

Income/Franchise:

Wisconsin: Parent Fails to Show Intercompany Royalties Had Business Purpose and Economic Substance

Wisconsin Tax Bulletin 225, Wis. Dept. of Rev. (4/24). The Wisconsin Department of Revenue released a bulletin that includes a summary of a 2024 opinion issued by the Dane County Circuit Court (Court) upholding the Wisconsin Tax Appeals Commission's state corporate franchise tax 2023 ruling involving a parent company and its created wholly-owned intellectual property (IP) subsidiary that licensed transferred IP back to the parent in exchange for royalties [see Docket Nos. 10-I-071 and 10-I-072, Wis. Tax App. Comm. (2/24/23) and *State Tax Matters*, Issue 2023-9, for more details on this 2023 ruling]. According to the bulletin, the Court held that the parent failed to prove by clear and satisfactory evidence that a nontax business reason existed for the royalty transactions between the two related entities – and that the taxpayer's conduct was a “near textbook example of what Wis. Stat. § 71.30(2) and the sham transaction doctrine aims to prevent...” The bulletin states that it is “unknown at the time of this publication whether the taxpayer will seek review from the Wisconsin Court of Appeals.” Please contact us with any questions.

URL: <https://www.revenue.wi.gov/WisconsinTaxBulletin/225-04-24-WTB.pdf>

URL: https://dhub.deloitte.com/Newsletters/Tax/2023/STM/230303_6.html

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