

## Income/Franchise:

### Michigan Supreme Court Says Financial Institution May Claim Credits Transferred in Merger

*Case No. 161661, Mich. (6/7/22).* In a case involving calculation of a financial institution unitary business group's (UBG's) state franchise tax liability under the Michigan Business Tax Act (MBTA) and the carryforward and transfer of tax credits under the Michigan Single Business Tax Act (SBTA) from one subsidiary to another when two UBG entities merge and become a single entity, the Michigan Supreme Court (Court) affirmed that because the tax credits are property and fall within the ambit of the applicable merger statute, they transferred by operation of law and thus could be claimed even though the credits were previously assigned. Rejecting the Michigan Department of Treasury's conclusion that the taxpayer could *not* claim the credits because the SBTA limits them to only one assignment – and stipulated facts indicated that they were assigned once before prior to the merger at issue – the Court agreed with the Michigan Court of Appeals that the single-assignment limitation applies only to assignments, and not to transfers made by “operation of law” as was the case here. Please contact us with any questions.

**URL:** <https://www.courts.michigan.gov/49c77f/siteassets/case-documents/briefs/msc/2021-2022/161661/comerica-op.pdf>

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