

Income/Franchise:

Maine: State High Court Rejects Claim that Disallowed Loss Carryover Lead to Invalid Taxation

Case No. BCD-20-59, Me. (4/29/21). The Maine Supreme Judicial Court (Court) affirmed the Maine Tax Assessor's disallowance of a telecommunications company's claimed unitary business loss carryover and underlying income tax refund request for the 2013 taxable year at issue and, in doing so, rejected the company's assertion that such application of Maine corporate income tax law resulted in an unconstitutional indirect tax on extraterritorial "nonunitary" income that was not subject to taxation in Maine. Under the facts, the unitary group was unable to take a net operating loss carryforward deduction on its 2013 amended Maine corporate income tax return because in 2012, certain members of the unitary business group received substantial amounts in nonunitary income that more than offset the group's unitary net operating loss for that tax year and thereby caused the group's 2012 federal tax return to reflect net taxable income rather than a net operating loss.

URL: <https://www.courts.maine.gov/courts/sjc/lawcourt/2021/21me026.pdf>

In denying the telecom's unitary business loss carryover claim in Maine for the 2013 tax year, the Court reasoned that although application of Maine's taxation statutes might preclude a group from taking a deduction or receiving a credit for a previous year's net operating loss, "that does not mean that the group is being taxed on nonunitary income during the tax year for which a carryover is denied." The Court determined that no part of nonunitary income reported in 2013 has been taxed, and "thus there has been no unconstitutional taxation of that nonunitary income." Rather, the Court concluded that in each year, the application of Maine statutes reflected a reasonable effort to allocate between taxable and tax-exempt income, and the taxpayer in this case mistakenly sought "to create a new deduction in Maine that was not authorized by statute and is not required by the Constitution." Given that Maine law does not provide for a carryover of the 2012 net operating loss to the 2013 tax year, and because no such carryover is constitutionally required, the Court denied the taxpayer's refund claim. A dissenting opinion follows. Please contact us with any questions.

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