deemed Apportionable Business Income

Final Determination: Refund Claim No. 0044350439, Ohio Dept. of Tax., Tax Commissioner's Office (3/28/24).

In a determination involving a nonresident couple that filed an amended 2018 Ohio individual income tax return claiming a refund based on 2016 Ohio Supreme Court caselaw holding that Ohio's taxation of capital gain from the sale of equity interest in a limited liability company was unconstitutional as applied to that taxpayer, the Ohio Department of Taxation (Department) denied the couple's refund claim based on their gain from sale of equity interest in a national skincare company that did business in Ohio – reasoning that unlike the 2016 Ohio Supreme Court case facts, the couple in this case was actively involved in the company's business operations. In this respect, the Department held that the couple's underlying gains must be apportioned to Ohio and were *not* allocable outside Ohio. Furthermore, the Department held that the couple's gains constituted apportionable business income under Ohio law. Under the facts in this case, the wife (a dermatologist) had founded the skincare company, developed products for the company, acted as a spokesperson for the company, and was featured prominently on the company's website. Please contact us with any questions.

URL: <https://nsdhub.com/3R6T6ti>

— Courtney Clark (Columbus)
Partner
Deloitte Tax LLP
courtneyclark@deloitte.com

Norm Lobins (Cleveland)
Managing Director
Deloitte Tax LLP
nlobins@deloitte.com

Paige Purcell (Columbus)
Senior Manager
Deloitte Tax LLP
ppurcell@deloitte.com

Matt Culp (Columbus)
Senior Manager
Deloitte Tax LLP
mculp@deloitte.com

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