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An Ohio Supreme Court Rules on the Taxability of Digital Services

by Lauren A. Ferrante , Jordan M. Goodman

The digital economy continues to raise novel questions, particularly in the world of state and local tax. Recently, the Ohio Supreme Court encountered the issue of the taxability of certain digital services and provided key takeaways in terms of framing the issue. This post analyzes the Court's ruling in *CheckFree Services Corp. vs. Harris*, Ohio, No. 2024-1569 (Sept. 16, 2026) ("Opinion") and crystalizes its implications.

Facts

CheckFree Services Corporation ("CheckFree"), a subsidiary of Fiserv, Inc., provides electronic financial services to customer banks and merchants. In this case, CheckFree collected Ohio sales tax on its separately stated services and then filed a refund claim with the Tax Commissioner ("Commissioner"). The Commissioner denied the claim and CheckFree appealed to the Ohio Board of Tax Appeals ("Board").

At the Board, CheckFree presented evidence that its two primary services, debit authorization ("Service 1") and disbursement authorization ("Service 2"), along with each service's ancillary/supporting services, were not taxable. Following the hearing, the Board vacated the Commissioner's determination and remanded the case to the Commissioner. In the remand the Board suggested that Service 1 was not taxable, but declined to consider whether its ancillary services were taxable on the basis that each ancillary service was separately stated and needed to be independently analyzed. Regarding Service 2 and its ancillary services, the Board did not clearly determine the taxability.

CheckFree appealed the Board's decision to the Ohio Supreme Court.

Legal Analysis

On appeal, the Ohio Supreme Court declined to rule on the taxability of Service 2 stating that "[w]e are not sure what the board decided" and the Board's "lack of analysis" regarding the taxability of Service 2. Opinion at ¶¶ 20, 22. With respect to Service 2, the Court vacated the Board's ruling and remanded the issue. The Court did not need to address Service 1 because the Commissioner did not challenge the Board's ruling of non-taxability.

On the question of the taxability of the services ancillary to/supporting Services 1 and 2, the Court confirmed the Board's determination that each ancillary service must be separately analyzed and remanded the issue to the Board to do so. The Court ordered the Board: (1) to analyze on a "true object" basis the separately stated ancillary services on an invoice; and (2) if the true object of the ancillary services "is merely the provision" of nontaxable services, they would be tax-exempt, but the ancillary services may be taxable if they have a different true object from the services they support (Opinion at ¶ 32).

In practical terms, however, the Ohio Supreme Court appears to have remanded the issue to the lower court because the lower court's analysis did not clearly address the nature of the separately stated services at issue.

Takeaways:

- **The Opinion highlights both the advantages and disadvantages of separately stating and/or billing services.** If the services were reflected as a single charge or line item, the "true object" analysis would likely focus on the transaction as a whole—i.e., the ultimate service or benefit being purchased—and then determine whether that transaction is taxable. By separately stating each service, the Court appears to require a line-item-by-line-item application of the true-object test. Depending on the services provided, that approach can be either beneficial or detrimental. As an observation, courts generally apply the "true object" analysis to each separate charge rather than broadly enough to determine a "true object" among a group of separately stated services and charges.

- **A single line item generally produces a single result: taxable or nontaxable.** Separately stated services, by contrast, may produce a mixed result, with some charges taxable and others exempt or nontaxable. From a practical standpoint, applying this approach may be difficult because systems will need to be configured, and personnel trained, to determine the tax treatment of each individual line item.

- **It is unclear whether this decision will influence other states.** Ohio has a long history of recognizing and applying the true-object test, but this decision does appear to reinforce—if not solidify—the need for a line-item analysis in Ohio where services are separately stated.

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