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Apportionment Victory for Utah Taxpayers

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On January 27, 2022, the Utah State Tax Commission held in Appeal No. 16-1358 that the state is constitutionally barred from apportioning and taxing the gain from the sale of a partnership where the seller and partnership were not unitary. Relying on *MeadWestvaco Corp. v. Ill. Dep't of Revenue*, 553 U.S. 16 (2008) and other U.S. Supreme Court precedent, the Tax Commission ruled that Utah was barred by the U.S. Constitution from apportioning a gain recognized where a C Corporation sold an interest in a partnership and the C Corporation and the partnership did not share a unitary relationship through centralized management, economies of scale or functional integration. The Auditing Division argued in the case that an operational function standard should be applied rather than the unitary standard. Pursuant to *MeadWestvaco*, the Tax Commission ruled that, whereas the partnership sold was “another business” as opposed to a “specific asset,” the unitary standard must be applied. The Tax Commission thus concluded that, because the seller and partnership being sold did not share a unitary relationship, “the gain cannot constitutionally be taxed by Utah.”

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