

## Income/Franchise:

### Illinois: Court Says Subsidiary Was Not an 80/20 Company and Affiliate Operated as a Shell

Case No. 2022TX000155, Ill. Cir. Ct. (1/9/25). In a case involving whether a parent company's subsidiary operated as a foreign corporation excluded from the Illinois corporate income tax combined return, an Illinois circuit court (Court) held that trial evidence showed that a certain affiliate of the subsidiary was operating as a "shell" company for purposes of affording tax benefits for the subsidiary. The court found that certain "expatriate compensation charged" to the shell did *not* represent "substantive foreign business activities" conducted by the subsidiary through the shell and should not be incorporated into the payroll portion of the "80/20" company calculation. As a result, according to the Court, the subsidiary at issue was deemed as deriving most of its profits from the purchase and resale of products in the United States and therefore was subject to Illinois corporate income tax for the tax years at issue. In doing so, the Court explained that the parent company failed to show that the subsidiary conducted 80% or more of its business outside the United States as an 80/20 company. Please contact us with any questions.

— Brian Walsh (Chicago)  
Managing Director  
Deloitte Tax LLP  
briawalsh@deloitte.com

Chase Christopherson (Chicago)  
Senior Manager  
Deloitte Tax LLP  
cchristopherson@deloitte.com

Alice Fan (Chicago)  
Manager  
Deloitte Tax LLP  
alicfan@deloitte.com

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