

CLIENT SUCCESS

Helping US Beef Keep More of Its Dough

In 2018, Oklahoma-based **US Beef Corp.** sold all its Arby's and Taco Bueno franchises, located in nine states, including Arkansas. US Beef paid tax to Oklahoma on the entire sale and filed an Arkansas return seeking a refund of \$1.87 million due from estimated tax payments. The Arkansas Department of Finance and Administration (DFA) denied \$1.27 million of the request, finding that the sale of the franchises constituted business income under the pre-2026 version of Arkansas's Uniform Division of Income for Tax Purposes Act (UDITPA) and therefore must be apportioned by the states in which the business operated. The DFA determined that US Beef sold the franchises as part of its ongoing business.

After exhausting its administrative appeals, US Beef sought declaratory relief in Pulaski County Circuit Court. In March 2025, the court ruled for US Beef, holding that the income from the sale was nonbusiness income. The court found that US Beef was not in the business of selling franchises – in fact, it had never sold one before going out of business in 2018.

The DFA appealed the court's ruling. In a 5-4 decision, the Arkansas Supreme Court affirmed, finding that US Beef "was not in the business of going out of business." This is a particularly notable win for the client because the Supreme Court decided the case on the briefing, without scheduling oral

argument. Thus, while the parties expected a decision to eventually come down in 2027, the case resolved earlier and the client now has certainty about its tax situation.

The case took four years to litigate, with the same team representing US Beef throughout the litigation. In the process, the case moved with the team from HMB Legal Counsel to Kilpatrick when the two firms combined in 2024. Helmed by **Jordan Goodman**, who co-leads Kilpatrick's State and Local Tax (SALT) Practice, the team also included Partner **Matt Barrett** and Associate **Jesse Feinstein**, with **Jessica Quinones** providing invaluable paralegal help. The team also benefitted greatly from local counsel Anton Janik's experience and advice.

Along the way, the team had to contend not only with the complexities of this case but also with Mother Nature. When a 100-year snowstorm hit the South and made travel to Little Rock, Arkansas impossible for summary judgment arguments, the team improvised by getting permission from the judge for Jordan to appear by Zoom and revising their strategy to ensure that the remote presentation still delivered a winning argument.

The case and Kilpatrick's representation have received extensive media coverage in leading publications such as *Bloomberg*, *Law360*, and *Tax Notes* to name a few.

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