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D.C. Tax Office Issues New Proposed Combined Reporting Regulations
by **Waltreese Carroll**



Summary by **taxanalysts**[®]

The District of Columbia Office of Tax and Revenue on August 31 published new proposed combined reporting regulations that should address many questions raised by taxpayers about the first set of proposed regulations.

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The District of Columbia Office of Tax and Revenue (OTR) on August 31 published new proposed combined reporting regulations that should address many questions raised by taxpayers about the first set of proposed regulations.

Practitioners previously cited unresolved issues regarding combined groups with entities that have special apportionment methods and whether the final regulations will expressly say that the district has adopted a *Joyce* approach. (For coverage, see *State Tax Notes*, June 4, 2012, p. 677, *Doc 2012-11200* , or *2012 STT 104-10* )

The new proposed regulations would expressly adopt a *Joyce* approach for apportionment purposes and eliminate the requirement that unitary members who use the four-factor formula and those that use special apportionment methods be separated into subgroups for purposes of allocation and apportionment. (For the new proposed regulations, see *Doc 2012-18411*  )

Diann Smith, counsel at Sutherland Asbill & Brennan LLP, Washington, told Tax Analysts that the new proposed regulations do a very good job at explaining how the combined reporting law is to be interpreted.

Because the district adopted the *Joyce* rule, applying different apportionment formulas is simpler, Smith said.

However, Smith said issues remain -- particularly in the unincorporated business context.

"The application to unincorporated business entities remains complex," she said. "This is partially because of D.C.'s tax on unincorporated business entities and partially because of D.C.'s probably unconstitutional deduction allowed to member-partners of unincorporated entities for income subject to D.C. tax at the [unincorporated business] level."





Smith said the district also exacerbates the complexity by taking a very different approach to the combination of unincorporated entities than most taxing jurisdictions.

"D.C. basically de-combines all unincorporated entities," she said. "While they are specifically included in the combined report in one section of the regulations, they are essentially taken out by another section of the regulations."

While taxpayers can figure this out, it takes additional time, she added.

The OTR is providing a shortened comment period for the new regulations. The notice says the rules will become final before September 15, the due date for calendar-year taxpayers filing on extension.

Enacted in 2011, mandatory combined reporting applies to tax years beginning after December 31, 2010. On

January 20 the office published its first set of proposed regulations. (For coverage, see *State Tax Notes*, Jan. 30, 2012, p. 361, *Doc 2012-1235* , or *2012 STT 14-14* . For the proposed regulations released in January, see *Doc 2012-1198*  or *2012 STT 14-15* .)

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