

STATE OF NORTH CAROLINA

BEFORE THE SECRETARY OF REVENUE

COUNTY OF WAKE

IN THE MATTER OF:

The Petition of [REDACTED])
for an alternative method of apportionment formula)
for franchise tax purposes for the tax year ending)
December 31, 2012, December 31, 2013, and)
December 31, 2014)

ADMINISTRATIVE DECISION
Number: 2013-01

This matter was heard before Secretary of Revenue, David W. Hoyle, on October 11, 2012 at 3:00 PM in the Revenue Building in the City of Raleigh, North Carolina upon a petition dated July 17, 2012 by [REDACTED] ("Company") concerning the apportionment of Company's franchise tax for the tax years ending December 31, 2012 ("2012"), December 31, 2013 ("2013"), and December 31, 2014 ("2014") pursuant to G.S. 105-122(c1)(2).

The Secretary of Revenue presided over the conference with Linda S. Millsaps, Chief Operating Officer, Y. Canaan Huie, General Counsel for the Department of Revenue, and Lennie Collins, Director of the Income Tax Division, participating. [REDACTED] [REDACTED] represented Company.

At the request of the Secretary, Company provided additional information in a letter dated October 29, 2012.

After review of the petition and consideration of testimony and supporting documentation provided by Company, the Secretary of Revenue rendered his decision and entered the following order:

IT IS HEREBY ORDERED BY THE SECRETARY OF REVENUE that the petitioner's written request to employ an alternative method of apportionment for the purpose of determining its North Carolina franchise tax for tax years 2012, 2013 and 2014 is granted. The petitioner shall determine its North Carolina franchise tax liability by combining all entities in its affiliated group as defined under G.S. 105-130.5A(j) ("combined group"). This is the same combined group defined in the Addendum to Resolution Agreement executed by the Department and Company in August 2013 relative to Company's income tax filing for tax years 2012 and beyond. In determining its Capital Stock, Surplus

and Undivided Profits base, amounts such as total capital stock, treasury stock, paid-in or capital surplus, and retained earnings shall be taken from Company's consolidated balance sheet in its annual report, which will negate the need for adjustments regarding affiliated indebtedness or other related party adjustments because intercompany amounts are eliminated in the annual report balance sheets. Other adjustments required under N.C. Gen. Stat. 105-122 such as other surplus, deferred or unearned income, allowance for bad debts, and reserves will be determined on a combined basis from Company's consolidated general ledger accounts. The apportionment factor for determining the portion of Company's Capital Stock Base attributable to North Carolina shall be the same as the apportionment factor computed pursuant to the Resolution Agreement for income tax purposes. In accordance with the provisions of N.C. Gen. Stat. 105-122(d), the amount of the combined capital stock, surplus and undivided profits shall not be less than 55% of the appraised value as determined for ad valorem taxation of all the real and tangible personal property in this State nor less than its total actual investment in tangible property in this State.

Although Company's North Carolina franchise tax liability will be computed on a combined basis, each separate entity doing business in North Carolina must file a separate form and report its proportionate share of the liability. Each separate return must have the "combined return" indicator on page one marked. The methodology for determining each entity's proportionate share of the combined group will be determined in accordance with Exhibit A, which is attached to this order. When completing the separate entity franchise tax schedules, the amount in Column D of Exhibit A will be shown on Sch C, Line 11 of form CD-405. The amount in Column E of Exhibit A will be shown on Sch C, Line 12. The amount in Column D of Exhibit A will be shown on Sch C, Line 13 and on Sch A, Line 1. The amount in Column H of Exhibit A will be shown on Sch A, Line 5. Each separate return must include the name and federal identification number of the principal reporting member of the group.

In the event that Company desires to file under extension, each separate entity will be required to file its own extension and remit tax expected to be due by the original due date of the return pursuant to N.C. Gen. Stat. 105-263(b).

Tax credits generated by members of the group and elected to be taken against franchise tax may be allocated among the members of the group; however, the provision that limits a credit to 50% of the taxpayer's liability must be respected at the single entity level.

This reporting methodology may be used for tax years 2012, 2013 and 2014 unless one of the

following occurs:

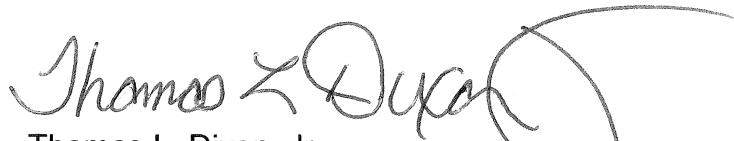
- a. The North Carolina General Assembly enacts legislation that repeals the Secretary's authority to enter into voluntary redeterminations or to provide alternative apportionment relief.
- b. The North Carolina General Assembly adopts combined or consolidated reporting.
- c. There is a final determination by a North Carolina Appellate Court that is not subject to further review that the Secretary does not have the authority to permit a taxpayer to file under the methodology set out in this Order.
- d. The parties mutually agree to modify the methodology in this Order.
- e. Company notifies the Secretary in writing prior to the filing of its franchise tax return that it will no longer file under the terms of this Order, in which case, statutory apportionment will be required.

This Order will be subject to review in the event of the reporting of a material change for income tax purposes.

The relief granted to Company is made subject to audit and review by the North Carolina Department of Revenue.

Made and entered into this the 17th day of September, 2013.

Signature

A handwritten signature in black ink, appearing to read "Thomas L. Dixon, Jr.", with a large, stylized flourish extending to the right.

Thomas L. Dixon, Jr.
Assistant Secretary for Tax Administration
North Carolina Department of Revenue

**Combined Franchise Tax Methodology
Tax Year 2012, 2013, 2014**

(amount used as example only)

Combined Franchise Tax Capital Stock Base
 Combined Apportionment Factor
 Apportioned Combined Capital Stock Base
 NC Franchise Tax Rate
 NC Combined Franchise Tax Liability

A	B	C	D	E	F	G	H
Separate Company Allocation	NC Numerator	% of Total	Portion of NC Capital Stock Base	Combined Apportionment Factor	Portion of Capital Stock Base	NC Franchise Rate	Portion of NC Franchise Tax Liability
[Redacted]	[Redacted]	[Redacted] 100.0000%	[Redacted]	[Redacted]	[Redacted]	0.0015	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	0.0015	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	0.0015	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	0.0015	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	0.0015	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	0.0015	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	0.0015	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	0.0015	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	0.0015	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	0.0015	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	0.0015	[Redacted]