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## Spotlight on Mississippi: Supreme Court Rules on Combined Group Member Tax Credits

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The Mississippi Supreme Court has ruled against the Mississippi Department of Revenue (Department) in its appeal of a 2012 decision by the Harrison County Chancery Court in favor of Isle of Capri Casinos, Inc. (Isle of Capri).

Isle of Capri, like many Mississippi corporate taxpayers, computed its corporate income and franchise tax on a combined basis with its affiliates. Over the course of several years, four of Isle of Capri's affiliated entities generated significant tax credits attributable to their payment of fees for gaming licenses, which were used to offset the income of other affiliated entities in the combined group.

Following an audit, the Department issued a substantial assessment, which included taxes, penalties and interest. The assessment was based on a finding that Isle of Capri improperly applied tax credits generated by certain members of its affiliated group to the income of other members of the group. After the taxpayer prevailed on the issue in the local chancery court, the Department appealed to the Mississippi Supreme Court.

In its finding for the taxpayer, the court cited its prior holding in *General Motors Corp. v. Miss. State Tax Commission*, which provides that the tax credits of one entity can be used to offset the combined tax liability of an affiliated group of entities. The court concluded in its opinion that, "If it was incorrect 'as a matter of common and ordinary construction' for the Department to interpret nearly identical statutory language in a nearly identical manner in *General Motors*, then, logically, the same interpretation is equally incorrect now."

The instructions to the Corporate Income and Franchise Tax Return prohibit applying credits across member groups despite the Supreme Court's ruling in *General Motors* and now *Isle of Capri*. Taxpayers who have previously filed a corporate income and franchise tax return following these instructions may now have an opportunity to file an amended return and seek a refund.

This decision from the state's highest court represents a significant victory for Mississippi corporate taxpayers.

If you have any questions regarding the issues decided in this case or how this development may affect your particular situation, please contact one of the attorneys in the Firm's Tax Group.