

Michigan - Affiliated groups may elect to file combined returns

January 9, 2014

In brief

Signed on December 26, 2013, [S.B. 367](#) allows affiliated groups to make an election to be treated, and to file, as a single unitary business group under the Corporate Income Tax (CIT) for tax years beginning after December 31, 2012. This election allows otherwise non unitary affiliated group members the ability to file a unitary, combined return. Caution should be exercised prior to making the election, as it is irrevocable and binding for ten years.

In detail

Affiliated group defined – Federal group with 50% common ownership

Generally, taxpayers that are part of an ‘affiliated group’ may elect to be treated as a unitary business group under the CIT. An ‘affiliated group’ generally means that term as it is defined in I.R.C. sec. 1504, except that more than 50% of common ownership is required.

Ten-year election

The election is valid for 10 years, and may be renewed every 10 tax years, provided ownership requirements continue to be met. If a renewal election is not filed, another election is not allowed for the following three tax years.

The election remains in effect irrespective of whether a federal consolidated group return is

filed or whether the common parent “changes due to a reverse acquisition or acquisition by a related person.”

Procedure

The election may be made without consent of the Michigan Department of Treasury. The election will be made on a form approved by the Department and timely filed with the taxpayer’s annual tax return.

The takeaway

This election allows otherwise non unitary affiliated group members the ability to file a unitary, combined return. However, caution should be exercised prior to making the election, as it is irrevocable and binding for ten years.

The passage of this bill should help create certainty for Michigan taxpayers and prevent

what could have been a significant number of audits in which the makeup of the unitary business group would have been at issue. Last year, Michigan passed a few tax bills that are also helpful to business taxpayers, including [HB 4002](#), which requires the Department of Treasury to pay an additional three percent interest on tax refunds not paid within 60 days of return receipt; [HB 4586](#), which shortens the corporate income tax lookback period to 48 months; and [HB 4289](#), which concerns unclaimed property provisions. This year, Michigan is considering other business friendly legislation, including [HB 4291](#), which requires that a taxpayer be provided a complete copy of an audit report and workpapers; [HB 4290](#), which makes available to the public audit policy directives and standards; and [HB 4288](#)

and [HB 4292](#), both of which regard record maintenance.

Let's talk

If you have any questions regarding the affiliated group election, please contact:

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