

[COA Opinion: Unitary-business principle applies to individual income taxes](#)

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On May 26, 2011, the Court of Appeals published its opinion in [Preston v. Department of Treasury, No. 295055](#). The Court of Appeals held that the unitary-business principle applies to the Michigan Income Tax Act (“MITA”), affirming the Court of Claims. Thus, under MITA, an individual taxpayer is entitled to apportion multistate income from a unitary business according to the statutory formula.

Plaintiff Forrest L. Preston, a Tennessee resident, owns 99 percent of Life Care Affiliates II (“LCA II”), a Tennessee limited partnership. LCA II is a partner in 22 partnerships that operate 27 nursing homes in 11 states. LCA II has no business operations of its own. Rather, LCA II serves as a pass-through entity, combining the profits and losses from these 22 partnerships and distributing them to Preston according to his ownership interest. One of the 22 partnerships, Riverview Medical Investors LP (“RMI”), operates nursing homes solely in Michigan. The other 21 partnerships operate outside of Michigan.

When filing his Michigan individual tax returns, Preston treated his LCA II income as business income and apportioned it among the 11 states, according to MITA’s statutory scheme for apportioning multistate income.

In 2007, the Michigan Department of Treasury (“Treasury”) audited Preston’s individual tax returns from 1998-2001. Treasury determined that apportionment was improper, arguing that only the RMI income could be taxed in Michigan and assessing a deficiency. Preston paid the deficiency under protest, and filed this action in the Court of Claims for a refund. The Court of Claims held that Preston’s position was correct, granting Preston’s motion for summary judgment.

The Court of Appeals affirmed. The Court began by recognizing the unitary-business principle. The United States Constitution prohibits states from taxing income where there is no connection between the taxed activity and the taxing state. But the states may tax a multistate business if the state apportions the income attributable to in-state activities and taxes only that portion. MITA provides such an apportionment scheme for individual income. Where a taxpayer has income from a multistate (unitary) business, MITA apportions that income according to a particular formula.

In *Preston*, no one disputed that LCA II is a multistate, unitary business. Thus, the Court held Preston was entitled to apportion his LCA II income under MITA’s statutory formula. The Court rejected Treasury’s position that the unitary-business principle did not apply, and relied on the plain language of MITA.