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Taxpayer Victory in Utah Income Tax Single Sales Factor Case

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The Utah Tax Commission recently ruled in favor of a taxpayer in Case No. 16-155 by authorizing the taxpayer to use a single sales factor for Utah corporate franchise tax. A link to the decision is found here.

Under Utah law, taxpayers in certain NAICS Codes apply a single sales factor and taxpayers in other NAICS Codes apply a three-factor formula. The Utah statute draws the line based on whether “greater than 50% of the taxpayer's total sales everywhere [are] generated by economic activities” in a particular NAICS Code. Utah Code §59-7-302(1)(k) (2013).

The Commission ruled that the taxpayer should be classified in a NAICS Code based on the number of employees, capital expenditures, and expenses that are devoted to each NAICS activity (rather than focusing solely on sales).

The decision applies to Utah tax years before 2017, and to a degree to tax years 2019 and 2020. For other tax years and issues, two Utah bills passed in 2018 (HB 293 and SB 72) dictate how the Utah apportionment factors are applied. The attached chart outlines how apportionment factors should be calculated in Utah for various industries and years under the decision and the 2018 legislation.

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