

Income/Franchise:

New York Tax Appeals Tribunal Reverses ALJ Holding that Permitted Investment Bank to Source Income from Securities Transactions Using Alternate Method

Decision DTA Nos. 829218 AND 829219, N.Y. Tax App. Trib. (2/20/25). The New York Tax Appeals Tribunal (Tribunal) reversed, in part, a multi-issue administrative law judge (ALJ) ruling from 2023 involving an investment bank challenging the New York Division of Taxation's (Division) application of New York's pre-2015 Tax Reform broker-dealer sourcing statute to its own set of facts and specific records to compute the business receipts factor of the business allocation percentage for Article 9-A corporate franchise tax combined filing purposes [see Determination DTA Nos. 829218 and 829219, N.Y. Div. of Tax App., ALJ Div. (8/31/23), and *State Tax Matters*, Issue 2023-37, for more details on the underlying ALJ ruling in this case]. In doing so, the Tribunal concluded that the bank's customers, for purposes of the statute (*i.e.*, Tax Law former § 210.3(a)(9)), are the institutional intermediaries in the books and records of the taxpayer rather than the underlying investors of such institutional intermediaries. The Tribunal additionally found "no unconstitutional distortion" resulting from the statutory sourcing of certain receipts. In the 2023 ALJ ruling, the judge had concluded otherwise and held that the Division in this case must apply its statutory discretionary authority to source the receipts based upon an approximation of the location of the bank's institutional intermediaries' underlying investors. Please contact us with any questions.

URL: <https://www.dta.ny.gov/pdf/decisions/829218.dec.pdf>

URL: <https://www.dta.ny.gov/pdf/determinations/829218.det.pdf>

URL: https://dhub.deloitte.com/Newsletters/Tax/2023/STM/230915_2.html

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