

PUBLICATION

Spotlight on District of Columbia: Mandatory Unitary Combined Reporting Possibly Near Adoption

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During its 2009 legislative session, the D.C. Council enacted legislation that directed the Council to enact legislation in 2010 adopting unitary combined reporting for D.C. corporate taxpayers. This requirement was scheduled to become effective for corporate taxable years beginning after December 31, 2010. However, the 2009 legislation contained no definition of a unitary business that would apply or the other mechanics for combined reporting.

Unitary combined reporting requires a corporate taxpayer to determine its income subject to income tax by reference to the business income and apportionment factors of other subsidiaries or affiliates of the taxpayer that are engaged in a unitary business with the taxpayer. The D.C. Office of Tax and Revenue has been drafting the implementing legislation for the D.C. Council during the summer and autumn of 2010. Reports now indicate that the D.C. Council is preparing to enact the legislation by year-end. If such legislative action occurs, the District of Columbia will become the latest tax jurisdiction to enact mandatory combined reporting, effective for taxable years beginning after December 31, 2010; however, any District of Columbia legislation is not effective until after the mandatory Congressional review period.

Corporations with operations in the District of Columbia should prepare for mandatory unitary combined reporting, which, depending on facts and circumstances, could be a tax detriment or benefit to the corporate group. At a minimum, enactment of unitary combined reporting by D.C. will impact D.C. corporate taxpayers for their estimated tax payments as well as their financial statement income tax provisions.

We will continue to monitor the D.C. Council's actions. For those interested in this District of Columbia corporate income tax development, please contact one of the attorneys in the Firm's Tax Department.