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**D.C. Tax Office Provides Additional Guidance on Combined Reporting**  
by **Waltreese Carroll**



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Summary by **taxanalysts**<sup>®</sup>

The District of Columbia Office of Tax and Revenue provided additional guidance to address practitioner concerns about its latest proposed combined reporting regulations.

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The District of Columbia Office of Tax and Revenue (OTR) provided additional guidance to address practitioner concerns about its latest proposed combined reporting regulations.

The OTR published new combined reporting regulations on August 31, and since then, practitioners have cited issues regarding unincorporated business entities. (For coverage of the new proposed regulations, see *State Tax Notes*, Sep. 10, 2012, p. 699, *Doc 2012-18244* , or *2012 STT 171-16* .)

Because taxpayers are filing their first returns under the district's new combined reporting regime, practitioners have also raised compliance questions.

OTR Assistant General Counsel Aishah Hashmi told Tax Analysts that the OTR will be seeking a statutory amendment regarding D.C. Code section 47-1810.05(a)(3) involving unincorporated business entities.

That section provides that if the combined group includes or owns an unincorporated business that would be subject to tax imposed under section 47-1808.03, the income or loss of the unincorporated business is apportioned to the district using the apportionment factors of the unincorporated business.

Also, the combined group member's distributive share of the post-apportionment income is required to be added to the combined group member's district taxable income, which is computed without regard to any income or loss or apportionment factors of the unincorporated business.

Section 47-1810.05(a)(3) also provides that a combined group member's distributive share of an unincorporated business' pre-apportionment income or loss is exempt from the tax imposed under section 47-1808.03.

Jamie Yesnowitz, a principal with Grant Thornton LLP, Washington, said the statute contains just a few provisions dealing with passthrough entities, with a lot of room for interpretation. He said a regulation is needed to flesh out concepts and ensure that groups with unincorporated business entities are not subject to double taxation.

Hashmi, the primary drafter of the combined reporting statutes and regulations, said the OTR is seeking the statutory amendment because "the current provision permits certain income to escape taxation which the regulation addresses."

Hashmi also noted that the OTR website provides two explanations on how unincorporated business entities are included in the combined report.

Practitioners also have compliance concerns regarding the filing of forms and schedules under the district's new combined reporting regime.


Yesnowitz said that he hopes that the OTR "is flexible, particularly this first year."


If the OTR is not going to extend the filing deadline, it should accept what it can from taxpayers that are legitimately trying to comply, Yesnowitz said. It is going to be a learning process for taxpayers, practitioners, and the OTR, he said.

When asked whether the OTR will be flexible in its acceptance of taxpayer filings this year and accept an Excel spreadsheet or some other document that closely mirrors forms or schedules that are not available in income tax return preparation software, Hashmi said: "Yes; however, the forms are on the OTR combined reporting website in Excel."

Yesnowitz also expressed concern over the filing deadline for the Financial Accounting Standard No. 109 worksheet before the issuance of Notice 2012-07, which extends that deadline. Without the notice, the proposed regulations would have required taxpayers to file the worksheet on or before September 15, indicating the total amount of the deduction claimed by the taxpayer.

"Taxpayers and practitioners don't have that information available," Yesnowitz said. "It's appreciated that public companies are getting a FAS 109 deduction." However, "to say that [taxpayers] are required to submit the deduction and a notice as of September 15, a lot of taxpayers are just going to guess. There's no way around it."

Because of comments to the revised proposed regulations, the OTR on September 5 published a notice saying that it will amend the proposed regulations to extend the due date for the FAS 109 worksheet to the due date for the 2012 franchise tax returns. (For the notice, see [Doc 2012-18884](#) )

Also, the OTR on September 7 published another notice granting combined reporting filers extra time to file their returns. (For the notice, see [Doc 2012-18883](#) )

According to the notice, allowing taxpayers extra time to file "is reasonable in light of the significant and complex tax law change in the district and the compliance challenges for combined reporting filers." The notice grants taxpayers an extension until October 15 and says:

Effective for tax years beginning on or after December 31, 2010, a taxpayer corporation that is a member of a combined group and that must report income derived from the activities of that group in a combined report . . . on September 17, 2012, may receive an automatic extension until October 15, 2012, in lieu of the six-month extension allowed to filers under D.C. Official Code [section] 47-1805.03(b), to file its combined report.

The notice also says that the regulations are expected to become final on September 14, which Hashmi confirmed.

Yesnowitz said that "we appreciate the OTR's decision to grant the one-month extension, and we are hopeful that the dialogue between OTR, practitioners and taxpayers continues in an effort to clarify open items with respect to combined reporting."

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### Tax Analysts Information

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