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Income/Franchise:
Minnesota: Multinational Company Must Use Alternative Apportionment to Account for Foreign Currency Hedging

Case No. 9485-R, Minn. Tax Ct. (6/24/24). In a case involving a multinational science and technology company that managed its foreign currency exchange exposure through an in-house program that buys and sells forward exchange contracts (FECs), the Minnesota Tax Court (Court) held that:
URL: https://mn.gov/tax-court-stat/published%20orders/2024/E.I.%20du%20Pont%20v.%20COR%2006-24-24.pdf

- Minnesota's standard statutory apportionment method for Minnesota corporate franchise tax purposes, as applied to the company, did not fairly reflect all of its taxable net income allocable to Minnesota for the tax years at issue; and
- The Minnesota Department of Revenue's alternative apportionment method, excluding FEC gross receipts from the calculation of the apportionment factor but including net income from FEC transactions, fairly reflected its net income in Minnesota for the tax years at issue.

In doing so, the Court explained while the FEC transactions at issue constitute an ordinary business activity for the company and are "an unquestionably prudent risk management practice," they only play a supportive risk management function (*i.e.*, to mitigate cash flow volatility associated with foreign exchange rate fluctuation and to protect the value of the company's assets, operations, and cash flows) – which is "distinct from its other business practices." The Court reasoned that, under these facts, including FEC gross receipts in the company's Minnesota apportionment factor substantially distorted its income arising from taxable business activities in Minnesota, "as it quantitatively distorts total sales, net income, and, ultimately, the apportionment factor by nearly threefold." Please contact us with any questions.

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