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2008-16

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5136 Cascade Rd. SE #2A • Grand Rapids, MI 49546 • Phone: 616-575-3482 • Fax: 616-575-3481



Ed Kisscorni,
CPA/MBA

edk@ehtc.com

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**Integrated With, Dependent Upon, or Contribute to Each Other:
The Relationship Test of a Unitary Business Group**

GRAND RAPIDS, MI – Monday, April 28, 2008 – The "Relationship Tests" are the second requirement for a "unitary business group." It is very important to note that both the control and the relationship must be met for inclusion in a "unitary business group." In addition to satisfying the control test, the group of persons must have business activities or operations that (1) result in a *flow of value* between or among persons in the group, or (2) are *integrated with, are dependent upon, or contribute to each other*. [Treasury FAQ U8] The following discussion deals with this second aspect of the "relationship" test.

Integrated With, Dependent Upon or Contribute to Each Other

The phrase "business activities or operations that are integrated with, are dependent upon, or contribute to each other" adds a subjective test to the "unitary business group" determination.

"... or has business activities or operations that are integrated with, are dependent upon, or contribute to each other. For purposes of this subsection, flow of value is determined by reviewing the totality of facts and circumstances of business activities and operations." [MCL 208.1117(6)]

Treasury, in FAQ U-8 stated "Businesses are *integrated with, are dependent upon, or contribute to each other* under many of the same circumstances that establish flow of value. However, this alternate relationship test is also commonly satisfied when one entity finances the operations of another or when there exist intercompany transactions, including financing."

The California Court in *Edison California Stores v McColgan*, 176 P.2d 697 (Cal. 1947) stated that unity was present if "the operation of the portion of the business done within the state is dependent upon or contributes to the operation of the business without the state."

The contribution or dependency test is most easily satisfied by the presence of intercompany sales of tangible personal property. An example of this would be a parent corporation manufacturing the product that is sold by a subsidiary to customers in this state. However, contribution or dependency can exist with respect to areas that included executive policymaking, coordination of activities, training of personnel, research, financing, and numerous other functions. The

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contribution or dependency test is generally based on the same functions and activities used to determine a unitary business under the functional integration, centralization of management, and economies of scale tests.

The contribution or dependency test was clearly endorsed as an alternative test for unity in *A.M. Castle & Co. v. FTB, Cal. Court of Appeal*, 36 Cal.App.4th 1794 (1995). In this case, the question was whether a parent company, which sells metal products, was unitary with a subsidiary, which distributes metal alloy shapes. In sustaining the finding of unity, the court stated that this "...is a classic case of a larger parent purchasing a smaller subsidiary to better utilize its existing resources, and to capitalize on the synergy between the two companies."

Whether it's your intent to include or exclude a "person" in a "unitary business group," the taxpayer's files should include sufficient documentation to support either conclusion. Audits of a "unitary business group" can be very difficult. It's better to document the files during the tax year in question rather than years later because of an audit.

Stay tuned for more news and follow the [MichiganStateAndLocalTaxBlog](#) for information as it becomes available.

If you have any questions, please go ahead and contact me. I would be happy to be of assistance.

Sincerely,

Ed Kisscorni, CPA/MBA



Echelbarger, Himebaugh, Tamm & Co., P.C.
5136 Cascade Rd. SE #2A
Grand Rapids, MI 49546

[\(616\)575-3482](tel:6165753482) / ehhc@ehhc.com / www.ehhc.com/

www.MichiganStateandLocalTax.com

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