

## District of Columbia Deduction for Increase in Deferred Tax Liabilities

September 16, 2013

### Overview

Taxpayers reporting District of Columbia (the “District”) franchise taxes on a combined unitary basis that have deferred tax assets and liabilities may be entitled to a future deduction for increases to the group’s net deferred tax liability resulting from the transition to combined unitary reporting. While taxpayers may not claim the deduction until the 2015 tax year, taxpayers are required to document the future deduction on or before the due date for the 2012 corporation franchise tax return – October 15, 2013.

In this alert we highlight the deduction and the related compliance requirements to be completed with the 2012 Combined Report.

### Background

The District enacted mandatory combined reporting for tax years beginning on and after December 31, 2010.<sup>1</sup> Under D.C. Code § 47-1810.08, if the District’s transition to combined reporting results in an increase to the combined group’s “net deferred tax liability,” the combined group is entitled to a deduction equal to “the net increase in the taxable temporary differences that caused the increase in the net deferred tax liability, as computed at the time of enactment in accordance with generally accepted accounting principles, that would result from the imposition of the combined reporting requirements” but for this deduction.<sup>2</sup> “Net deferred tax liability” is defined as the “net increase, if any, in deferred tax liabilities minus the net increase, if any, in deferred tax assets of the combined group, as computed in accordance with generally accepted accounting principles.”<sup>3</sup> The deduction is limited to “publicly traded companies, including affiliated corporations participating in the filing of a publicly traded company’s financial statements prepared in accordance with generally accepted accounting principles.”<sup>4</sup> Regulations define publicly traded as “a company whose stock is publicly traded.”<sup>5</sup> The regulations also provide that a privately held company that issues publicly traded debt is not eligible for the deduction.<sup>6</sup>

The deduction may be claimed over a seven-year period beginning with the fifth year of the combined filing (i.e., the 2015 tax year for a calendar year taxpayer).<sup>7</sup> For each of the seven years, the deduction is equal to 1/7<sup>th</sup> of the net increase in the taxable temporary differences that caused the increase in the net deferred tax liability that would result from the imposition of the combined reporting requirement.<sup>8</sup>

---

<sup>1</sup> Mandatory combined reporting was enacted by the Fiscal Year 2012 Budget Support Act of 2011 (D.C. Law 19-0021; 58 DCR 6226) and the provisions were incorporated into the Income and Franchise Tax statutes, chapter 18 of title 47 of the District of Columbia Code. On July 30, 2013, D.C. Mayor Vincent Gray approved the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Bill 20-337), which amends the District’s combined reporting provisions on a short-term basis. D.C. Bill 20-337 became effective on July 30, 2013, and will expire in 90 days on October 28, 2013. Additionally, the Fiscal Year 2014 Budget Support Act of 2013 was also approved by the Mayor on August 28, 2013, as permanent legislation (B20-199). B20-199 will become permanent legislation pending the 30-Day Congressional Review Period.

<sup>2</sup> D.C. Code § 47-1810.08 (a), (b), as amended by Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Bill 20-337).

<sup>3</sup> D.C. Code § 47-1810.08 (c), as amended by Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Bill 20-337).

<sup>4</sup> D.C. Code § 47-1810.08 (a), as amended by Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Bill 20-337).

<sup>5</sup> 9 DCMR § 175.1.

<sup>6</sup> *Id.*

<sup>7</sup> D.C. Code § 47-1810.08 (b), as amended by Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Bill 20-337).

<sup>8</sup> *Id.*

## 2012 Compliance

In order to claim the deduction, a taxpayer must complete and file the “FAS 109 – Deferred Tax Accounts” worksheet with its 2012 franchise tax return.<sup>9</sup> The worksheet is available on the OTR website and may be accessed at: <http://otr.cfo.dc.gov/node/389532>.

## Contacts

If you have questions regarding this deduction or other District franchise tax matters, please contact any of the following Deloitte Tax professionals.

Dave Vistica  
Director  
Deloitte Tax LLP, Washington, DC  
[dvistica@deloitte.com](mailto:dvistica@deloitte.com)  
(202) 370-2268

Joe Carr  
Director  
Deloitte Tax LLP, McLean  
[josecarr@deloitte.com](mailto:josecarr@deloitte.com)  
(703) 251-1532

Scott Frishman  
Principal  
Deloitte Tax LLP, McLean  
[sfrishman@deloitte.com](mailto:sfrishman@deloitte.com)  
(703) 251-3471

**This alert contains general information only and Deloitte is not, by means of this alert, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This alert is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. Deloitte shall not be responsible for any loss sustained by any person who relies on this alert.**

**About Deloitte** refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see [www.deloitte.com/about](http://www.deloitte.com/about) for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms. Please see [www.deloitte.com/us/about](http://www.deloitte.com/us/about) for a detailed description of the legal structure of Deloitte LLP and its subsidiaries. Certain services may not be available to attest clients under the rules and regulations of public accounting.

Copyright © 2013 Deloitte Development LLC. All rights reserved.  
Member of Deloitte Touche Tohmatsu Limited

---

<sup>9</sup> 9 DCMR § 175.3. OTR Notice 2012-07 (9/5/2012). See <http://otr.cfo.dc.gov/node/389572>.