

Income/Franchise:

US Supreme Court Declines Hearing Case Involving Unitary Business Relationships and Pass-Through Entities

Docket No. 20-947, US (cert denied 2/22/21). The US Supreme Court (Court) denied review of a case in which the Idaho State Tax Commission (Commission) queried whether *Mobil Oil Corp. v. Comm’r of Taxes of Vermont*, 445 US 425 (1980) applies to pass-through entities. The Commission’s petition to the Court had followed an Idaho Supreme Court decision from 2020, which affirmed that an out-of-state company’s gain from the sale of its ownership interest in an Idaho-based limited liability company (LLC) constituted nonbusiness income under state law and concluded in the taxpayer’s favor that the gain did *not* meet the definition of “business income” under the transactional test, functional test, or unitary business test [see *State Tax Matters*, Issue 2020-21, for more details on this Idaho Supreme Court case]. In petitioning the Court, the Idaho State Tax Commission claimed that while the US Supreme Court has determined under *Mobil Oil Corp.* that superficial attributes of a corporation are *not* determinative of unity and that a unitary relationship is presumed unless the corporation proves by affirmative evidence that it was a “discrete business enterprise,” state courts are wrestling with whether superficial aspects of a pass-through entity’s business determine unity. According to the Commission’s petition to the Court, courts in Idaho, New Jersey, and Tennessee have grappled with this question and “produced a split among the states.” Please contact us with any questions.

URL: <https://www.supremecourt.gov/Search.aspx?FileName=/docket/docketfiles/html/public\20-947.html>

URL: https://newsletters.usdbriefs.com/2020/Tax/STM/200529_1.html

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