

CASE STUDY

Winning a First-of-a-Kind Lawsuit and Millions in Tax Relief

In 2002, New Jersey became an early adopter of an increasingly popular addition to state business tax rules: interest add-back provisions. These provisions aim to funnel more tax dollars into state coffers by disallowing the previously acceptable tax deductions on interest paid by companies to other members of the same corporate group.

Beneficial New Jersey, a mortgage and consumer loan company that has operated in the state for 75 years, was hit with an additional assessment of \$4.4 million in 2007, plus interest and penalties, when the New Jersey Tax Director disallowed deductions of interest Beneficial had paid to its parent company, HSBC Finance Corp. Given the ongoing tax hit Beneficial would be seeing in New Jersey—and potentially in other states with similar laws—the company turned to Pillsbury to fundamentally challenge that assessment.

Pillsbury lawyers noted that New Jersey’s legislature had included five exceptions in its interest add-back law and challenged the assessment against Beneficial on three of those exceptions. Because the burden is on the taxpayer to prove its case in such challenges, Beneficial and Pillsbury faced a high bar in court.

Pillsbury’s successful argument centered on an exception to the additional tax when disallowing interest deductions is “unreasonable.” To obtain the funds it would then loan to consumers, Beneficial borrowed money from HSBC at a lower interest rate than it could get on its own. As Pillsbury demonstrated, this was a commonsense business practice not driven by tax avoidance, since HSBC paid tax on the interest it collected from Beneficial.

Pillsbury bolstered Beneficial’s case by deposing a number of New Jersey tax officials who admitted that they had never granted the “unreasonable” exception. “The Director’s overly strict interpretation of the statute, in this matter, at least, goes beyond reasonable limits,” opined the New Jersey Tax Court, setting aside its usual deference to the tax director’s discretion.



Client:

Beneficial New Jersey, Inc.

Industry:

Consumer loans and finance

Area of Law:

New Jersey State Income Tax

Venue:

New Jersey Tax Court

Result:

Scored a summary judgment victory in the first-ever challenge to New Jersey’s interest add-back law, garnering a \$4.4 million refund and sparing our client from millions in future taxes