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SENATE BILL 1

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SPECIAL SESSION, 2016

INTRODUCED BY

Peter Wirth

AN ACT

RELATING TO TAXATION; REQUIRING COMBINED REPORTING FOR A
UNITARY CORPORATION.

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) is amended to read:

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

A. 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 NMSA 1978 may elect to~~] shall file a combined return
with other unitary corporations as though the entire combined
net income were that of one corporation [~~provided, however,~~
~~that for taxable years beginning on or after January 1, 2014, a~~

underscored material = new
[bracketed material] = delete

1 ~~unitary corporation that provides retail sales of goods in a~~
2 ~~facility of more than thirty thousand square feet under one~~
3 ~~roof in New Mexico shall file a combined return with other~~
4 ~~unitary corporations as though the entire combined net income~~
5 ~~were that of one corporation. The return filed under this~~
6 ~~method of reporting].~~

7 B. A combined return filed pursuant to this section
8 shall include the net income of all the unitary corporations.
9 Transactions among the unitary corporations may be eliminated
10 by applying the appropriate rules for reporting income for a
11 consolidated federal income tax return. ~~[Any corporation that~~
12 ~~has filed an income tax return with New Mexico pursuant to~~
13 ~~Section 7-2A-8.4 NMSA 1978 shall not file pursuant to this~~
14 ~~section unless the secretary gives prior permission to file on~~
15 ~~a combined return basis.~~

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

23 ~~[G. For taxable years beginning on or after January~~
24 ~~1, 1993, no unitary corporation once included in a combined~~
25 ~~return may elect, or be granted permission by the secretary,~~

.204679.1

underscoring material = new
[bracketed material] = delete

1 ~~for any subsequent taxable year to separately account pursuant~~
2 ~~to Paragraph (4) of Subsection A of Section 7-2A-8 NMSA 1978.~~

3 ~~D. Notwithstanding Subsection A of this section, a~~
4 ~~unitary corporation shall not be required to file a combined~~
5 ~~return pursuant to this section if that unitary corporation:~~

6 ~~(1) has operations in New Mexico at facilities~~
7 ~~that do not provide retail sales of goods; and~~

8 ~~(2) employs at least seven hundred fifty~~
9 ~~employees in New Mexico at such facilities.]"~~

10 SECTION 2. APPLICABILITY.--The provisions of this act
11 apply to taxable years beginning on or after January 1, 2017.