

## Income/Franchise:

### Wisconsin: Parent Fails to Show Intercompany Royalties Had Business Purpose and Economic Substance

*Docket Nos. 10-I-071 and 10-I-072, Wis. Tax App. Comm. (2/24/23).* In a Wisconsin corporate franchise tax case involving a footwear company and its creation of a wholly-owned intellectual property (IP) subsidiary that licensed the transferred IP back to the parent in exchange for royalties, the Wisconsin Tax Appeals Commission (Commission) held that the parent company failed to show i) it had a valid nontax business purpose for entering into the IP licensing transactions that generated the royalty and interest deductions claimed on its Wisconsin tax returns, and ii) the licensing transactions had economic substance. According to the Commission, the parent company needed to show both business purpose and economic substance with respect to the intercompany transactions at issue but “did not present persuasive evidence or testimony of either requirement being met.” Under the facts, the Commission reasoned that there was no documentary evidence showing that the royalty payments had economic substance as nothing was provided by the parent indicating any change to its business practices, profitability, or IP took place after the IP subsidiary’s creation compared to before it – thus making it “difficult to believe that there any benefits beyond tax minimization.” Please contact us with any questions.

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