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SENATE BILL 6

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Peter Wirth

AN ACT

RELATING TO TAXATION; REQUIRING COMBINED REPORTING FOR CERTAIN
UNITARY CORPORATIONS; AMENDING THE CORPORATE INCOME AND
FRANCHISE TAX ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 7-2A-8.3 NMSA 1978 (being Laws 1983,
Chapter 213, Section 12, as amended by Laws 1993, Chapter 307,
Section 4 and also by Laws 1993, Chapter 309, Section 2) is
amended to read:

"7-2A-8.3. COMBINED RETURNS.--

A. Except as provided in Subsection C of this
section, a unitary corporation that is subject to taxation
under the Corporate Income and Franchise Tax Act and that has
not previously filed [~~a combined return pursuant to this~~
~~section or~~] a consolidated return pursuant to Section 7-2A-8.4

.183351.2

underscored material = new
[bracketed material] = delete

underscored material = new
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1 NMSA 1978 [~~may elect to~~] shall file a combined return with
2 other unitary corporations as though the entire combined net
3 income were that of one corporation. The return filed under
4 this method of reporting shall include the net income of all
5 the unitary corporations. Transactions among the unitary
6 corporations may be eliminated by applying the appropriate
7 rules for reporting income for a consolidated federal income
8 tax return. Any corporation that has filed an income tax
9 return with New Mexico pursuant to Section 7-2A-8.4 NMSA 1978
10 shall not file pursuant to this section unless the secretary
11 gives prior permission to file on a combined return basis.

12 B. Once corporations have reported net income
13 through a combined return for any taxable year, they shall file
14 combined returns for subsequent taxable years, so long as they
15 remain unitary corporations, unless the corporations elect to
16 file pursuant to Section 7-2A-8.4 NMSA 1978 or unless the
17 secretary grants prior permission for one or more of the
18 corporations to file individually.

19 ~~[G. For taxable years beginning on or after January~~
20 ~~1, 1993, no unitary corporation once included in a combined~~
21 ~~return may elect, or be granted permission by the secretary,~~
22 ~~for any subsequent taxable year to separately account pursuant~~
23 ~~to Paragraph (4) of Subsection A of Section 7-2A-8 NMSA 1978.]~~

24 C. A unitary corporation whose principal business
25 activity is manufacturing and that has not previously filed a

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underscoring material = new
~~[bracketed material] = delete~~

1 combined or consolidated New Mexico corporate income tax return
2 may elect to file a corporate income tax return as a separate
3 corporate entity. As used in this subsection, "manufacturing"
4 means combining or processing components or materials to
5 increase their value for sale in the ordinary course of
6 business, but "manufacturing" does not include:

- 7 (1) construction;
- 8 (2) farming;
- 9 (3) power generation; or
- 10 (4) processing natural resources, including
11 hydrocarbons."

12 SECTION 2. APPLICABILITY.--The provisions of this act
13 apply to taxable years beginning on or after January 1, 2012.