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This Week in State Tax (TWIST)

October 27, 2025

Florida: Circuit Court Holds Bank's Credit Card Interest Income not Florida Sourced

A Florida court has recently ruled in favor of a multi-state financial institution sourcing credit card interest income and interchange fees based on the state where the taxpayer received these payments. In this case, the Taxpayer earned interest and fees from issuing credit card loans, including to Florida customers. The Taxpayer received credit card payments from its Florida customers in three ways: by mail, electronically, or through ATM machines. The Taxpayer did not have a mailing address in Florida and electronic payments were received by Taxpayer's bank account outside of Florida. The Taxpayer did receive a small number of payments at ATMs in Florida. The Taxpayer also received "Interchange Income," for transactions in which it was the issuing bank that were processed by third party card processors. For each transaction, the Taxpayer would transfer funds to the acquiring bank in an amount equal to the customer's credit card purchase less the interchange fee. The Taxpayer had no contractual relationship with the Florida merchants and ultimately received the Interchange Income in Taxpayer's non-Florida bank accounts.

Florida imposes a bank franchise tax on taxpayers classified as banks. The Taxpayer was required to use specific financial organization apportionment rules in computing its bank franchise tax liability. Under those statutory rules, receipts from interest received in Florida (other than interest on loans secured by real or tangible personal property) are sourced to Florida. Another Florida statute provides that interest not otherwise addressed specifically in the state is sourced based on where the related financial services were rendered. Regulations promulgated by the Florida Department of Revenue (the Department) further provide that "where the income-producing activity in respect to business income from intangible personal property can be readily identified" such income is sourced to Florida "if the income producing activity occurs in Florida…"

On its Florida bank tax returns, the Taxpayer sourced its credit card interest income and Interchange Income outside of Florida based on where it was received. In assessing the Taxpayer for additional taxes, the Department argued that credit card interest was not subject to the specific sourcing rule based on where it was received but instead applied the general "income-producing activity" regulation to source those receipts based on the situs of the debt (i.e., the location of the borrower). As such, credit card interest income derived from Florida cardholders should have been sourced to Florida. Moreover, the Department asserted that because the Interchange Income was received directly from Florida merchants, the Taxpayer performed its related financial services in Florida, so the resulting income should have also been sourced to Florida.

In its order, the Florida circuit court held that because credit card interest payments mailed by Florida customers were received at a mailing address outside of Florida, and electronic payments were received in a bank account

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outside of Florida, this interest income was not received in Florida under the financial organization sourcing statutes. However, the interest income derived from payments made at the Taxpayer's Florida locations (i.e., ATMs) was received in Florida. The court found no statutory support for the notion that credit card interest income should be sourced based on the situs of the debt and dismissed the Department's reliance on the general income producing activity regulation as inconsistent with the more specific statutory sourcing rule based on location of receipt.

The court also held that the Interchange Income was not service income but was generally understood to qualify as interest income based on federal tax rulings and opinions from other states. Since the Taxpayer's Interchange Income should have been treated as interest and was received in bank accounts outside of Florida, the income was correctly sourced outside of Florida. Even if the income was classified as service income, as the Department suggested, the court noted it would not be sourced to Florida because the Taxpayer has no direct relationship with the Florida merchants, and thus no service by the Taxpayer was rendered in Florida under the income producing activity rules.

Please contact Henry Parcinski with questions on ***Capital One Bank, N.A. v. State of Fl. Dep't of Revenue***.