

## Income/Franchise:

### Wisconsin DOR Summarizes Ruling on Intercompany Royalties, Business Purpose and Economic Substance

*Wisconsin Tax Bulletin 221*, Wis. Dept. of Rev. (4/23). The Wisconsin Department of Revenue (Department) released a bulletin that includes a summary of the Wisconsin Tax Appeals Commission's recent state corporate franchise tax ruling involving a parent company and its created wholly-owned intellectual property (IP) subsidiary that licensed transferred IP back to the parent in exchange for royalties [see Docket Nos. 10-I-071 and 10-I-072, Wis. Tax App. Comm. (2/24/23) and *State Tax Matters*, Issue 2023-9, for more details on this recent ruling]. In this ruling, the Department explains that the parent had failed to adequately show it had a valid nontax business purpose for entering into the licensing transactions and that they had economic substance. Specifically, the summary highlights that a viable business entity was already in existence prior to the underlying reorganization paperwork, and the taxpayer failed to focus on whether the two actual transactions (*i.e.*, the transfer of IP to the subsidiary and the licensing of it back to the parent) had economic substance. According to the Department, the taxpayer has since appealed this ruling to the Dane County Circuit Court. Please contact us with any questions.

[URL: https://www.revenue.wi.gov/WisconsinTaxBulletin/221-04-23-WTB.pdf](https://www.revenue.wi.gov/WisconsinTaxBulletin/221-04-23-WTB.pdf)

[URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2023/STM/230303\\_6.html](https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2023/STM/230303_6.html)

— Scott Bender (Milwaukee)  
Principal  
Deloitte Tax LLP  
sbender@deloitte.com

Joe Garrett (Birmingham)  
Managing Director  
Deloitte Tax LLP  
jogarrett@deloitte.com

Michael Gordon (Milwaukee)  
Senior Manager  
Deloitte Tax LLP  
michagordon@deloitte.com

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms or their related entities (collectively, the “Deloitte organization”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.

#### **About Deloitte**

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see [www.deloitte.com/about](http://www.deloitte.com/about) to learn more.

Deloitte provides industry-leading audit and assurance, tax and legal, consulting, financial advisory, and risk advisory services to nearly 90% of the Fortune Global 500® and thousands of private companies. Our professionals deliver measurable and lasting results that help reinforce public trust in capital markets, enable clients to transform and thrive, and lead the way toward a stronger economy, a more equitable society and a sustainable world. Building on its 175-plus year history, Deloitte spans more than 150 countries and territories. Learn how Deloitte’s approximately 415,000 people worldwide make an impact that matters at [www.deloitte.com](http://www.deloitte.com).