

Press Release

Akerman Litigators Prevail on Florida Income Tax Sourcing Case

November 29, 2022

Akerman lawyers Michael Bowen and Lorie Fale earned a major victory in Florida this week for a Fortune 500 subsidiary that could have tax implications for many other companies doing business in the Sunshine State. Bowen and Fale successfully argued that the company's sales were not Florida sales pursuant to the state's tax code, and that the state's Department of Revenue should not have used alternative apportionment when determining the company's tax bill.

Bowen is a litigation partner in Akerman's Jacksonville, Fla. and serves as the Chair, State and Local Tax Practice. Fale is also a partner and based in the Miami office. The pair put before the Second Judicial Circuit in Leon County that Akerman's client properly applied Florida's administrative regulation requiring the use of costs of performance to determine its Florida apportionment factor for state corporate income tax purposes. The judge determined that Akerman's client provided sufficient documentation to support its contention as to the costs of performance for its sales, and the location of those costs. Moreover, the judge determined that the state Revenue Department's use of an affiliate's activities to calculate the client's sales attributed to Florida was unfounded.

"This is certainly an important validation for our client," Bowen said. Fale added: "If upheld, it's also

an important win for many other businesses selling services and/or intangible goods to customers who do business or reside in Florida, and I suspect we will see more court cases like this soon.”

The Department has not yet indicated whether it will appeal this decision.

About Akerman

Akerman LLP is a top 100 U.S. law firm recognized among the most forward-thinking firms in the industry by *Financial Times*. Its more than 700 lawyers and business professionals collaborate with the world’s most successful enterprises and entrepreneurs to navigate change, seize opportunities, and help drive innovation and growth.

Akerman’s Litigation Practice Group has vast experience in a wide range of civil and criminal litigation, including class action defense, securities and corporate litigation, banking, white collar crime and government investigations, insurance, real estate and tax. The Litigation team is recognized nationally by *U.S. News - Best Lawyers* in several categories including Commercial Litigation, Appellate, and Real Estate Litigation.