

Income/Franchise:

South Carolina: Credit Card Network's Income Producing Activity is Facilitating Payments Between Merchants and Customers

Docket No. 20-ALJ-17-0008-CC, S.C. Admin. Law Ct. (6/3/24). In a case involving an out-of-state credit card payment processor arguing that its role and purpose in credit/debit card transactions is merely to connect issuer and acquirer banks, an administrative law judge with the South Carolina Administrative Law Court (Court) sided with the South Carolina Department of Revenue (Department) in a 53-page opinion to hold that such characterization “ignores the reality of a credit/debit card transaction” – concluding instead that the company’s income producing activity is from the provision of a credit card network that facilitates cashless payments for goods and services between merchants and customers, some of which occurred in South Carolina. Moreover, the Court held that the Department’s calculation of the company’s taxable income in South Carolina by way of a proxy for the gross receipts attributable to South Carolina was a reasonable approximation of its income from the in-state income producing activity – especially in light of the fact that the company “did not produce its actual fee income from South Carolina initiated credit and debit card transactions or offer any alternative method for calculating its taxable income in South Carolina.” However, the Court waived some underlying penalties given the “complexity of the issues presented,” including sourcing a corporate taxpayer’s income based on “what could be perceived to be of the actions of its customer’s customer.” Please contact us with any questions.

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