



MULTISTATE INCOME/FRANCHISE TAX

Georgia enacts elective consolidated filing for affiliated corporations

Tax Alert

Overview

On May 5, 2022, Georgia Governor Brian Kemp signed [House Bill 1058](#) (H.B. 1058) into law. For tax years beginning on or after January 1, 2023, corporations that are part of a federal affiliated group filing a federal consolidated income tax return and that have an independent Georgia income tax filing obligation may elect to file a Georgia consolidated income tax return.

This Tax Alert summarizes some of the provisions of H.B. 1058.

Georgia H.B. 1058

- Affiliated corporations that file a consolidated federal income tax return are currently required to file income tax returns on a separate entity basis in Georgia, unless they have prior approval from or have been requested to file a consolidated Georgia income tax return by the Georgia Department of Revenue (“Department”).
- Under H.B. 1058, for tax years beginning on or after January 1, 2023, a Georgia affiliated group may elect to file a nexus only, Georgia consolidated return calculated on a post-apportionment basis.
- The election is made on an originally filed return, including extensions as applicable.
- To be deemed a “Georgia affiliated group” eligible to file a Georgia consolidated return, each member of a group of corporations must meet various requirements, including but not limited to:
 - Each member must be a member of an affiliated group as defined in 26 U.S.C. § 1504, and the affiliated group must file a federal consolidated corporate income tax return.
 - Each member must be subject to Georgia corporate income tax, even after the application of P.L. 86-272.

- Each member must have the same taxable year.
- Each member must either be (1) a member of the affiliated group for the entire taxable year; or (2) a member of the affiliated group for part of the taxable year, but only if it was subject to Georgia income tax during the entire portion of the taxable year for which it was not a member of the federal consolidated group.
- The Department cannot require a taxpayer to file a Georgia consolidated return if the taxpayer does not make the election.
- For purposes of allocation and apportionment, each member of the Georgia affiliated group is considered a separate taxpayer. Any taxable loss of a member is deductible against the taxable income of any other member of a Georgia affiliated group, only if and to the extent the loss is apportioned and allocated to Georgia.
- To compute the tax liability of the Georgia affiliated group, the tax rate, currently 5.75%, is applied to the group's consolidated taxable income.
- The election to file on a consolidated basis in Georgia is irrevocable and binding on both the Department and the Georgia affiliated group for five years.
 - The election will automatically be terminated at the end of the five-year period and the taxpayer can re-elect to file on a consolidated basis at that time.
 - Georgia affiliated groups filing on a consolidated basis under prior law have the option to continue filing Georgia consolidated returns under the previous criteria or terminate their consolidated filing status after the period covered by the last Georgia consolidated return that is due.

Get in touch

[Kent Clay](#)

[Joe Garrett](#)

[John Paek](#)



[Deloitte.com](#) | [Unsubscribe](#) | [Manage email preferences](#) | [Legal](#) | [Privacy](#)

30 Rockefeller Plaza
New York, NY 10112-0015
United States

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.

As used in this document, "Deloitte" means Deloitte Tax LLP, a subsidiary of Deloitte LLP. Please see www.deloitte.com/us/about for a detailed description of our legal structure. Certain services may not be available to attest clients under the rules and regulations of public accounting.

Copyright © 2022 Deloitte Development LLC. All rights reserved.