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NEW YORK CITY DEPARTMENT OF FINANCE

UPDATE ON AUDIT ISSUES

GCT

General Corporation Tax
Combination

June 2006

I. ISSUE

Whether a group of corporations are eligible to file a combined return.

The Commissioner of Finance may permit or require related corporations to file a combined report that includes income, capital, and allocation factors of the combined group. All corporations included on a combined report are treated as divisions of one company, eliminating intercompany transactions.

I. CITE

Pursuant to 19 RCNY Sec. 11-91 and Adm. Code 11-605(4) (a), "...every corporation is a separate taxable entity and shall file its own report. However, the Commissioner of Finance, has the discretion to require a group of corporations to file a combined report or he/she may grant permission to a group of corporations to file a combined report...where:

- (1) The requirement of stock ownership or control is met,
- (2) The group of corporations is engaged in a unitary business, and
- (3) Reporting on a separate basis distorts the taxpayers' NYC activities. Substantial intercompany transactions give rise to the presumption of distortion."

In determining whether the above requirements are met, other areas to consider are the following:

- a. Functional integration,
- b. Central management structure,
- c. Economics of scale, and
- d. Flow of value between the various members of the group.

I. RECOMMENDATION

The taxpayer should be reminded that combination is used to remedy the distortion of items of income and capital of related companies that would otherwise be filing on an individual basis. With this in mind, the activities of each company of a possible combined group should be analyzed to evaluate the dependency to and flow of values between each company to the others. Also, the taxpayer should be encouraged to review the requirements of combination and determine if the group of corporations affected by combination fits these requirements. One test to determine potential distortion consists of evaluating intercompany transactions to ascertain if they are at arms length.