

Sales/Use/Indirect:

North Carolina: Administrative Law Judge Addresses Taxability of Various Intercompany Transfers

Admin. Hearing No. 23-REV-04898, N.C. Off. of Admin. Hrgs. (11/21/24). In a case involving a disregarded entity for federal and state income tax purposes, as well as three other companies wholly owned by a common parent, that operate in North Carolina and participate with the parent in the road construction business, an administrative law judge with the North Carolina Office of Administrative Hearings held that various transfers by the disregarded entity to members of its affiliated group were *not* subject to North Carolina sales tax. Specifically, the judge held that based on the provided facts, the various intercompany transfers constituted distributions and contributions that simply adjusted the respective ownership investments in each other – noting that automatic capital account adjustments do *not* represent the bargained for consideration required for a taxable sale under North Carolina law. Please contact us with any questions.

URL:
https://www.encoah.oah.state.nc.us/publicsite/SearchDocDisplay?Type=P&ID=2202343&CaseID=193939&CodeID=525&PersonID=0&File=2023%5C04898%5C2304898_525_11212024_111503660_i.pdf

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