Income/Franchise:
Michigan Tax Tribunal Holds in Taxpayer’s Favor that Subsidiary was Not Unitary with Parent

Case No. 21-002481, Mich. Tax Trib. (10/17/23). In a case involving whether a subsidiary may be excluded from its parent’s Michigan unitary business group (UBG) for purposes of filing the UBG’s Michigan combined corporate income tax (CIT) returns for the tax years at issue, the Michigan Tax Tribunal (Tribunal) held in the taxpayer’s favor that because neither the “flow of value” nor the “contribution/dependency” tests was satisfied under the facts at hand, the subsidiary was *not* part of the parent’s UBG and thus could be excluded from the returns. While the subsidiary was wholly owned by the parent and thus met the “control test,” the Tribunal explained that pursuant to Revenue Administrative Bulletin 2018-12, it also must look to “the totality of facts and circumstances related to the business activities and operations of the entities at issue” to determine whether a unitary relationship exists – concluding that, in this case, it did not. Among some of the underlying facts in the taxpayer’s favor were relatively few intercompany sales compared to total sales between the two entities, and the companies had separate purchasing, operations, and distribution systems with limited shared marketing and intangibles. These various facts ultimately led the Tribunal to conclude that there was no functional integration, centralized management, or economies of scale. Please contact us with any questions.

URL: https://www.michigan.gov/taxtrib/-/media/Project/Websites/taxtrib/Entire-Tribunal-Decisions/2023/21-002481-TTI-v-MDOTr-FOJ-Final-signed-by-JMW.pdf

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