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Ark. Sale Of Arby's Restaurants Not Biz Income, Judge Rules

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Jordan Goodman, tax partner at Kilpatrick Townsend & Stockton LLP and counsel for U.S. Beef, told Law360 on Monday that the judge followed precedent in Arkansas case law to conclude that under the Arkansas statute, U.S. Beef's income here was not business income. Goodman said the judge also rejected arguments from the state that U.S. Beef was trying to create a carveout for itself to assert that the income was nonbusiness income.

"The state argued that we were trying to establish a new test called the liquidation exception," Goodman said. "And I think what we convinced the judge of was that there wasn't a new test. There's only two tests. If it's not business income under UDITPA, then by definition it has to be nonbusiness income."

The judge agreed that under the functional test that Arkansas follows, U.S. Beef's income was nonbusiness income, Goodman said.

"We weren't creating any kind of liquidation exception," he said. "We were following the laws adopted by Arkansas."

Read the full article here.

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