

Frank M. O'Connell
State Revenue Commissioner



Chester Cook
Deputy State Revenue Commissioner

Georgia Department of Revenue
1800 Century Boulevard, NE | Atlanta, Georgia 30345

NOTICE IT-2024-1

RE: Proposal to amend Rule 560-7-3-.13 Consolidated Returns.

TO ALL INTERESTED PERSONS AND PARTIES:

In compliance with O.C.G.A. § 50-13-4, the Georgia Department of Revenue gives notice that it proposes to amend Rule 560-7-3-.13.

Attached to this notice are an exact copy and synopsis of the proposed Rule. The proposed Rule is being amended under the authority of O.C.G.A. §§ 48-2-12 and 48-7-21.

The Department of Revenue will consider the Amendment of the above Rule at a regulation hearing held at 1800 Century Boulevard, NE, Atlanta, GA 30345, Room L300, on February 20, 2024, at 10 a.m. All attendees will be required to sign in upon arrival.

The Department must receive all comments regarding the above-referenced Rule from interested persons and parties no later than 10 a.m. on February 20, 2024. Electronic comments must be sent to regcomments@dor.ga.gov. Facsimile comments must be sent to (770) 342-3157. **Please reference “Notice IT-2024-1” on all comments.**

Dated: January 16, 2024


Frank M. O'Connell
State Revenue Commissioner

SYNOPSIS

GEORGIA DEPARTMENT OF REVENUE INCOME TAX DIVISION

CHAPTER 560-7-3 SUBSTANTIVE REGULATIONS

560-7-3-.13. Consolidated Returns

The purpose of Rule 560-7-3-.13 is to provide guidance concerning the filing of consolidated corporate income tax returns under O.C.G.A. § 48-7-21.

- Rule 560-7-3-.13 is being amended to bring the rule into conformity with current Georgia law and to clarify certain provisions in the rule, including incorporating the provisions of House Bill 1058 from the 2021-2022 Session of the General Assembly. Specific changes are denoted in the attached Rule.
- Paragraph (1) provides the definitions.
- Paragraph (2) specifies the filing of consolidated returns.
- Paragraph (3) specifies the process of making the election to file consolidated returns.
- Paragraph (4) specifies the five-year binding period of the election.
- Paragraph (5) provides the separate company computation of taxable income or loss.
- Paragraph (6) provides the separate company computation of net worth tax and payment.
- Paragraph (7) specifies the rules for earning, claiming, and assigning tax credits.
- Paragraph (8) specifies the rules of the net operating loss deduction for a consolidated return.
- Paragraph (9) provides the transition rule for credit carryforwards for consolidated returns under prior grants of permission that are now filed under the election.
- Paragraph (10) provides the transition rule for net operating loss carryforwards for consolidated returns under prior grants of permission that are now filed under the election.
- Paragraph (11) specifies the rules for estimated tax payments.
- Paragraph (12) provides special issues relating to consolidated returns.
- Paragraph (13) provides the effective date of the regulation.

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**RULES
OF
DEPARTMENT OF REVENUE
INCOME TAX DIVISION**

**CHAPTER 560-7-3
SUBSTANTIVE REGULATIONS**

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560-7-3-.13 Consolidated Returns

560-7-3-.13 Consolidated Returns

(1) Definitions. As used in this regulation, the terms “Georgia affiliated group” and “Georgia consolidated return” shall have the same meaning as in O.C.G.A. § 48-7-21.

~~(1)~~(2) Filing of Consolidated Returns.

~~(a) Permission Required~~Election to File Consolidated. ~~Where a group of affiliated corporations file a consolidated income tax return for Federal income tax purposes, the members of this affiliated group may, pursuant to paragraph (2) of this regulation, petition the Commissioner for permission to file a consolidated return for Georgia income tax purposes. For taxable years beginning on or after January 1, 2023, a Georgia affiliated group that files a consolidated income tax return for Federal income tax purposes does not need to petition the Commissioner for permission to file a consolidated return for Georgia income tax purposes. The members of this affiliated group may elect to file a Georgia consolidated return on an originally filed income tax return by the due date of the return, including extensions. The election is irrevocable and binding on both the~~

34 Georgia affiliated group and the Department for five years.
35

36 **(b) Treatment of Corporations which were Previously Re-**
37 **quired Permitted to File a Consolidated Return for Georgia In-**
38 **come Tax Purposes.** Any Georgia ~~consolidated~~ affiliated group,
39 which was ~~previously required~~ granted permission to file a consoli-
40 dated return for taxable years beginning before January 1,
41 2005~~2023~~, ~~must request permission~~ can either elect to file a Georgia
42 consolidated return pursuant to this regulation, continue to file a
43 consolidated return pursuant to the terms of the prior grant of per-
44 mission, or cease filing a consolidated return and file separately.
45 ~~However, if such group requested permission for a taxable year be-~~
46 ~~ginning on or after January 1, 2002, they are not required to request~~
47 ~~permission again.~~
48

49 1. To continue to file a consolidated return pursuant to the terms
50 of the prior grant of permission, mark either the “Consolidated GA
51 Parent Return” checkbox or the “GA Consolidated Subsidiary”
52 checkbox, whichever is applicable, on an originally filed return by
53 the due date of the return, including extensions. If the “GA Consol-
54 idated Subsidiary” checkbox is marked, provide the federal em-
55 ployer identification number of the consolidated parent.
56

57 (i) Any Georgia affiliated group filing a consolidated return pur-
58 suant to the terms of the prior grant of permission is bound by the
59 terms of the prior grant of permission.
60

61 (ii) Any Georgia affiliated group filing a consolidated return pur-
62 suant to the terms of the prior grant of permission is governed by the
63 regulations of Chapter 560-7 as they exist before January 1, 2023 in
64 the same manner as if the amendments set forth in this regulation
65 had not been promulgated.
66

67 2. To terminate filing a consolidated return pursuant to the terms
68 of the prior grant of permission and to elect to file a Georgia consol-
69 idated return for the irrevocable five-year period, the consolidated
70 parent under the prior grant of permission shall mark the “Cease Fil-
71 ing Consolidated” checkbox and either the “Consolidated GA Par-
72 ent Return” checkbox or the “GA Consolidated Subsidiary” check-
73 box, whichever is applicable. The other member(s) of the Georgia
74 affiliated group shall mark either the “Consolidated GA Parent Re-
75 turn” checkbox or the “GA Consolidated Subsidiary” checkbox,
76 whichever is applicable. If the “GA Consolidated Subsidiary”
77 checkbox is marked, provide the federal employer identification
78 number of the consolidated parent.

79
80 3. To terminate filing a consolidated return for Georgia income
81 tax purposes, the consolidated parent shall mark the “Cease Filing
82 Consolidated” checkbox but leave the “Consolidated GA Parent Re-
83 turn” checkbox blank. The other member(s) shall leave the “Cease
84 Filing Consolidated” and the “GA Consolidated Subsidiary” check-
85 boxes blank.

86
87 **(c) When Required to Clearly and Equitably Reflect Income**
88 **Attributable to Georgia.** ~~The Commissioner may require members~~
89 ~~of a group of affiliated corporations that file a consolidated return~~
90 ~~for Federal income tax purposes to file a consolidated return for~~
91 ~~Georgia income tax purposes, but only when the Commissioner rea-~~
92 ~~sonably determines that:~~

93
94 ~~1. The filing of separate Georgia income tax returns would not~~
95 ~~clearly and equitably reflect the income of the corporations attrib-~~
96 ~~utable to property owned in Georgia, business done in Georgia, and~~
97 ~~income derived from sources within Georgia; and~~

98
99 ~~2. The filing of a consolidated return would clearly and equitably~~

100 ~~reflect the income of the corporations attributable to property owned~~
101 ~~in Georgia, business done in Georgia, and income derived from~~
102 ~~sources within Georgia.~~

103

104 **(c) Election to File a Georgia Consolidated Return for Taxa-**
105 **ble Years Beginning on or After January 1, 2023.**

106

107 1. To elect to file a Georgia consolidated return, the consolidated
108 parent shall mark the “Consolidated GA Parent Return” checkbox
109 on the Georgia Form 600, and the other member(s) of the Georgia
110 affiliated group shall mark the “GA Consolidated Subsidiary”
111 checkbox and provide the federal employer identification number of
112 the consolidated parent.

113

114 2. If a Georgia affiliated group wishes to file a Georgia consoli-
115 dated return under a new consolidated parent after the group has
116 made the election to file a Georgia consolidated return but before
117 the election is automatically terminated, then the new consolidated
118 parent of the Georgia affiliated group shall mark the “Consolidated
119 GA Parent Return” checkbox on the Georgia Form 600 and attach a
120 statement explaining that the group is filing under a new consoli-
121 dated parent. The other member(s) of the group shall mark the “GA
122 Consolidated Subsidiary” checkbox and provide the federal em-
123 ployer identification number of the new consolidated parent. The
124 other member(s) are not required to attach such statement.

125

126 3. To terminate filing a Georgia consolidated return during the
127 five-year election period due to changes in the Georgia affiliated
128 group, the consolidated parent of the Georgia affiliated group shall
129 mark the “Cease Filing Consolidated” checkbox on the Georgia
130 Form 600 and attach a statement explaining the changes to the
131 group. The other member(s) of the Georgia affiliated group shall not
132 mark the “Cease Filing Consolidated” checkbox and are not

133 required to attach such statement.

134

135 (i) The new Georgia affiliated group may make a new election to
136 file a Georgia consolidated return under this paragraph on the Geor-
137 gia consolidated return.

138

139 ~~(2)(3)~~ **Application for Permission to File a Consolidated Re-**
140 **turn Making the Election.** The election to file a Georgia consoli-
141 dated return under subparagraphs (2)(b)2., 2(c)1., and (2)(c)2.(i)
142 must be made on an originally filed return by the due date of the
143 return, including extensions. Failure to make the election by such
144 time will result in the filing of separate income returns for the appli-
145 licable taxable year.

146

147 ~~(a) Time for Filing Application.~~ Corporations that wish to re-
148 quest permission from the Commissioner to file a consolidated re-
149 turn for the purpose of determining their Georgia income tax liabil-
150 ity must do so by filing "Application for Permission to File Consol-
151 idated Georgia Income Tax Return," Revenue Form IT-CONSOL.
152 Such application shall be filed with the Commissioner at least sev-
153 enty five (75) days prior to the due date of the Georgia return (in-
154 cluding extensions) or at least seventy five (75) days prior to the
155 filing of the return, whichever occurs first, for the tax year for which
156 permission to file on a consolidated basis is requested. Failure to
157 request permission by such time will result in the filing of separate
158 income tax returns for the applicable year. Such application must
159 designate one member of the affiliated group which is authorized to
160 receive the notice of approval or denial or the notices referred to in
161 paragraph (3) on behalf of the entire group, and to execute any con-
162 sent referred to in subparagraph (f) of paragraph (3) on behalf of the
163 entire group, and an address to which any such notices or consents
164 may be sent.

165

166 ~~(b) **Composition of the Georgia Consolidated Group.** A Georgia consolidated group shall, for each year a consolidated return is~~
167 ~~filed, consist of all of the members of an affiliated group of corporations that file a consolidated return for Federal income tax purposes that are subject to Georgia income tax under Chapter 7 of Title~~
168 ~~48 of the O.C.G.A.; provided, however, that corporations that are immune from Georgia income tax under Federal law shall not be~~
169 ~~included in the proposed Georgia consolidated group.~~
170
171
172
173
174

175 ~~(3) **Standard for Allowing Consolidated Returns; Tentative**~~
176 ~~**Permission; Revocation of Permission.**~~
177

178 ~~(a) **Clearly and Equitably Reflect Income Attributable to**~~
179 ~~**Georgia.** Permission to file a Georgia consolidated return shall be granted by the Commissioner when the filing of such return will~~
180 ~~clearly and equitably reflect the income of the corporations attributable to property owned, business done, and income derived from~~
181 ~~sources by the members of the affiliated group in Georgia. A Georgia consolidated return will generally be deemed by the Commissioner to clearly and equitably reflect the income of the corporations~~
182 ~~included in the return attributable to property owned in Georgia, business done in Georgia, and income derived from sources within~~
183 ~~Georgia except as enumerated in subparagraphs (b) through (e) below.~~
184
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190

191 ~~(b) **Expenses Attributable to Related Members Not Included**~~
192 ~~**in Georgia Consolidated Group.** If any member of a group of corporations filing a Georgia consolidated return has interest expense~~
193 ~~attributable to indebtedness incurred in connection with an ownership interest in one or more related members which are not included~~
194 ~~in the Georgia consolidated return, or other deductions from income related to an ownership interest in one or more related members~~
195 ~~which are not included in the Georgia consolidated return, the~~
196
197
198

199 Commissioner may, as a condition to the granting of permission to
200 file a consolidated Georgia return, require that such interest or other
201 deductions be excluded in calculating the Georgia income of such
202 member for purposes of the Georgia consolidated return. For pur-
203 poses of this regulation, the term "related member" shall mean the
204 same as it is defined in O.C.G.A. § 48-7-28.3.

205

206 ~~(c) Elimination of Members From Georgia Consolidated~~
207 ~~Group if Necessary to Clearly and Equitably Reflect Income At-~~
208 ~~tributable to Georgia.~~ If the Commissioner reasonably determines
209 that the inclusion of one or more otherwise eligible corporations in
210 a Georgia consolidated return will not clearly and equitably reflect
211 the income of the consolidated group attributable to Georgia, the
212 Commissioner may, as a condition to the granting of permission to
213 file a consolidated Georgia return by the other members of a Georgia
214 consolidated group, require such corporations to file separate Geor-
215 gia income tax returns or may require adjustment to the consolidated
216 filing so that the consolidated return will clearly and equitably re-
217 flect the income of the Georgia consolidated group attributable to
218 property owned in Georgia, business done in Georgia, and income
219 derived from sources within Georgia.

220

221 ~~(d) Other Adjustments Necessary to Clearly and Equitably~~
222 ~~Reflect Income Attributable to Georgia.~~ The Commissioner may,
223 as a condition to granting of permission to file a consolidated Geor-
224 gia income tax return, require such other adjustments as he or she
225 may reasonably determine are necessary in order for the consoli-
226 dated return to clearly and equitably reflect the income of the Geor-
227 gia consolidated group attributable to property owned in Georgia,
228 business done in Georgia, and income derived from sources within
229 Georgia.

230

231 ~~(e) Denial of Request by Commissioner.~~ If, upon review of an

232 application for permission to file a consolidated return, the Commis-
233 sioner reasonably determines that the filing of a consolidated Geor-
234 gia return as requested by an otherwise eligible affiliated group will
235 not clearly and equitably reflect the income of the group attributable
236 to property owned in Georgia, business done in Georgia, and income
237 derived from sources within Georgia, and distortion cannot reason-
238 ably be eliminated by means of one or more of the adjustments au-
239 thorized in this regulation, then the Commissioner may deny the ap-
240 plication and all of the corporations shall be required to file separate
241 Georgia income tax returns for such year. The Commissioner may
242 also deny the application if the corporations fail to provide any in-
243 formation requested by the Commissioner that he has reasonably de-
244 termined is needed to decide if such application should be granted,
245 and in such event all of the corporations shall be required to file
246 separate Georgia income tax returns for such year.

247
248 (f) **Tentative Permission.** If an application for permission to file
249 a consolidated return is timely filed pursuant to paragraph (2), the
250 Commissioner shall exercise his or her best efforts to fully consider
251 such application and to either grant or deny it prior to the return's
252 due date (including extensions), but any failure by the Commis-
253 sioner to act on such application by such date shall not be deemed
254 as a grant thereof or permit the filing of a consolidated return by the
255 affiliated group. If, as of fifteen (15) days before the return's due
256 date (including extensions), the Commissioner has requested but not
257 yet received from the affiliated group any information that the Com-
258 missioner has reasonably determined is needed to decide if such ap-
259 plication should be granted, or if the affiliated group otherwise has
260 not received a response to its timely filed application, the affiliated
261 group may request and shall be entitled to receive tentative permis-
262 sion from the Commissioner to file a consolidated return, which per-
263 mission may be conditioned on the affiliated group's agreement to
264 provide any such requested information by a date certain acceptable

265 to the Commissioner. If tentative permission is granted pending the
266 receipt of information, the Commissioner shall review and take final
267 action on the application, using the standards and criteria set forth
268 in subparagraphs (a) through (e), within seventy-five (75) days after
269 receipt of such information. In all other circumstances where tenta-
270 tive permission has been granted, the Commissioner shall take such
271 final action no later than four months from the Commissioner's re-
272 ceipt of the first such consolidated return unless the affiliated group
273 and the Commissioner agree to a longer time period. If tentative per-
274 mission has been granted pursuant to this subparagraph the affiliated
275 group may by written consent allow the Commissioner additional
276 time to complete his or her review and take final action. The Com-
277 missioner's tentative permission shall be revoked retroactively if the
278 application is denied, and each member of the affiliated group shall,
279 not later than sixty (60) days after the date of the Commissioner's
280 written notice of denial, file an amended Georgia income tax return
281 on a separate company basis for the affected tax period or periods
282 and pay any additional tax and interest attributable thereto. If the
283 Commissioner determines that any distortion can reasonably be
284 eliminated by means of one or more adjustments to the consolidated
285 return, including but not limited to the elimination of corporations
286 from the consolidated group, the Commissioner may, in lieu of re-
287 voking his or her tentative permission, modify it retroactively by
288 written notice specifying the adjustments that are required. Each
289 member of the affiliated group shall, not later than sixty (60) days
290 after the date of the Commissioner's written notice of modification,
291 file either an amended consolidated Georgia income tax return or a
292 separate company return for the affected tax period or periods that
293 is consistent with the adjustments mandated by the Commissioner
294 and pay any additional tax and interest attributable thereto. If the
295 Commissioner has tentatively approved an application but does not
296 issue a written notice of denial, a written notice of approval, or a
297 written notice of modification within the period prescribed in this

298 ~~subparagraph, such application shall be deemed to have been ap-~~
299 ~~proved.~~

300

301 ~~(g) **Prospective Revocation of Permission.** If the Commissioner~~
302 ~~determines at any time, using the standards and criteria set forth in~~
303 ~~subparagraphs (a) through (e), that the filing of a consolidated Geor-~~
304 ~~gia income tax return, for which permission previously was granted,~~
305 ~~will not clearly and equitably reflect the income of the affiliated~~
306 ~~group attributable to property owned in Georgia, business done in~~
307 ~~Georgia, and income derived from sources within Georgia, the~~
308 ~~Commissioner may revoke such permission prospectively for all tax~~
309 ~~periods beginning on or after the date of the Commissioner's written~~
310 ~~notice of revocation to the affiliated group. In lieu of revocation, the~~
311 ~~Commissioner may direct changes in the consolidated group or the~~
312 ~~methodology of filing the consolidated return as set forth in subpar-~~
313 ~~agraphs (a) through (d). This subparagraph shall also apply in any~~
314 ~~case in which an application was deemed to have been approved by~~
315 ~~the Commissioner pursuant to subparagraph (f).~~

316

317 ~~(h) **Retroactive Revocation of Permission in Case of Material**~~
318 ~~**Omissions or Misstatements.** If the Commissioner grants permis-~~
319 ~~sion to file a consolidated Georgia return but later determines that~~
320 ~~the application upon which such permission was based contained~~
321 ~~material omissions or misstatements of fact, whether intentional or~~
322 ~~otherwise, the Commissioner may revoke his or her permission ret-~~
323 ~~roactively by sending written notice of revocation to the affiliated~~
324 ~~group, recalculate the tax liabilities of each member of the affiliated~~
325 ~~group on a separate company basis for all affected tax periods, and~~
326 ~~within the applicable limitations period assess any additional tax,~~
327 ~~interest, and penalties attributable thereto. This subparagraph shall~~
328 ~~also apply in any case in which an application was deemed to have~~
329 ~~been approved by the Commissioner pursuant to subparagraph (f).~~

330

331 (4) ~~Tax Years for Which Consolidated Returns Must Be Filed~~
332 ~~once Permission Is Granted~~Five Year Binding Election. If a
333 Georgia ~~consolidated~~affiliated group has ~~received permission from~~
334 ~~the Commissioner~~elected to file a ~~consolidated~~ Georgia income tax-
335 ~~consolidated~~ return for any taxable year, ~~consolidated~~ Georgia ~~con-~~
336 ~~solidated~~ returns must be filed for ~~all future tax years~~the taxable year
337 in which the election is made and for the four succeeding taxable
338 years, except in the following circumstances:

339

340 (a) ~~The Commissioner either revokes his or her prior permission~~
341 ~~to file a consolidated Georgia income tax return pursuant to para-~~
342 ~~graph (3) of this regulation or grants permission to cease filing such~~
343 ~~a return; or~~

344

345 (b)(a) The Georgia ~~affiliated group of corporations~~ ceases to file
346 a consolidated return for federal income tax purposes, whereupon
347 the ~~corporations~~group must also cease filing a Georgia consolidated
348 return for ~~Georgia income tax purposes~~. If this subparagraph ap-
349 plies, the consolidated parent shall mark the “Cease Filing Consoli-
350 dated” checkbox on the Georgia Form 600 and attach a statement
351 explaining that the group ceased to file a consolidated return for fed-
352 eral income purposes. The other member(s) of the Georgia affiliated
353 group shall not mark the “Cease Filing Consolidated” checkbox and
354 are not required to attach such statement.

355

356 (5) **Separate Company Computation of Taxable Income or**
357 **Loss.** Corporations that file a Georgia ~~consolidated~~ ~~Georgia income~~
358 ~~tax~~ return are required to consolidate separate company income or
359 loss on a post-apportionment basis. This shall be accomplished by
360 ~~way of~~ the following process:

361

362 (a) Each corporation within the Georgia ~~consolidated~~affiliated
363 group will prepare a separate company Georgia Form 600.

364

365 (b) The corporation will reflect its name and ~~FEI~~federal employer
366 identification number in the heading of the return.

367

368 (c) The corporation will begin on line 1 of Schedule 1 with its
369 separate company federal taxable income or loss and will make the
370 appropriate additions to or subtractions from taxable income on
371 lines 2 and 4 of that Schedule. For purposes of this regulation, the
372 separate company federal taxable income or loss shall be the taxable
373 income or loss of the member included in the consolidated federal
374 return but without the modifications listed in Internal Revenue Ser-
375 vice Regulation 1.1502-12.

376

377 (d) If the corporation qualifies to apportion, it will complete
378 Schedule 6 and Schedule 7 to determine the amount of separate com-
379 pany Georgia taxable income or loss to be reflected on line 7 of
380 Schedule 1.

381

382 (e) If the corporation has a Georgia separate return limitation year
383 loss, or "GSRLY" (see subparagraph (8)(e) of this regulation), that
384 loss would be reflected on either line 6 of Schedule 1, or line 8 of
385 Schedule 7 of Form 600.

386

387 (f) Intercompany transactions are not eliminated in this process
388 of determining a corporation's separate company Georgia taxable
389 income or loss. However, the Commissioner reserves the right to
390 examine intercompany transactions, and to make appropriate adjust-
391 ments, to ensure that taxpayers clearly reflect income attributable to
392 controlled transactions or to prevent the avoidance of taxes with re-
393 spect to such transactions.

394

395 (g) The separate company income or loss of each corporation in
396 the Georgia ~~consolidated~~affiliated group, as reflected on the

397 separate company Form 600's, would then be consolidated on a
398 ~~group~~the Georgia consolidated return Form 600 and reflected on
399 line 5 of Schedule 1 of that Form.

400

401 (h) Any consolidated Georgia net operating loss would be de-
402 ducted on Schedule 1 line 6 to arrive at the ~~consolidated~~Georgia af-
403 filiated group's Georgia taxable income or loss on line 7, and the
404 group's income tax, if appropriate, on line 8.

405

406 (i) Schedule 3 of the Group Form 600 would be completed to
407 reflect a computation of tax due or overpayment for the group.

408

409 **(6) Separate Company Computation of Net Worth Tax and**
410 **Payment.** ~~Corporations that file a consolidated Georgia income tax~~
411 ~~return are~~Each member of the Georgia affiliated group is required
412 ~~to report and pay~~calculate the net worth tax by completing Sched-
413 ules 2 and 8 on Form 600 on a separate company basis. The net
414 worth tax for all members of a Georgia affiliated group must be re-
415 ported and paid on the Form 600 of the consolidated parent using
416 the appropriate schedule entitled "Members To Be Included in the
417 Georgia Consolidated Group".

418

419 **(7) Earning, Claiming and Assigning of Tax Credits.** ~~The jobs~~
420 ~~tax credit, the investment tax credit, and any other~~Any tax credits
421 which may be claimed against the Georgia corporate income tax
422 must be calculated and claimed on a separate company basis. When
423 the code specifies that the amount of the credit taken in any one tax-
424 able year be limited to an amount not greater than 50 percent (or
425 another percentage) of the taxpayer's state income tax liability, such
426 limit shall be computed on a separate company basis. For credit lim-
427 itation purposes, net operating loss carryovers must be accounted for
428 on a separate company basis. Assignment of Georgia income tax
429 credits under the terms of O.C.G.A. § 48-7-42 is available within a

430 consolidated Georgia return. All credits utilized against the tax lia-
 431 bility of the Georgia affiliated group must be assigned to the consol-
 432 idated parent, unless generated by the parent. Credits may only be
 433 assigned in the year generated, and assignments must be made by
 434 the due date of the return, including extensions. Carryforward cred-
 435 its are not assignable. In the event tentative permission is granted
 436 pursuant to subparagraph (3)(f), the members of the consolidated
 437 group may make a new assignment or may change such assignment
 438 provided such new assignment or change is made on the returns
 439 which are required to be filed not later than sixty (60) days after the
 440 date of the Commissioner's written notice of denial or modification.

441

442 Credit Example:*

443

<u>Numbers Per Sep-</u> <u>arate Company</u> <u>Calculation</u>	<u>Georgia Par-</u> <u>ent Co</u>	<u>Sub Co A</u>	<u>Sub Co B</u>	<u>Sub Co C</u>
Georgia Taxable In- come	50,000	(16,000)	140,000	60,000
Georgia Tax Liabil- ity (6%)(5.75%)	<u>3,000</u> <u>2,875</u>	-	<u>8,400</u> <u>8,050</u>	<u>3,600</u> <u>3,450</u>
<u>Georgia Income</u> <u>Tax Credits Gener-</u> <u>ated in Current</u> <u>Year:</u> Retraining Tax Credit (limited to 50% of income tax liability)	-	6,000	-	2,500
<u>Georgia Tax Credits</u> <u>Carried Forward:</u> Investment Tax Credit (limited to 50% of income tax liability)	7,250	-	-	-
<u>Retraining Credits</u> <u>Assigned: *</u> From Sub Co A	1,500	(6,000)	4,500	-
From Sub Co C	-	-	-	-

Substantive Regulations

Chapter 560-7-3

Retraining Credit Limitation	4,5001,437.50	-	4,2004.025	1,8001.725
Investment Credit Limitation	4,5001,437.50	-		
Total Tax Credits Utilized in Current Tax Year	3,0002.875	-	4,2004.025	1,8001.725
Remaining Tax Liability**	-	-	4,2004.025	1,8001.725
<u>Tax Credits to be Carried Forward:</u>				
Investment Tax Credit	5,7505,812.50	-	-	-
Retraining Tax Credit	-62.50	-	300475	700775

Consolidated Tax Calculation:

Taxable Income:

Tax Calculation:

Georgia Parent	50,000	Consolidated Taxable Income	234,000
Sub Co A	(16,000)	Georgia Tax Liability @ 6% <u>5.75%</u>	14,040 <u>13.455</u>
Sub Co B	140,000	Combined Tax Credits Utilized***	<u>9,0008.625</u>
Sub Co C	<u>60,000</u>	Balance of Georgia Tax	<u><u>5,0404.830</u></u>
Consolidated Taxable Income	<u><u>234,000</u></u>		

444

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453

* Credits assignments must be made on the separate company tax returns, with a detailed summary provided on a schedule attached to the consolidated tax return. The schedule shall list the credit type, the credit amount generated by the member, the credit amount utilized in the taxable year by the parent, and the credit carryforward amount.

** The remaining tax liability is due to the limitations applied to the credits. Georgia Parent Co was able to utilize its carryforward

454 Investment Tax Credit up to 50% of its separate company tax liabil-
455 ity and also to utilize the assigned Retraining Tax Credit from Sub
456 Co A for the remaining 50% of its tax liability, with the unused por-
457 tion available to Georgia Parent Co as a carryforward credit. The
458 remaining balance of the Retraining Tax credit generated by Sub Co
459 A is then assigned to Sub Co B, with the unused portion available to
460 Sub Co B as a carryforward credit. Sub Co C is able to utilize its
461 Retraining Tax Credit up to 50% of its income tax liability, with the
462 remaining balance kept as a carryforward credit against future lia-
463 bility. Please note that credits may only be assigned in the year gen-
464 erated, and assignments must be made by the due date of the return
465 (including extensions); ~~thus~~ Thus, carryforward credits are not as-
466 signable.

467
468 *** In no case may the combined tax credits utilized offset more
469 than 100% of the consolidated tax liability. Such excess shall be car-
470 ried forward by the appropriate separate companies, provided it is
471 otherwise eligible for carryforward.

472
473 **(8) Consolidated Return Net Operating Loss Deduction.** A
474 consolidated Georgia net operating loss carryforward or carryback
475 (if such carryback is allowed pursuant to the normal rules of para-
476 graph (10.1) of subsection (b) of O.C.G.A. § 48-7-21) shall be al-
477 lowed as a deduction on the Georgia consolidated return of an affil-
478 iated group under the following rules:

479
480 (a) The Georgia consolidated net operating loss for a taxable year
481 shall include the separate company federal taxable income or loss of
482 each member corporation, with the adjustments provided for in sub-
483 section (b) of O.C.G.A. § 48-7-21 and O.C.G.A. § 48-7-28.2, and
484 allocated and apportioned as provided in O.C.G.A. § 48-7-31. In
485 calculating the separate company income or loss of each member
486 corporation, no deduction will be taken for either federal or Georgia

487 net operating losses from other years;

488

489 (b) "Georgia separate return year" as used in this regulation
 490 means a tax year of a corporation for which it files a separate return
 491 with Georgia or for which it joins in the filing of a ~~consolidated~~
 492 Georgia consolidated return by another Georgia affiliated group;

493

494 (c) "Georgia separate return limitation year", or "GSRLY", as
 495 used in this regulation, means any Georgia separate return year of a
 496 corporation or of a predecessor of a corporation;

497

498 (d) A consolidated Georgia Net Operating Loss deduction shall
 499 consist of any consolidated net operating loss (per subparagraph (a))
 500 of the group that is carried forward or carried back (if applicable) to
 501 a consolidated year, plus any net operating loss incurred by mem-
 502 bers of the group in Georgia separate return years which may be
 503 carried over to that year. However, a net operating loss incurred by
 504 a member corporation in a Georgia separate return limitation year
 505 shall be subject to the limitation set forth in subparagraph (e);

506

507 (e)

508

509 1. Net operating losses arising in tax years beginning before Jan-
 510 uary 1, 2018 and carried to a consolidated return year from a Geor-
 511 gia separate return limitation year (GSRLY) may be used to reduce
 512 the group's income only to the extent of the income contributed by
 513 the GSRLY member. This computation shall be performed first, and
 514 then any consolidated loss of the group ~~would~~shall be applied
 515 against any remaining income of the group. (See Example 1)

516

517 Example 1

Company	A (1)	B	C	Consolidated Total
12/31/2001 (Separate Return Loss Year)	(75,000)	25,000	10,000	

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				(2)
12/31/2002	(50,000)	20,000	15,000	(15,000)
12/31/2003	50,000	20,000	15,000	
Less: 2001 GSRLY NOL from Company A	(3) (50,000)	-	-	(4)
12/31/2003 Income	-	20,000	15,000	35,000
2002 Consolidated NOL				(5) (15,000)
12/31/2003 Net Taxable Income				(6) 20,000
Total GSRLY Carryforward for Company A	(7) (25,000)			

518

Explanation For Example 1:

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540

1. The year 12/31/01 is a Georgia separate return year, and the (\$75,000) loss of company A is limited in subsequent years to the income of company A. The years 12/31/02 and 12/31/03 are consolidated post apportionment years.

2. The 12/31/02 tax year reflects a (\$15,000) consolidated loss which may be carried forward.

3. In 12/31/03, the first consolidated profitable year, any GSRLY loss applies first. Therefore, (\$50,000) of company A's loss from 12/31/01 is used against company A's income in 12/31/03.

4. The reduced income of the group for 12/31/03 is \$35,000.

5. The consolidated loss of (\$15,000) from 12/31/02, which was carried forward, may now be deducted.

6. The reduced taxable income is \$20,000.

7. Company A has a remaining GSRLY loss of \$25,000 which

541 may be carried forward;

542

543 2. Net operating losses arising in tax years beginning after De-
 544 cember 31, 2017 and carried to a consolidated return year from a
 545 Georgia separate return limitation year (GSRLY) may be used to
 546 reduce the group's income only to the extent of 80% of the Georgia
 547 taxable income contributed by the GSRLY member. (See example
 548 1A)

549

550 Example 1A - NOL Limitation

551

Company	A (1)	B	C	Consolidated Total
12/31/2018 (Separate Return Loss Year)	(75,000)	25,000	10,000	
12/31/2019	(50,000)	20,000	15,000	(2) (15,000)
12/31/2020	50,000	20,000	15,000	
Less: 2018 GSRLY NOL from Company A	(3) (40,000)	-	-	(4)
12/31/2020 Income	10,000	20,000	15,000	45,000 (5)
2019 Consolidated NOL				(15,000) (6)
12/31/2020 Net Taxable Income				30,000
Total GSRLY Carryforward for Company A	(7) (35,000)			

552

553 **Explanation For Example 1A:**

554

555 1. The year 12/31/18 is a Georgia separate return year, and the
 556 (\$75,000) loss of company A is limited in subsequent years to
 557 80% of the income of company A. The years 12/31/19 and
 558 12/31/20 are consolidated post apportionment years.

559

560 2. The 12/31/19 tax year reflects a (\$15,000) consolidated loss

- 561 which may be carried forward.
562
- 563 3. In 12/31/20, the first consolidated profitable year, any GSRLY
564 loss applies first. Therefore, \$40,000 ($\$50,000 \times .80$) of company
565 A's loss from 12/31/18 is used against company A's income in
566 12/31/20.
567
- 568 4. The reduced income of the group for 12/31/20 is \$45,000.
569
- 570 5. The consolidated loss of (\$15,000) from 12/31/19, which was
571 carried forward, may now be deducted. The maximum amount of
572 consolidated NOL carry forward arising in tax years beginning
573 after December 31, 2017 that can be used is limited to 80%.
574 Therefore, a maximum of \$36,000 could be used ($45,000 \times$
575 80%); however, there is only a \$15,000 consolidated NOL carry
576 forward available, ~~as such so~~ the entire \$15,000 can be used.
577
- 578 6. The reduced taxable income is \$30,000.
579
- 580 7. Company A has a remaining GSRLY loss of \$35,000 which
581 may be carried forward;
582
- 583 (f) If a Georgia consolidated net operating loss can carry forward
584 to a Georgia separate return year of a corporation which was a mem-
585 ber of an Georgia affiliated group in the year in which the loss arose,
586 then the portion of the net operating loss attributable to such corpo-
587 ration shall be apportioned to such corporation under the provisions
588 of subparagraph (g) and shall be a net operating loss carryover to
589 such Georgia separate return year. However, such portions shall not
590 be included in the consolidated net operating loss carryovers to the
591 equivalent consolidated return year;
592
- 593 (g) The portion of a Georgia consolidated net operating loss

594 attributable to a member of a group is the consolidated net operating
595 loss multiplied by a fraction, the numerator of which is the separate
596 net operating loss of such corporation, and the denominator of which
597 is the sum of the separate net operating losses of all members of the
598 group in the year in which such losses were incurred. See example
599 2. The separate net operating loss of such corporation and of each
600 member as is mentioned in this subparagraph shall be computed as
601 follows:

602
603 1. The separate net operating loss for the taxable year that this
604 regulation is first applicable to and each year thereafter shall be com-
605 puted on a post apportionment basis as is provided in paragraph (5).

606
607 2. The separate net operating loss for each taxable year prior to
608 the taxable year that this regulation is first applicable to shall be
609 computed as follows:

610
611 (i) Income or loss subject to apportionment pursuant to O.C.G.A.
612 § 48-7-31(d). When the ~~consolidated~~ Georgia affiliated group con-
613 solidated its income or loss subject to apportionment and then ap-
614 plied the ~~consolidated~~ group's apportionment percentage to the in-
615 come or loss subject to apportionment (pre-apportionment basis),
616 the portion of the separate net operating loss, attributable to income
617 or loss subject to apportionment, of each separate corporation shall
618 be computed by applying the ~~consolidated~~ group's apportionment
619 percentage to the separate corporation's income or loss subject to
620 apportionment.

621
622 (ii) Income or loss subject to allocation pursuant to O.C.G.A. §
623 48-7-31(c). The portion of the separate net operating loss, attributa-
624 ble to income or loss subject to allocation, of each separate corpora-
625 tion shall be equal to its separate corporation income or loss subject
626 to allocation.

627
628
629

Example 2

Company	A	B	C	Total
12/31/02 SNTI* (SNOL**)	(5,000)	2,000	(1,000)	(4,000)
Gains \$2,000	-		-	
Losses (\$6,000)	(6,000)		(6,000)	
Net Loss (4,000)	= .8333	-0-	= .1667	
	X (4,000)		X (4,000)	
NOL	(\$3,333)	-0-	(\$667)	(4,000)

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631
632
633
634

*SNTI=Separate Net Taxable Income

**SNOL=Separate Net Operating Loss

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636

Explanation For Example 2, Member Leaving Group:

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Corporation A, B and C file a consolidated return in 12/31/02. On 1/1/03, Corporation C is sold to Corporation D. This example above computes Corporation C's loss carryforward to its new ~~consolidated~~ Georgia affiliated group and the loss carryforward of the original group, Corporation A&B. Corporation C has a loss carryforward of (\$667) and the remaining group (Corporation A&B) has a loss carryforward of (\$3,333);

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654

(h) If a corporation ceases to be a member during a consolidated return year, any Georgia consolidated net operating loss carryover from a prior tax year must first be carried to such Georgia consolidated return year even though all or a portion of the Georgia consolidated net operating loss giving rise to the carryover is attributable to the corporation which ceases to be a member. To the extent not ~~absorbed~~ deducted in such consolidated return year, the portion of the consolidated net operating loss attributable to the corporation ceasing to be a member shall then be carried to the corporation's first Georgia separate return year;

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(i) The provisions of § 108 of the Internal Revenue Code of 1986, as amended, as they relate to Georgia net operating losses, shall be applied as follows:

1. Except as otherwise provided in this regulation, the Internal Revenue Code § 108 provisions shall be applied in the same manner as provided in the Internal Revenue Code and related regulations (including those regulations relating to how to apply Internal Revenue Code § 108 to consolidated returns). The reduction in the Georgia net operating losses shall be determined by applying the Georgia apportionment percentage for the year of the discharge to the amount of the Internal Revenue Code § 108 net operating loss reduction determined pursuant to this regulation. A determination under the federal consolidated regulations that the separate entity has an amount of discharge of indebtedness income and/or is required to reduce tax attributes shall also apply for Georgia purposes.

2. The reduction of tax attributes provided in paragraph (a)(4) of Internal Revenue Service Regulation § 1.1502-28 shall be applied in the same manner as such regulation requires except that the excluded discharge of indebtedness income not applied to reduce the tax attributes attributable to the member shall be used to reduce the Georgia consolidated tax attributes instead of the federal consolidated tax attributes.

3. Any elections, with respect to the order of the tax attribute reductions, made for federal income tax filing purposes and pursuant to Internal Revenue Service Regulations, shall also apply for Georgia purposes.

(j) Except as otherwise provided in this regulation, the provisions of Internal Revenue Code § 381, as they relate to Georgia net

688 operating losses, shall be applied in the same manner as provided in
689 the Internal Revenue Code and related regulations (including those
690 regulations relating to how to apply Internal Revenue Code § 381 to
691 consolidated returns).

692

693 (k) The provisions of § 382 of the Internal Revenue Code of 1986,
694 as amended, as they relate to Georgia net operating losses, shall be
695 applied as follows:

696

697 1. Except as otherwise provided in this regulation, the Internal
698 Revenue Code § 382 limitation shall be applied in the same manner
699 as provided in the Internal Revenue Code and related regulations.
700 Such limitation shall be computed on a separate entity basis even
701 when a consolidated federal income tax return is filed. Except as
702 otherwise provided in this regulation, the Internal Revenue Service
703 Regulations regarding how to apply Internal Revenue Code § 382
704 when a consolidated return is filed and paragraph (f) of Internal Revenue
705 Service Regulation § 1.382-8 shall not apply for Georgia purposes.
706

707

708 2. A determination that an ownership change has occurred for
709 federal income tax filing purposes and pursuant to Internal Revenue
710 Service Regulations (including those regulations relating to how to
711 apply Internal Revenue Code § 382 to consolidated returns) shall
712 apply for Georgia purposes.

713

714 3. Adjustments to prevent duplication of value contained in the
715 Internal Revenue Code § 382 regulations (including those regulations
716 relating to how to apply Internal Revenue Code § 382 to consolidated
717 returns) apply for Georgia purposes. However, the election
718 to restore value provided in paragraph (c) of Internal Revenue Service
719 Regulation § 1.382-8 shall not be available.

720

721 4. Whenever an ownership change occurs, an Internal Revenue
722 Code § 382 limitation will apply to all Georgia pre-change losses
723 that are carried over to a post-change year. "Pre-change years" end
724 on or before the date of an ownership change, while "post-change
725 years" end after the date of an ownership change. In a post-change
726 year, the limitation on the use of any pre-change year Georgia net
727 operating losses shall be determined by applying that post-change
728 year's apportionment percentage to the Internal Revenue Code § 382
729 limitation for that post-change year determined pursuant to this reg-
730 ulation.

731

732 5. The Internal Revenue Code § 382 limitation does not reduce
733 the total amount of pre-change Georgia net operating losses availa-
734 ble for carryforward but, similar to federal treatment, restricts the
735 amount of net operating losses from pre-change years that can be
736 applied to the income in a post-change year.

737

738 6. If there is any unused Internal Revenue Code § 382 limitation
739 for Georgia purposes in a post-change year, the following year's lim-
740 itation shall be increased by the excess amounts determined for
741 Georgia tax purposes in a manner similar to Internal Revenue Code
742 § 382(b)(2).

743

744 7. In the event the Internal Revenue Code § 382 limitation and
745 the GSRLY limitation both apply to a net operating loss, the net op-
746 erating loss shall be subject to both the GSRLY limitation and the
747 Internal Revenue Code § 382 limitation. For example, a taxpayer
748 has a net operating loss of \$1000. The Internal Revenue Code § 382
749 limitation only allows \$500 of the loss to be used. The GSRLY lim-
750 itation only allows \$200 of the loss to be used. \$200 of the loss is
751 allowed to be used. Conversely, a taxpayer has a net operating loss
752 of \$1000. The Internal Revenue Code § 382 limitation only allows
753 \$200 of the loss to be used. The GSRLY limitation only allows \$500

754 of the loss to be used. \$200 of the loss is allowed to be used.

755

756 (l) Except as otherwise provided in this regulation, the provisions
757 of Internal Revenue Code § 384, as they apply to Georgia net oper-
758 ating losses, shall be applied in the same manner as provided in the
759 Internal Revenue Code and related regulations. The adjustment for
760 such Internal Revenue Code Section shall be determined on a sepa-
761 rate entity basis. The limitation on offsetting losses against any rec-
762 ognized built in gains which are allocated to Georgia shall be equal
763 to the Internal Revenue Code § 384 limitation (determined pursuant
764 to this regulation) attributable to such gains. The limitation on off-
765 setting losses against any recognized gains which are apportioned to
766 Georgia shall be equal to the Internal Revenue Code § 384 limitation
767 (determined pursuant to this regulation) attributable to such gains
768 multiplied by the apportionment percentage for the recognition pe-
769 riod taxable year.

770

771 (m) For purposes of subparagraphs (8)(i) through (8)(l), the Geor-
772 gia net operating loss of each separate member for the applicable
773 year shall be computed as follows:

774

775 1. If the net operating loss is carried to a consolidated return year
776 from a Georgia separate return limitation year (GSRLY), the Geor-
777 gia net operating loss shall be the separate Georgia net operating loss
778 of the member for the applicable year.

779

780 2. If the net operating loss is carried to a consolidated return year
781 from a year other than a Georgia separate return limitation year
782 (GSRLY), the portion of a Georgia consolidated net operating loss
783 attributable to a member of a group shall be computed in the same
784 manner as provided in subparagraph (g) of this paragraph.

785

786 (n) A Georgia consolidated net operating loss may not be carried

787 back to a Georgia separate return limitation year.

788

789 (o) In the event a taxpayer is entitled to a refund of income taxes
790 by reason of a net operating loss carryback under paragraph (10.1)
791 of subsection (b) of O.C.G.A. § 48-7-21, the taxpayer may file an
792 amended return within the time period prescribed by O.C.G.A. § 48-
793 7-21 or alternatively may file an "application for a tentative carry-
794 back adjustment of the taxes" within a period of twelve (12)
795 months following the end of the taxable year of the net operating
796 loss. The application shall be in such form as the Commissioner
797 shall prescribe. Such application shall not constitute a claim for
798 credit or refund for purposes of O.C.G.A. § 48-2-35. Within a period
799 of ninety (90) days from the last day of the month in which the ap-
800 plication for a tentative carryback adjustment is filed, the Commis-
801 sioner shall make, to the extent he or she deems practicable in such
802 period, a limited examination of the application to determine the
803 amount of tax decrease attributable to such carryback adjustment
804 upon the basis of the application and examination. The Commis-
805 sioner may disallow, without further action, any application which
806 contains errors of computation which he or she deems cannot be
807 corrected within such ninety (90) day period or which contains ma-
808 terial omissions. The decrease so determined shall be applied against
809 any unpaid amount of the tax and the remainder shall, within such
810 ninety (90) day period, be either credited against any income tax
811 then due from the taxpayer, or refunded to the taxpayer. Any such
812 credit or refund made within such ninety (90) day period shall be
813 without interest. If the Commissioner should determine that the
814 amount credited or refunded under this paragraph is in excess of the
815 amount properly attributable to the carryback adjustment, he or she
816 may assess the amount of the excess as a deficiency as if it were due
817 to a mathematical error appearing on the face of a return.

818

819 (p) Complete schedules must be submitted for all net operating

820 losses carried forward to or from consolidated returns. Schedules
821 must contain information to substantiate which corporations in-
822 curred net operating losses and the age of the net operating losses.

823

824 **(9) Transition Rule for Credit Carryforward.**

825

826 (a) Any Georgia affiliated group, which was granted permission
827 to file a consolidated return for taxable years beginning before Jan-
828 uary 1, 2023 and elects to file a Georgia consolidated return under
829 subparagraph (2)(b)2. for the taxable year beginning on or after Jan-
830 uary 1, 2023 and for the four succeeding taxable years, will be eli-
831 gible to carry forward to the Georgia consolidated return the credits
832 shown on the last-filed consolidated return filed under the prior
833 grant of permission.

834

835 (b) Subsection (d) of O.C.G.A. § 48-7-42 shall not apply for the
836 purposes under this paragraph.

837

838 **(9)(10) Transition Rules for Net Operating Loss Carryfor-**
839 **ward.**

840

841 ~~(a) Except as provided in subparagraphs (9)(b) and (9)(c), any~~
842 ~~corporation which has received permission to join in the filing of a~~
843 ~~Georgia consolidated income tax return and which has joined in the~~
844 ~~filing of a Georgia consolidated income tax return, in the first taxa-~~
845 ~~ble year beginning prior to January 1, 2002, will be eligible to car-~~
846 ~~ryforward to a consolidated return year the net operating loss shown~~
847 ~~on the returns, filed and accepted by the Department, without being~~
848 ~~subject to the GSRLY limitations as described in subparagraph~~
849 ~~(8)(e)~~

850

851 ~~(b) A corporation which filed as a party to a Georgia consolidated~~
852 ~~return in the first taxable year beginning prior to January 1, 2002~~

853 ~~and which will not be included in the Georgia consolidated return in~~
854 ~~the first taxable year beginning on or after January 1, 2002 shall be~~
855 ~~treated as ceasing to be a member of that group for the first taxable~~
856 ~~year beginning prior to January 1, 2002 as described at subparagraph~~
857 ~~(8)(h). The separate company Georgia net operating loss for the cor-~~
858 ~~poration, if any, will then be determined according to subparagraphs~~
859 ~~(8)(f) and (8)(g).~~

860
861 ~~(c) The separate company net operating loss carryforward for a~~
862 ~~corporation coming into the group, that did not join in the filing of~~
863 ~~the Georgia consolidated return for the group in the first taxable year~~
864 ~~beginning prior to January 1, 2002 or which has joined in the filing~~
865 ~~of a Georgia consolidated income tax return of another group in the~~
866 ~~first taxable year beginning prior to January 1, 2002, shall be treated~~
867 ~~pursuant to the terms of subparagraph (8)(e). A corporation which~~
868 ~~has joined in the filing of a Georgia consolidated income tax return~~
869 ~~of another group in the first taxable year beginning prior to January~~
870 ~~1, 2002 shall be treated as ceasing to be member of that group for~~
871 ~~the first taxable year beginning prior to January 1, 2002 as described~~
872 ~~at subparagraph (8)(h). The separate company Georgia net operating~~
873 ~~loss for the corporation, if any, will then be determined according to~~
874 ~~subparagraphs (8)(f) and (8)(g).~~

875
876 (a) Any Georgia affiliated group, which was granted permission
877 to file a consolidated return for taxable years beginning before Jan-
878 uary 1, 2023 and elects to file a Georgia consolidated return under
879 subparagraph (2)(b)2. for the taxable years beginning on or after
880 January 1, 2023 and for the four succeeding taxable years, will be
881 eligible to carry forward to the Georgia consolidated return the net
882 operating loss shown on the last-filed consolidated return filed under
883 the prior grant of permission.

884
885 (b) A corporation which was a member of a Georgia affiliated

886 group that filed a consolidated return under the prior grant of per-
887 mission but will not be included in the Georgia consolidated return
888 shall be treated as ceasing to be a member of that group, as described
889 in subparagraph (8)(h), for the first taxable year that the election to
890 file the Georgia consolidated return is made by the group. The sep-
891 arate member Georgia net operating loss for the member, if any,
892 shall then be determined according to subparagraphs (8)(f) and
893 (8)(g).

894
895 (c) A corporation which was not a member of a Georgia affiliated
896 group that filed a consolidated return under the prior grant of per-
897 mission but will be included in the Georgia consolidated return shall
898 be treated pursuant to the terms of subparagraph (8)(e).

899
900 **(11) Estimated Tax Payments.**

901
902 (a) Georgia affiliated groups that file a Georgia consolidated re-
903 turn or will elect to file a Georgia consolidated return are required
904 to make corporate estimated income tax payments. The payments
905 are to be calculated and paid on the consolidated parent return. The
906 other member(s) are not required to make estimated income tax pay-
907 ments based on the estimated net worth or income tax liability of the
908 member(s).

909
910 (b) If the member(s) of the Georgia affiliated group, other than
911 the consolidated parent, submits estimated income tax payments,
912 then such member(s) must electronically request a refund of such
913 payments through the Georgia Tax Center.

914
915 **(12) Special Issues.**

916
917 (a) If a corporation ceases to be a member of the federal consoli-
918 dated group part way through the taxable year, and as a result, has a

919 taxable year that ends prior to the taxable year end of the consoli-
920 dated group, such corporation will have two short taxable periods.
921 The first short taxable period will be part of the Georgia consoli-
922 dated return, and the second short taxable period will be on a sepa-
923 rate return if that corporation does not become part of another Geor-
924 gia affiliated group.

925

926 1. The due date of the return for the first short taxable period shall
927 be the 15th day of the fourth month following the end of the first
928 short taxable period.

929

930 2. The due date of the return for the second short taxable period
931 shall be the 15th day of the fourth month following the end of the
932 second short taxable period.

933

934 3. If the corporation, instead, becomes part of another Georgia
935 affiliated group, then the due date of the return for the second short
936 taxable period shall be the due date of that Georgia affiliated group's
937 Georgia consolidated return.

938

939 (b) If a corporation ceases to be a member during a consolidated
940 return year, the corporation must notify the Department of the
941 amount of credits and net operating loss carryforwards attributable
942 to the corporation ceasing to be a member that will be carried over
943 to the corporation's first Georgia separate return year. Notifications
944 regarding the amount of credit carryforwards can be made via email
945 to taxcredits.inquiries@dor.ga.gov, and notifications regarding net
946 operating loss carryforwards can be made via email to corporate.in-
947 cometaxissues@dor.ga.gov.

948

949 (10)(13) **Effective Date.** This regulation will apply to taxable
950 years beginning on or after January 1, 20052023. Taxable years be-
951 ginning before January 1, 2023 will be governed by the regulations

Chapter 560-7-3

Substantive Regulations

952 of Chapter 560-7 as they exist before January 1, 2023 in the same
953 manner as if the amendments thereto set forth in this regulation had
954 not been promulgated. Taxable years beginning on or after January
955 1, 2002 and before January 1, 2005 will be governed by the prior
956 provisions of this regulation. Taxable years beginning before Janu-
957 ary 1, 2002 will be governed by Regulation 560-7-3-.06(4) as it was
958 in effect at that time.

959 Authority: O.C.G.A. §§ 48-2-12 and 48-7-21.
960

PROPOSED