

## Income/Franchise:

### Alabama: Taxpayer Allowed Intercompany Interest Expense Deduction Under Addback Statute Exception

*Docket No. BIT. 18-236-JP*, Ala. Tax Trib. (7/28/22). The Alabama Tax Tribunal's chief judge recently issued an opinion that overturns an Alabama Department of Revenue (Department) audit assessment to hold in the taxpayer's favor that certain interest paid to a related member in Ireland should be excepted from Alabama's intercompany expense "addback statute" because the payments were "subject to tax" on the related member's net income in that country. In doing so, the judge considered whether these interest payments were "attributed to" Ireland despite being deducted by the Ireland entity on its own return after the Ireland entity paid the interest to affiliates in Luxembourg – concluding that Alabama's addback statute exception applied here because the interest income that the related member received from the taxpayer "shall be considered subject to a tax even if no actual taxes are paid on such item of income in the taxing jurisdiction by reason of deductions or otherwise." According to the judge, what was relevant under Alabama law was that the interest payments by the taxpayer to the related member were attributed to Ireland according to that nation's sourcing methodology for purposes of Ireland's net income tax. Accordingly, the judge held that the Department must recalculate the taxpayer's underlying state corporate income tax net operating losses and carryforward amounts in accordance with this opinion.

[URL: https://taxtribunal.alabama.gov/PDF.aspx?id=1746](https://taxtribunal.alabama.gov/PDF.aspx?id=1746)

See forthcoming Multistate Tax Alert for more details on this ruling, including some related taxpayer considerations, and please contact us with any questions in the meantime

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