

Sales/Use/Indirect:

Maryland: Company's Equipment Deemed Predominantly Used in Exempt Production Activity Rather than Non-Exempt Delivery

Case No. C-02-CV-22-000534 (No. 81), Md. Ct. App. (11/22/24). In a case involving, among other issues, whether an electric utility company was eligible for Maryland sales and use tax refunds on certain equipment, the Maryland Appellate Court (Court) agreed with the Maryland Tax Court that, based on the provided facts, the company predominantly used certain conductor, substation, and transformer equipment for Maryland sales and use tax-exempt "production activity" rather than non-exempt delivery of electricity and therefore qualified for underlying refunds on such equipment. In doing so, the Court held there was substantial evidence in the record to support the Maryland Tax Court's conclusion that some of the company's conductor equipment, substation equipment, and transformer equipment was "integral and essential" to a production activity and served that purpose more than 50% of the time. Among its arguments to the contrary, the Maryland Comptroller unsuccessfully claimed that based on the provided facts, certain equipment "at best" was equally used for delivery and processing and thus negated the possibility that processing was the predominant use. Please contact us with any questions.

URL: <https://www.mdcourts.gov/data/opinions/cosa/2024/0081s23.pdf>

— Joe Carr (McLean)
Managing Director
Deloitte Tax LLP
josecarr@deloitte.com

Mihir Kapadia (McLean)
Senior Manager
Deloitte Tax LLP
mikapadia@deloitte.com

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