

Sales/Use/Indirect:

Illinois Appellate Court Affirms that Aircraft Owner Had Substantial Nexus Based on In-State Physical Presence

Case No. 1-23-1389, Ill. App. Ct. (10/30/24). In a case involving whether Illinois use tax could be assessed on an out-of-state company for its aircraft's in-state use, an Illinois Appellate Court (Court) affirmed a 2023 Illinois Tax Tribunal (Tribunal) ruling [see Case No. 22 TT 04, Ill. Tax Trib. (7/5/23), and *State Tax Matters*, Issue 2023-38, for more details on this 2023 ruling] that under the provided facts, the company had substantial nexus with Illinois based on its (and its aircraft's) in-state physical presence and activities. Among the facts, the company purchased the aircraft using an Illinois address and through its Illinois-based representative, registered it with the Federal Aviation Administration (FAA) in Illinois. The company also leased the aircraft to, among others, an Illinois-based company with Illinois offices; in so doing, the company's Illinois-based representative managed the leases for the company from Illinois, held the company and the aircraft out as based in Illinois, and oversaw approximately 200 hours of repairs and modifications conducted over a six-week period by a company located in Illinois. Moreover, the aircraft regularly took off, landed, and/or was overnighed in Illinois. Under these facts, the Court held that the Tribunal correctly concluded that the record failed to show a basis for the taxpayer's claim of constitutional immunity from taxation, "either regarding its activity with a substantial nexus with Illinois or the fair relation of the tax to the services provided by Illinois." Please contact us with any questions.

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URL: <https://taxtribunal.illinois.gov/content/dam/soi/en/web/taxtribunal/documents/rules-decisions/22tt04.pdf>

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