

Income/Franchise:

New York: Advisory Opinion Explains Sourcing of Receipts from Sales and Installation of Lighting

TSB-A-24(1)C, (11)S, N.Y. Dept. of Tax. & Fin. (7/30/24). A New York Department of Taxation and Finance advisory opinion involving a company selling and installing commercial lighting fixtures concluded that where the company transfers possession of the fixtures to a purchaser within New York State or the final destination of the property is a point in New York State, the receipts for the sale of those fixtures must be apportioned to New York for Article 9-A corporation franchise tax purposes. Under the provided facts, the opinion explains that if the purchase order designates the destination location as a point within New York State, “that would constitute sufficient evidence to rebut the presumption that the destination of the property is a point outside New York State, and the receipts for the sale must be apportioned to New York.” Alternatively, if the purchase order does not show the destination location as a point within New York State and, in the absence of such information or other evidence demonstrating the destination location, “the presumption that the final destination of the property is a point outside New York State will not be rebutted.” In instances where the company provides for transportation of the fixtures (and thus would have shipping documents designating the destination location), then the receipts for the sale must be apportioned to New York State if such documents or other evidence demonstrates that the destination location is a point within New York State. Moreover, the opinion explains that if the company installs the fixtures, or otherwise has documentation demonstrating that the destination location of the property is a point within New York State, “such evidence will rebut the presumption that the final destination of the property is a point outside New York State, and the receipts must be apportioned to New York.”

URL: https://www.tax.ny.gov/pubs_and_bulls/advisory_opinions/multitax/24-1c11s.htm

For sales and use tax purposes, the advisory opinion concluded that the company must pay New York sales or use tax on the sales of lighting fixtures that include installation at a location within New York (unless the company timely receives a properly completed Form ST-124, *Certificate of Capital Improvement*, in which case it would be relieved of the obligation to collect sales tax), and also on fixtures sold without installation where it delivers the fixture to the customer or its designee in New York. Please contact us with any questions.

— Don Roveto (New York)
Partner
Deloitte Tax LLP
droveto@deloitte.com

Josh Ridiker (New York)
Managing Director
Deloitte Tax LLP
jridiker@deloitte.com

Jack Trachtenberg (New York)
Principal
Deloitte Tax LLP
jtrachtenberg@deloitte.com

Ken Jewell (New York)
Managing Director
Deloitte Tax LLP
kjewell@deloitte.com

Mary Jo Brady (Jericho)
Senior Manager
Deloitte Tax LLP
mabrady@deloitte.com

Jeremy Sharp (Washington D.C.)
Senior Manager
Deloitte Tax LLP
jesharp@deloitte.com

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms or their related entities (collectively, the “Deloitte organization”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.

About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

Deloitte provides industry-leading audit and assurance, tax and legal, consulting, financial advisory, and risk advisory services to nearly 90% of the Fortune Global 500® and thousands of private companies. Our professionals deliver measurable and lasting results that help reinforce public trust in capital markets, enable clients to transform and thrive, and lead the way toward a stronger economy, a more equitable society and a sustainable world. Building on its 175-plus year history, Deloitte spans more than 150 countries and territories. Learn how Deloitte’s approximately 415,000 people worldwide make an impact that matters at www.deloitte.com.