

Income/Franchise:

Michigan Tax Tribunal Holds that Wholesale Electricity Sales Must Be Sourced Entirely In-State Rather than Ultimate Destination

Docket No. 19-003783, Mich. Tax Trib. (2/13/25). In a case involving an energy company's request for a Michigan corporate income tax (CIT) refund for the prior tax years at issue (*i.e.*, for the 2013 through 2016 tax years) on a portion of electricity it generated and sold in the wholesale market, the Michigan Tax Tribunal (Tribunal) denied the claim and held that, based on the provided facts, the taxpayer failed to show that it had incorrectly sourced the sales to Michigan. Under the facts, the company's electric generating plants were all located in Michigan; it earned income from the sale of electricity generated at these Michigan plants; and, according to the Tribunal, the company did not sufficiently show that any of the electricity it had generated in-state was shipped or delivered to an out-of-state destination.

URL: <https://taxdocketlookup.apps.lara.state.mi.us/Details.aspx?PK=134953>

As part of its refund claim, the company argued that some of its wholesale electricity sales must be sourced outside Michigan based on federally required data that showed the electricity's ultimate destination, or where it came to rest. However, the Tribunal agreed with the Michigan Department of Treasury (Department) that once electricity generated by the taxpayer enters the transmission grid, it is not possible to determine which market participant purchases it and where it is finally consumed by the end user. In this respect, the Tribunal explained that the Department's statutory interpretation of sourcing the electricity sales based on where title to it is transferred from the company to the "grid" (*i.e.*, in this case, to the independent operating system (ISO)) and delivery is accepted at in-state substations (*i.e.*, at interconnection points which were all located in Michigan) was valid and did not run afoul of the US Constitution's Due Process or Commerce Clauses. Please contact us with any questions.

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