

Income/Franchise:

Alabama: Parent, Intermediate Holding Company, and Lower-Tier Bank Can't File Consolidated FIET Returns

Docket Nos. INC. 20-659-LP; MISC. 21-380-LP; FIET. 22-1113-LP; FIET. 22-1124-LP, Ala. Tax Trib. (5/13/24). In a case involving three affiliates (a parent company financial institution, its wholly owned "holding company" subsidiary, and the holding company's wholly owned bank) attempting to file Alabama consolidated financial institution excise tax (FIET) returns for the prior tax years at issue, which would have allowed for the offset of the parent's net operating losses (NOLs) and NOL carryforwards against the bank's business profits, the Alabama Tax Tribunal (Tribunal) held that the affiliates failed to meet the Alabama statutory requirements in place at the relevant times to file on a consolidated basis. Specifically, the Tribunal explained that based on the underlying facts, the intermediate holding company was not includable on the FIET return under the "filing test," because it did not meet the statutory definition of a "financial institution" and thus the parent could not file on a consolidated basis with it. Moreover, because the parent did not directly own the lower-tier bank, the parent and the bank did not meet the "ownership test" to file a consolidated FIET return. Accordingly, under the facts, both the parent and the bank had to file separate Alabama FIET returns for the prior tax periods at issue. Please contact us with any questions.

URL: <https://www.taxtribunal.alabama.gov/wp-content/uploads/2024/05/20-659-FO-1.pdf>

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