

Income/Franchise:

Ohio BTA Denies Relief to Taxpayer Challenging Validity of Financial Institution Tax Rate Structure

Case No. 2022-1361, Ohio Bd. of Tax App. (2/20/25). In a case involving an out-of-state headquartered financial institution claiming that the Ohio financial institution tax (FIT) rate structure fails the internal consistency test established by the US Supreme Court for use in certain Commerce Clause cases, the Ohio Board of Tax Appeals (Board) held that because constitutional questions permeated *all* of the taxpayer's arguments in this case such that the remedy sought "cannot be uncoupled from the constitutional question," it was unable to grant the taxpayer's requested refund relief as it lacks jurisdiction to adjudicate constitutional questions. In doing so, the Board rejected the taxpayer's argument that the Board nevertheless could grant an alternative apportionment method without officially deciding any constitutional questions, concluding that "because the harm alleged is a constitutional violation, we decline to implicitly opine on a constitutional question by using the cannon of constitutional avoidance." The Board also commented that the situation may have been different if the taxpayer "had not waived non-constitutional claims that could serve as an independent basis for an alternative method," and noted that Ohio statutes provide for an alternative apportionment rather than an alternative rate structure. In the case, the taxpayer had sought a refund of FIT it paid for tax years 2016 through 2020 where it was taxed at 0.8% for the entire period because its total Ohio equity capital never exceeded \$200 million, and argued among its other claims, that the FIT's rate structure violates the Commerce Clause. Please contact us with any questions.

URL: <https://ohio-bta.modria.com/casedetails/525564>

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