



Executive
Director
Marshall Stranburg

QUESTION: Whether the Taxpayer has established sufficient reasonable cause for the Executive Director to permit it to stop filing consolidated Florida corporate income tax returns?

ANSWER: Based on the following four conditions, the Department grants permission to the Taxpayer to discontinue filing consolidated corporate income tax returns beginning with tax year ended December 31, 2012:

1. That the deconsolidation is effective for the year ending on December 31, 2012.
2. That Taxpayer has no realized but unrecognized income or expense items that may be recognized at a later date.
3. That the Taxpayer Group does not become part of a consolidated Florida corporate income tax return prior to the tax year ending December 31, 2017.
4. That any deferred gains which are realized for Federal tax purposes, but which have not yet been recognized, are required to be reported in total, on the income tax returns filed by the taxpayers, for the period ending December 31, 2011.

October 25, 2013

XXX
XXX
XXX

Re: Technical Assistance Advise ment 13C1-008
Request for Authority to Discontinue Consolidated Filing
Section 220.131, F.S.
Rule 12C-1.013.131(3) and 12C-1.0151, F.A.C.
XXX (“Taxpayer”) FEIN: XXX

Dear XXX:

This is in response to your request dated XXX, for a Technical Assistance Advise ment (“TAA”) pursuant to s. 213.22, F.S., and Rule Chapter 12-11, F.A.C., regarding permission to discontinue filing consolidated corporate income tax returns. An examination of your letter has established that you have complied with the statutory and regulatory requirements for issuance of a TAA. Therefore, the Department is hereby granting your request for a TAA.

Child Support Enforcement – Ann Coffin, Director • General Tax Administration – Maria Johnson, Director
Property Tax Oversight – James McAdams, Director • Information Services – Damu Kuttikrishnan, Director

www.myflorida.com/dor
Tallahassee, Florida 32399-0100

FACTS SUPPLIED BY TAXPAYER

Taxpayer is incorporated and domiciled in XXX. Taxpayer files as part of a consolidated group for both federal and Florida purposes. Taxpayer has been filing as part of a consolidated group since at least XXX. Taxpayer is a XXX that includes XXX, and other services to customers that XXX, in the XXX. Taxpayer was founded in XXX by XXX to XXX each other when they were unable to XXX. Over the past XXX Taxpayer has been expanding into both XXX and into XXX.

ISSUE

Whether the Taxpayer has established sufficient reasonable cause for the Executive Director to permit it to stop filing consolidated Florida corporate income tax returns?

LAW

Section 220.131(1), F.S., states in part:

(1)Notwithstanding any prior election made with respect to consolidated returns, and subject to subsection (5), for taxable years beginning on or after September 1, 1984, any corporation subject to tax under this code which corporation is the parent company of an affiliated group of corporations may elect, not later than the due date for filing its return for the taxable year, including any extensions thereof, to consolidate its taxable income with that of all other members of the group, regardless of whether such member is subject to tax under this code, and to return such consolidated taxable income hereunder, in which case all such other members must consent thereto in such manner as the department may by rule prescribe, provided:

- (a) Each member of the group consents to such filing by specific written authorization at the time the consolidated return is filed;
- (b) The affiliated group so filing under this code has filed a consolidated return for federal income tax purposes for the same taxable year; and
- (c) The affiliated group so filing under this code is composed of the identical component members as those which have consolidated their taxable incomes in such federal return.

Section 220.131(3), F.S., states in part:

(3) The filing of a consolidated return for any taxable year shall require the filing of consolidated returns for all subsequent taxable years so long as the filing taxpayers remain members of the affiliated group or, in the case of a group having component members not subject to tax under this code, so long as a consolidated return is filed by such group for federal income tax purposes, unless the director consents to the filing of separate returns.

Rule 12C-1.0131(3)(b), F.A.C.

(b)1. Notwithstanding that a consolidated return is required for a taxable year, the Executive Director or the Executive Director's designee is authorized to grant permission to a group to discontinue filing consolidated returns. Any such application shall be made to Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, and shall be made not later than the 90th day before the due date for the filing of the consolidated return, including extensions of time. Permission to revoke will be contingent upon an agreement between the taxpayer and the Executive Director or the Executive Director's designee to the terms, conditions, and adjustment under which the change will be effected.

2. The Executive Director or the Executive Director's designee is authorized to grant permission to a group to discontinue filing consolidated returns if the net result of all amendments to the Florida Income Tax Code or the Internal Revenue Code or regulations with effective dates commencing within the taxable year has a substantial adverse effect on the consolidated tax liability of the group for such year relative to what the aggregate tax liability would be if the members of the group filed separate returns for such year. Other factors which will be taken into account in determining whether good cause exists for granting permission to discontinue filing consolidated returns beginning with the taxable year include:

a. Changes in law or circumstances, including changes which do not affect income tax liability;

ANALYSIS

Taxpayer relies on Rule 12C-1.0131(3)(b)2.a., F.A.C., which permits the Executive Director to consider "[c]hanges in law or circumstances, including changes which do not affect income tax liability" when granting permission to discontinue filing consolidated returns. Taxpayer contends that it has grown substantially since XXX, the earliest year for which Taxpayer information is available and a consolidated return was filed.

The information provided by Taxpayer shows growth in the consolidated group since XXX. The consolidated group includes both XXX and XXX companies. Between XXX and XXX, Taxpayer's XXX grew XXX, and its XXX and XXX grew XXX. In the XXX and XXX, Taxpayer's employees grew by XXX, the total income grew by XXX, and the total assets grew by XXX. Taxpayer has added services such as XXX XXX, XXX, XXX, and XXX to its XXX. Taxpayer has also added additional services to its XXX such as online and mobile XXX, XXX, and other XXX.

Taxpayer's substantial growth since XXX is a sufficient basis for granting deconsolidation pursuant to Rule 12C-1.0131(3)(b)2.a., F.A.C.

CONCLUSION

Based on the following four conditions, the Department grants permission to the Taxpayer to discontinue filing consolidated corporate income tax returns beginning with tax year ended December 31, 2012:

1. That the deconsolidation is effective for the year ending on December 31, 2012.
2. That Taxpayer has no realized but unrecognized income or expense items that may be recognized at a later date.
3. That the Taxpayer Group does not become part of a consolidated Florida corporate income tax return prior to the tax year ending December 31, 2017.
4. That any deferred gains which are realized for Federal tax purposes, but which have not yet been recognized, are required to be reported in total, on the income tax returns filed by the taxpayers, for the period ending December 31, 2011.

This response constitutes a Technical Assistance Advisement under s. 213.22, F.S., which is binding on the Department only under the facts and circumstances described in the request for this advice as specified in s. 213.22, F.S. Our response is predicated on those facts and the specific situation summarized above. You are advised that subsequent statutory or administrative rule changes, or judicial interpretations of the statutes or rules, upon which this advice is based, may subject similar future transactions to a different treatment than expressed in this response.

You are further advised that this response, your request and related documents are public records under Chapter 119, F.S., which are subject to disclosure to the public under the conditions of s. 213.22, F.S. Your name, address, and any other details, which might lead to identification of the taxpayer, must be deleted before disclosure. In an effort to protect the confidentiality of such information, we request you provide the undersigned with an edited copy of your request for Technical Assistance Advisement, backup material and response within fifteen days of the date of this advisement.

Sincerely,

Affan Qureshi, Esq.
Senior Attorney
Technical Assistance and Dispute Resolution
(850)717-7602