
TAX - U.S. TAX COURT

Uniband, Inc. v. C.I.R.

United States Tax Court - May 22, 2013 - 140 T.C. No. 13

P is a Delaware corporation, wholly owned by T, an Indian tribe. For the years at issue P attempted to file consolidated returns with C, another corporation wholly owned by T. P contended that T is the common parent corporation of P and C and that together they constitute an affiliated group eligible to file a consolidated return. On the returns filed, P did not claim Indian employment credits under I.R.C. sec. 45A even though P was entitled to them. Instead, P deducted the entirety of its employee expenses.

R determined that the consolidated returns that P joined in filing were invalid and that P was required to claim a credit under I.R.C. sec. 45A and reduce its wage deduction by the entire credit amount (without regard to credit limitations for particular tax years). P now contends that it is not subject to corporate income tax because it is an integral part of T, which because it is an Indian tribe is exempt from income tax.

The U.S. Tax Court held that:

- P, as a State-chartered corporation, is a separate and distinct entity from T and is not exempt from the corporate income tax;
- The consolidated returns filed for the years in issue were invalid because T, as an Indian tribe, was not eligible to join in the filing of a consolidated return, and P and C alone did not constitute an affiliated group; and
- The Indian employment credits under I.R.C. sec. 45A are not elective, and as a result, P’s employee expense deductions for the years at issue must be reduced by the amount of the credit as determined under I.R.C. sec. 45A without regard to limitations on the allowable amount of the credit.

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