

Akerman Practice Update

TAXATION

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Uniformity of Tax Reporting Across Jurisdictions

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Many multi-state businesses are concerned with the perceived ramifications of taking inconsistent tax reporting positions across jurisdictions. These concerns are invariably fueled by state taxing authorities inquiring about tax reporting positions taken in other states before considering the taxpayer's chosen tax reporting position. However, the recent case of *Oracle Corporation v. Oregon Department of Revenue* serves as a welcome reminder that there is no *per se* rule to report uniformly in all states.

The dispute in *Oracle* involved the taxpayer's reporting position on "business" v. "non-business" income under the Uniform Division of Income Tax Purposes Act ("UDIPTA"). Oracle, a California corporation, reported income from the sale of stock as "business income" in California and "non-business income" in Oregon. Each of California and Oregon follow, with only minor differences, the UDIPTA definitions of business and non-business income.

Oregon argued that the goal of UDIPTA was to provide uniformity across states in apportioning income and that Oracle's inconsistent tax reporting positions were actions incompatible with this goal. Oracle countered by arguing that differing interpretations of identical state tax laws could cause income to be treated inconsistently across tax jurisdictions irrespective of otherwise "consistent" tax reporting positions taken by a taxpayer.



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The Oregon Tax Court agreed that UDIPTA was premised on the goal of uniformity. However, the Court continued, this was merely a policy goal and not determinative as to the legal question at issue. The Court stated that a holding for Oregon requiring a *per se* duty of uniformity in tax reporting would require that the Court become an expert on the wording of the tax laws and their judicial interpretation in all other states. Further, the Court noted the logical implication of Oregon’s position would be that a tax reporting position taken by Oracle in California would dictate its reporting position in all other states. The Court lastly questioned whether Oregon would accept a taxpayer’s reporting position in the state based on its reporting position elsewhere.

Akerman Viewpoint

It is the rare audit that the taxing authority does not ask about a client’s tax reporting position in other jurisdictions. The reality is that consistency in tax reporting will not help a taxpayer defend an audit position, while taking inconsistent positions will be used against the taxpayer. *Oracle* is a reminder that state tax laws and their judicial interpretations differ and therefore the decision to take inconsistent positions can be supported under certain circumstances.

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