

This Week in State Tax (TWIST)

October 14, 2024



Ohio: BTA Finds Debit Authorizations Not Taxable; Other Services Need Closer Examination by Commissioner

The Ohio Board of Tax Appeals (Board) recently issued a decision in a dispute over the sales tax treatment of services related to consumer banking. The taxpayer offered “debit authorization services”—jointly used by banks and ATM vendors to determine whether to authorize a customer’s request for a cash withdrawal—and “disbursement authorization services”—used by banks to determine whether to authorize a customer’s electronic payment. The crux of the dispute was whether the services were taxable automatic data processing services (ADP), electronic information services (EIS), or computer services; explicitly nontaxable services, such as personal or professional services or debt collection; or other (presumably nontaxable) non-enumerated services.

The taxpayer argued that its sales of debit authorization services should not be taxable because the true object of each transaction was a single yes-or-no answer. The Ohio Supreme Court had previously held in *Marc Glassman v. Levin* that the provision of such a “formulated” answer “in response to a routine request” was not a taxable ADP service. The taxpayer further argued that sales of disbursement authorization services should not be taxable because they were properly classified as personal or professional services or debt collection services. By contrast, the Tax Commissioner’s Final Determination took the position that the entire transaction should be deemed taxable because it consisted of a bundle of services that included some that fell squarely within the definition of ADP, and that the taxpayer should hold the burden of claiming an exemption for any separately stated items it felt should not be taxable. Before the Board, the Tax Commissioner took the narrower position that the true object of each line item should be separately considered, and that many of the individual line items constituted ADP. She further contended that the disbursement authorization services were properly characterized as ADP, not personal or professional services, because they involved processing other’s data.

The Board rejected both the taxpayer’s approach and the position taken by the Tax Commissioner as inconsistent with the Ohio Supreme Court’s ruling in *Cincinnati Fed. S. & L. v. McClain*. The Board interpreted that case as rejecting an “all-or-nothing approach” and instead requiring a “more refined analysis” that considers each separately stated item individually. The Board agreed that *Marc Glassman* controlled for the purpose of characterizing those services for which the true object is data authorization. Further, the Board did not agree that the disbursement services should be considered as exempt personal or professional services because of the level of automated activities involved. Beyond that, however, it remanded the dispute to the Commissioner to analyze all other separately stated items in light of *Cincinnati Fed.* Please contact [Dave Perry](#) with questions about [Checkfree Services v. Harris](#).

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