

SEPTEMBER 17, 2012

D.C. Tax Office Issues Final Combined Reporting Regulations



by **Waltreese Carroll**



Summary by **taxanalysts**[®]

The District of Columbia Office of Tax and Revenue on September 14 published final combined reporting regulations.

Full Text Published by **taxanalysts**[®]

The District of Columbia Office of Tax and Revenue (OTR) on September 14 published final combined reporting regulations.

While similar to the proposed regulations released on August 31, the final regulations have undergone some revisions. (For the final regulations, see *Doc 2012-19231*  .)

The OTR added information to the sections providing rules for unincorporated business entities and combined groups with entities that have special apportionment methods -- areas practitioners previously cited as having unresolved issues. (For coverage, see *State Tax Notes*, June 4, 2012, p. 677, *Doc 2012-11200* , or *2012 STT 104-10* .)

Two new subsections were added to D.C. Mun. Regs. tit. 9, section 170, which provides rules for unincorporated business entities. According to section 170.5, if the income from the ownership interest in the partnership or unincorporated business is nonbusiness income, then that income will be subject to allocation to the combined group member-partner.

Section 170.8 provides rules for combined group members with an interest in partnerships that are not defined as unincorporated businesses under D.C. Code 47-1808.01 and thus not subject to tax under D.C. Code section 47-1808.03. According to the regulations, such partnerships are required to file their own separate return using Form D-65, the district partnership return. However, section 170.8 also provides:

The combined group member-partner shall include, in its sales apportionment factor, the numerator which shall include the combined group member-partner's distributive share of the partnership's District income from the K-1 and the denominator which shall include the combined group member-partner's total distributive share of partnership income from the K-1 which shall be added to the combined group member-partner's "other income."

Unlike the general rule provided in section 170.1, according to the regulation, there is no subtraction of the income because the income was not taxed at the partnership level.

The OTR has also revised the section providing rules for combining special apportionment formulas. Section 164.1(b) has been amended and now provides that:

Each member shall separately compute its District apportionment factor numerators, determine its District apportionment factor based on the group's denominators, and then apply its factors to the group's business income or loss subject to apportionment to arrive at net income or loss apportioned to the District.

The OTR has also added a financial institutions example as section 164.2.

Other changes to the regulations include a revision to section 175.3 to reflect the extension of time to file the Financial Accounting Standard No. 109 worksheet provided in Notice 2012-07. (For coverage, see *Doc 2012-18545* or *2012 STT 176-2*. For the notice, see *Doc 2012-18884*.)

The final regulations also include a new section 176, which codifies a September 7 notice granting combined reporting filers extra time to file their returns. (For the notice, see *Doc 2012-18883*.) This section also provides rules for closing out separate entities.

Mandatory combined reporting was enacted in 2011 and applies to tax years beginning after December 31, 2010. The OTR published its first set of proposed reporting regulations on January 20. (For coverage, see *State Tax Notes*, Jan. 30, 2012, p. 361, *Doc 2012-1235*, or *2012 STT 14-14*.)

The revised combined reporting regulations were published August 31. (For coverage, see *State Tax Notes*, Sept. 10, 2012, p. 699, *Doc 2012-18244*, or *2012 STT 171-16*.)

Waltreese Carroll

wcarroll@tax.org

Tax Analysts Information

Jurisdiction: District of Columbia

Subject Areas: Apportionment
Compliance
Consolidated returns
Corporate taxation

Author: Carroll, **Waltreese**

Institutional Author: Tax Analysts

Tax Analysts Document Number: Doc 2012-18976

Tax Analysts Electronic Citation: 2012 STT 180-13
