

INTERNAL POLICY DIRECTIVE 2006-3

May 8, 2006

SINGLE BUSINESS TAX REQUESTS FOR CONSOLIDATED OR COMBINED FILING AND EXTENSIONS

POLICY ISSUES

1. Must the due date for Form C-8007 *Request for Consolidated or Combined Filing of Single Business Tax Returns* be tied to the date set for filing the annual SBT return or the extended due date governed by MCL § 208.73?
2. If not, what is the Department's position?

POLICY DETERMINATIONS

1. No, the due date for Form C-8007 *Request for Consolidated or Combined Filing of Single Business Tax Returns* need not be tied to the date set for filing the annual SBT return or the extended due date governed by MCL § 208.73.
2. The Department will adopt a new interpretation of Revenue Administrative Bulletin 89-49 that will no longer require requests to file on a consolidated or combined basis to be received prior to the date set for filing of annual SBT returns for each member of a proposed consolidated or combined group (or that each member be under a valid SBT filing extension). **The Department's new interpretation will be that requests to file a consolidated or combined return must be received by the Department prior to the date set for filing the annual SBT return (or the extended due date) of the parent corporation of the proposed consolidated or combined group.**

DISCUSSION

Section 77 (MCL § 208.77) of the Single Business Tax Act governs filing of consolidated or combined returns, but does not specify a due date for the receipt of a request to file a consolidated or combined return. The Department did specify a due date in RAB 89-49, tying the date to the date set for filing annual SBT returns as provided under Section 73 (MCL § 208.73). However, the Department need not be bound by the date set for filing of annual returns as provided in Section 73 when specifying a due date for requests to file consolidated or combined returns. Rather, new due date criteria for requests to file consolidated or combined returns will be set using an interpretation of RAB 89-49 and revising the instructions for Form C-8007 in a manner consistent with the new policy established in this Internal Policy Directive.

This new policy will determine the timeliness of any request to file on a consolidated basis based on the annual SBT return due date of the parent corporation and not the due dates of each individual member. Thus, while each prospective individual member should continue to file SBT extensions in the event that the consolidation request is denied, the failure of any single prospective member (other than the parent) to file an extension request will not cause the consolidation request to be untimely.

Form C-8007 will be revised pursuant to the Department's authority to develop and implement forms, including instructions, which is expressly granted by SBT statute. Specifically, the Department:

shall prescribe forms for use by taxpayers and shall promulgate rules in conformity with this act for the maintenance by taxpayers of records, books, and accounts, and for the computation of the tax, the manner and time of changing or electing accounting methods and of exercising the various options contained in this act, the making of returns, and the ascertainment, assessment, and collection of the tax imposed under this act. (MCL § 208.80(3)).

This same statutory provision also authorizes the Department to establish filing dates for consolidated or combined return requests in the absence of any contrary statutory provisions.

The new due date for consolidated or combined return requests will not require an amendment to RAB 89-49. Rather, the new due date will be communicated to the public through revised instructions to Form C-8007.

Note that this policy change has no effect on, and does not change, current policies and procedures related to SBT annual return extensions. A parent corporation's request for an extension does not extend the return filing deadline of its subsidiary, unless that subsidiary becomes a member of the Michigan consolidated or combined group. Therefore, each member of a proposed consolidated or combined group should continue to file annual SBT return extension requests to the extent that any request to file as a consolidated or combined group has not been approved by the Department prior to the due date of such entity's annual SBT return.

This Internal Policy Directive is effective for tax years beginning after December 31, 2005. In addition, this Internal Policy Directive may be applied to any tax year within the statute of limitations for requests to file on a consolidated or combined basis currently pending before the Department in any forum.