

Income/Franchise:

Virginia Supreme Court Denies Reviewing Holding that Department of Taxation Invalidly Tried to Tax Company's Income from Non-Unitary LLC

Record No. 241110, Va. (review denied 5/30/25). In a case involving income earned from a company's minority ownership in a limited liability company (LLC) and the Virginia Department of Taxation's (Department) attempt to combine the LLC's apportionment factors with the company's to determine the company's income subject to Virginia corporate income tax, the Virginia Supreme Court denied the Department's petition to review the 2024 Virginia Court of Appeals ruling [see Case No. 0701-23-2, Va. Ct. of App. (11/12/24), and *State Tax Matters*, Issue 2024-47, for more details on this 2024 decision], which upheld a trial court decision that such tax treatment was unconstitutional in violation of the Due Process and Commerce Clauses, because the two entities did *not* operate as a unitary business under the facts. Please contact us with any questions.

URL: <https://eapps.courts.state.va.us/acms-public>

URL: <https://www.vacourts.gov/static/opinions/opncavwp/0701232.pdf>

URL: https://dhub.deloitte.com/Newsletters/Tax/2024/STM/241122_6.html

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

Jennifer Alban Paschall (McLean)
Principal
Deloitte Tax LLP
jalbanbond@deloitte.com

Olivia Chatani (Washington, DC)
Senior Manager
Deloitte Tax LLP
ochatani@deloitte.com

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