

Income/Franchise:

New York: Receipts from Certain Buy/Sell Arrangements Cannot be Included in Receipts Factor

Decision DTA Nos. 829399, 829400, 829401, and 829402, N.Y. Tax App. Trib. (11/18/24). Affirming an administrative law judge (ALJ) ruling [see *Determination DTA No. 829399*, N.Y. Div. of Tax App., ALJ Div. (5/4/23) and *State Tax Matters*, Issue 2023-20, for more details on the underlying ALJ ruling in this case], the New York Tax Appeals Tribunal (Tribunal) rejected an oil and gas company's attempt to include in its receipts factor for Article 9-A apportionment factor purposes gross amounts attributable to the sale side of certain buy/sell transactions to acquire inventory for the prior years at issue. In doing so, the Tribunal agreed with the ALJ that the taxpayer's sale side of the buy/sale transactions were not sales of tangible personal property constituting business receipts and that the buy/sell transactions constituted exchanges of inventory. Under the facts, for financial reporting purposes, any gain or loss on these buy/sell arrangements was considered to be an adjustment to the company's costs of goods sold rather than gross receipts or sales. A dissenting opinion follows. Please contact us with any questions.

[URL: https://www.dta.ny.gov/pdf/decisions/829939.dec.final.pdf](https://www.dta.ny.gov/pdf/decisions/829939.dec.final.pdf)

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