



Banking Corporations and Combined Returns

TB-91 - Issued July 19, 2019

Tax: Corporation Business Tax

P.L. 2018, c. 48 and P.L. 2018, c. 131 collectively mandate combined reporting for privilege periods ending on and after July 31, 2019 (beginning on and after August 1, 2018 if a full 12-month privilege period of the managerial member begins August 1, 2018 and ends July 31, 2019). This Technical Bulletin explains the treatment of banking corporations and combined groups.

A managerial member can have either a fiscal or calendar tax year end. However, the existing statute for banking corporations, N.J.S.A. 54:10A-34, requires banking corporations file on a calendar year privilege period basis for New Jersey reporting purposes for prior calendar year income. This could result in a discrepancy in reporting periods for New Jersey Corporation Business Tax purposes.

The managerial member may or may not be the common parent corporation. See N.J.S.A. 54:10A-4(cc). If the common parent corporation is a taxable member of the combined group, the common parent corporation is the managerial member. If the common parent is not a taxable member, the combined group must designate a taxable member as its managerial member. A banking corporation can be a common parent corporation. Furthermore, if the common parent corporation is not a taxable member, and one of the banking corporations is a taxable member, the combined group can designate the banking corporation as the managerial member of the combined group. A combined group is defined under N.J.S.A. 54:10A-4(z).

The relevant sections of N.J.S.A. 54:10A-4 state the following:

- (i) 'Fiscal year' shall mean an accounting period ending on any day other than the last day of December on the basis of which the taxpayer is required to report for federal income tax purposes.
- (j) Except as herein provided, 'privilege period' shall mean the calendar or fiscal accounting period for which a tax is payable under this act.
- ...
- (bb) 'Group privilege period' means, if two or more members in the combined group file in the same federal consolidated tax return, the same income year as that used on the federal consolidated tax return and, in all other cases, the privilege period of the managerial member.

The relevant part of N.J.S.A. 54:10A-34 state that:

Every banking corporation shall pay an annual franchise tax in the year 1976 and each year thereafter, as provided in the Corporation Business Tax Act, P.L.1945, c. 162 (C. 54:10A-1 et seq.) for the privilege of having or exercising its corporate franchise in this State, or for the privilege of doing business, employing or owning capital or property, or maintaining an office in this State. For the purposes of this act, (1) the privilege period of each banking corporation shall be the calendar year, and the initial privilege period shall be the calendar year ending December 31, 1976; (2) January 1, 1976 and January 1, of each year thereafter shall be the assessment dates; (3) the tax on income shall be based upon the income of the calendar year preceding the assessment date; (4) net worth shall be determined as of the December 31 preceding the assessment date; and (5) income of a banking corporation in any privilege period shall include the income of any banking corporation merged into or consolidated with such banking corporation in such privilege period.

The relevant subsections of N.J.S.A. 54:10A-4.10 state the following:

- a. Determination of Managerial Member. If the combined group has a common parent corporation within the meaning of the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), and that common parent corporation is a taxable member of the corporate group, the managerial member shall be the common parent corporation. In other cases, the combined group shall select a taxable member as its managerial member or, in the discretion of the director or upon

failure of the combined group to select its managerial member, the director shall designate a taxable member of the combined group as managerial member. Once the election of the managerial member is made, the election shall be binding for 10 successive privilege periods, except as otherwise provided for by the director.

- b. A combined group shall file a mandatory combined return under this section in the form and manner prescribed by the director. The managerial member of the combined group shall file the mandatory combined return on behalf of the taxable members of the combined group. The managerial member shall be required to file taxable member returns; file taxable member extensions for filing tax returns and other documents with the director; pay taxable member liabilities; receive taxable member findings, assessments, and notices; make and receive taxable member claims, or file taxable member protests and appeals; and shall be the responsible party liable for filing and paying the tax on behalf of the combined group.
- c. The privilege period for the combined group is the privilege period of the managerial member. If a member of a combined group has a different fiscal or calendar accounting period from the combined group's privilege period, that member with a different period shall report amounts from its return for its fiscal or calendar accounting year that ends during the group privilege period.

...

- e. If a combined group is eligible to elect the managerial member of the combined group, notice of the election shall be submitted in writing to the director not later than the due date or, if an extension of time to file has been requested and granted, not later than the extended due date of the mandatory combined return for the initial privilege period for which a return is required. The managerial member shall be the designated agent and the responsible person for filing the combined return and paying the tax for the combined group. If another taxable member is subsequently designated as the managerial member, the subsequent designation shall be subject to the approval of the director.
- f. The director is authorized to promulgate regulations with regards to installment payments, estimated payments, overpayments, refunds **and any other filing or payment matters related to combined groups filing combined returns.**
- g. For privilege periods ending on and after July 31, 2019, a combined group must file a mandatory combined return. However, if privilege periods of the members of the combined group differ, the first mandatory combined return for the combined group shall be required for the privilege period of the managerial member.

In order to 1) align filing periods; 2) report the proper income and tax liabilities; and 3) ensure that tax attributes are properly accounted for, if a combined group has a calendar year group privilege period, a banking corporation should file a 2019 BFC-1, reporting their 2018 calendar year income for their 2019 privilege period, and then report their calendar 2019 income on the combined return (2019 CBT-100U) of their combined group. However, if the banking corporation is part of a combined group that has a 2018 fiscal group privilege period, the banking corporation should first file a 2019 BFC-1 reporting their 2018 calendar year income for their 2019 privilege period and then file a short period return (BFC-1-F) covering January 1, 2019 through the end of the month of the combined group's group privilege period. At that point, the banking corporation should file for the fiscal combined group's 2019 fiscal group privilege period and report all of its income on a fiscal basis. Thereafter, the banking corporation should continue reporting on a fiscal basis for future privilege periods. If a banking corporation, that would otherwise be a member of a fiscal combined group for the 2018 fiscal group privilege period ending on or after July 31, 2019, believes that application of the filing requirements set forth in this technical bulletin would result in an unfair or distorted reflection of income, the Division will entertain requests for discretionary relief.

Example 1: The managerial member's privilege period began August 1, 2018 and ended on July 31, 2019 and a banking corporation is a member of the combined group. The banking corporation will file the 2019 BFC-1 reporting their 2018 calendar year income. The banking corporation will then file a short period BFC-1 (BFC-1-F) reporting the income from January 1, 2019 through July 31, 2019. Following this return,

the banking corporation will then include and report its income from August 1, 2019 through July 31, 2020 on the CBT-100U for the combined group's fiscal 2020 group privilege period ending on July 31, 2020.

Example 2: The managerial member's privilege period began January 1, 2019 and ended on December 31, 2019 and a banking corporation is a member of the combined group. The banking corporation will file the 2019 BFC-1 reporting their 2018 calendar year income. The banking corporation would include and report its income from January 1, 2019 through December 31, 2019 on the 2019 CBT-100U for the combined group's 2019 year group privilege period ending on December 31, 2019.

Taxpayers may submit the banking corporation returns to the Division of Taxation Special Audit Unit at:

State of New Jersey
Division of Taxation - BFC
Revenue Processing Center
PO Box 247
Trenton, NJ 08646-0247

No penalties and interest will be assessed for underpayments, as applicable, pursuant to N.J.S.A. 54:10A-4.12. BFC-1 filers that choose to file under extension their 2019 privilege period returns by October 15 (instead of September 15) shall not be subject to penalties or interest due to the thirty day extension.

The Division of Taxation is in the process of drafting regulations addressing the topics covered by this Technical Bulletin.

Note: A Technical Bulletin is an informational document that provides guidance on a topic of interest to taxpayers and may describe recent changes to the relevant laws, regulations, and/or Division policies. It is accurate as of the date issued. However, taxpayers should be aware that subsequent changes to the applicable laws, regulations, and/or the Division's interpretation thereof may affect the accuracy of a Technical Bulletin. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.