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SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Milton G. Kimpson, Administrative Law Judge
Robert L. Reibold, Administrative Law Judge (on Reconsideration)

Appellate Case No. 2024-001577

Trial Court Case No. 20-ALJ-17-0168-CC

U.S. Bank National Association,..... Appellant,

v.

South Carolina Department of Revenue,..... Respondent.

RECORD ON APPEAL – VOLUME V OF V

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* Joint Exhibits #3-11, #19-31, and a portion of #32 filed under seal.

**** CONFIDENTIAL INFORMATION FILED UNDER SEAL ****

**** U.S. Bank National Association v. South Carolina Department of Revenue ****

**** Appellant Case No. 2024-001577 ****

Joint Exhibit # 29 – 2013 U.S. Bank Apportionment Workpapers – Market
Sourcing

**** CONFIDENTIAL INFORMATION FILED UNDER SEAL ****

**** U.S. Bank National Association v. South Carolina Department of Revenue ****

**** Appellant Case No. 2024-001577 ****

Joint Exhibit # 30 – 2014 U.S. Bank Apportionment Workpapers – Market
Sourcing

**** CONFIDENTIAL INFORMATION FILED UNDER SEAL ****

**** U.S. Bank National Association v. South Carolina Department of Revenue ****

**** Appellant Case No. 2024-001577 ****

Joint Exhibit # 31 – U.S. Bank Apportionment Workpapers As Filed
(2014-2016)

Lee, Melanie

From: Anderson, Kyle B <kyle.anderson2@usbank.com>
Sent: Tuesday, July 10, 2018 10:06 AM
To: Joyce Sprowl
Cc: Orville Sharpe; Brady, Marybeth; Moyer, Drew P
Subject: RE: Additional IDR no. 3 - US Bank, NA - 12-14 Apportionment Data
Attachments: Bank_300_Apportionment_2014_SC_Customer_Sourcing.xlsx

Joyce,

I apologize that it has taken me so long to respond to your message. June was a really busy month so we are now just getting back to the remaining items for the South Carolina audit. During the field work we provided you with the 2014 market sourcing information for US Bank NA, Elavon, and the 2 REITs. As you noted there were some formula errors in the US Bank NA file. I have attached the updated file which shows the totals now that the formula errors have been resolved.

You also asked about the receipts titled "Investments – Asset Back Receipts." I believe that we discussed this at our last meeting during the field work phase. The receipts titled "Investments – Asset Back Receipts" are the sales of mortgage backed securities purchased from either Ginnie Mae or Fannie Mae.

You also asked about how we calculated customer sourcing apportionment. Below is a brief explanation of our process in calculating customer sourcing apportionment.

For customer location we obtain sourcing reports showing the total receipts earned from that type of income in each state or country. For example if the income is related to commercial loans we get a report from the commercial loan system that says we earned \$10 from customers in CA, \$20 from customers in AZ, \$30 from customers in MN, etc. We then compute a percentage by dividing the amount in a specific state divided by receipts from all states and countries. The reason percentages are used is because the amounts from the source loan system does not always equal the amount reflected on the general ledger because the general ledger may reflect a manual adjustment. The percentage is then multiplied against a general ledger account related to that type of income. General ledger accounts are grouped into apportionment codes. The codes are designed to group GL accounts that reflect income from related activities and by the loan system that reflects the receipts. For example, mortgage interest is tracked on the CPI system. So you will see an apportionment code called Residential Mortgage Receipts – CPI. Because the customer location sourcing reports do not provide customer location receipts for each account the same percentage will be used for all GL accounts in this apportionment code grouping.

I believe that we have provided answers to your IDR 3 e-mail. We know that we still need to send customer sourcing apportionment to you for 2015 and 2016 which we will do shortly.

Kyle B Anderson
State Tax Manager
US Bancorp
612-303-7911

From: Joyce Sprowl [mailto:Katherine.Sprowl@dor.sc.gov]
Sent: Thursday, May 10, 2018 12:10 PM
To: Anderson, Kyle B
Cc: Orville Sharpe
Subject: [EXTERNAL] RE: Additional IDR no. 3 - US Bank, NA - 12-14 Apportionment Data

Hi Kyle,

We reviewed the Bank apportionment data you provided for 12-14 (based on the location of the income producing activity).

- We noticed that some of the everywhere amounts on the original apportionment schedule do not balance to the original apportionment schedule you provided for the bank.
- Can you explain the differences?

Also, there is no combined total of the everywhere receipts on the schedule.

- Please advise as to what that combined total everywhere amount is. We are trying to balance to the everywhere total shown in the original apportionment schedules provided.

In addition, we noticed that no SC receipts were sourced to the category of receipts titled: “Investment Asset Back-Receipts”.

- Please provide a detail explanation of what these receipts are?
- Were any of these receipts from interest and/or gains from the sale/securitization of loans?
- If so, then a portion of the gain and/or interest should be sourced to SC if the obligor of the loan sold/secitized was a SC customer.

Also, we noticed, for each sub-category of receipts, where a portion of the receipts were sourced to SC that-

- each line item within the sub-category has the same apportionment ratio,
- and the percentages are different for each sub-category of receipts.
- Please provide the details of how the percentages were determined for each sub-category of receipts.

Thank you.

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U.S. BANCORP made the following annotations

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**** U.S. Bank National Association v. South Carolina Department of Revenue ****

**** Appellant Case No. 2024-001577 ****

Joint Exhibit # 32 – Attachment to July 10, 2018 Email
from U.S. Bank