

**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-2024-4**

**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 September 30, 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 September 30, 2024. Electronic comments must be sent to [regcomments@dor.ga.gov](mailto:regcomments@dor.ga.gov). Please reference "Notice IT-2024-4" on all comments.

Dated: 08/30/2024

  
Frank M. O'Connell  
State Revenue Commissioner

## **SYNOPSIS**

### **GEORGIA DEPARTMENT OF REVENUE**

#### **CHAPTER 560-7 INCOME TAX DIVISION**

#### **SUBJECT 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**

**CHAPTER 560-7  
INCOME TAX DIVISION**

**SUBJECT 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 that are subject to Georgia income tax under Chapter 7 of Title

34 48 of the O.C.G.A., even after the application of Public Law 86-272  
35 (15 U.S.C. Sections 381-384) may elect to file a Georgia consoli-  
36 dated return on an originally filed income tax return by the due date  
37 of the return, including extensions. The election is irrevocable and  
38 binding on both the Georgia affiliated group and the Department for  
39 five years.

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

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

61  
62 (i) Any Georgia affiliated group filing a consolidated return pur-  
63 suant to the terms of the prior grant of permission is bound by the  
64 terms of the prior grant of permission.

65  
66 (ii) Any Georgia affiliated group filing a consolidated return

67 pursuant to the terms of the prior grant of permission is governed by  
68 the regulations of Chapter 560-7 as they exist before January 1, 2023  
69 in the same manner as if the amendments set forth in this regulation  
70 had not been promulgated.

71

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

84

85 3. To terminate filing a consolidated return for Georgia income  
86 tax purposes, the consolidated parent shall mark the “Cease Filing  
87 Consolidated” checkbox but leave the “Consolidated GA Parent Re-  
88 turn” checkbox blank. The other member(s) shall leave the “Cease  
89 Filing Consolidated” and the “GA Consolidated Subsidiary” check-  
90 boxes blank.

91

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

98

99 ~~1. The filing of separate Georgia income tax returns would not~~

100 clearly and equitably reflect the income of the corporations attribut-  
101 able to property owned in Georgia, business done in Georgia, and  
102 income derived from sources within Georgia; and

103

104 ~~2. The filing of a consolidated return would clearly and equitably~~  
105 ~~reflect the income of the corporations attributable to property owned~~  
106 ~~in Georgia, business done in Georgia, and income derived from~~  
107 ~~sources within Georgia.~~

108

109 **(c) Election to File Georgia Consolidated Return for Taxable**  
110 **Years Beginning on or After January 1, 2023.**

111

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

118

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

130

131 3. To terminate filing a Georgia consolidated return during the  
132 five-year election period due to changes in the Georgia affiliated

133 group, the consolidated parent of the Georgia affiliated group shall  
134 mark the “Cease Filing Consolidated” checkbox on the Georgia  
135 Form 600 and attach a statement explaining the changes to the  
136 group. The other member(s) of the Georgia affiliated group shall not  
137 mark the “Cease Filing Consolidated” checkbox and are not re-  
138 quired to attach such statement.

139  
140 (i) The new Georgia affiliated group may make a new election to  
141 file a Georgia consolidated return under this paragraph on the Geor-  
142 gia consolidated return.

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

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

166 paragraph (3) on behalf of the entire group, and to execute any con-  
167 sent referred to in subparagraph (f) of paragraph (3) on behalf of the  
168 entire group, and an address to which any such notices or consents  
169 may be sent.

170

171 ~~(b)~~(a) **Composition of the Georgia Consolidated Group.** A  
172 Georgia consolidated group shall, for each year a consolidated re-  
173 turn is filed, consist of all of the members of an affiliated group of  
174 corporations that file a consolidated return for Federal income tax  
175 purposes that are subject to Georgia income tax under Chapter 7 of  
176 Title 48 of the O.C.G.A., even after the application of Public Law  
177 86-272 (15 U.S.C. Sections 381-384); provided, however, that cor-  
178 porations that are immune from Georgia income tax under Federal  
179 law shall not be included in the proposed Georgia consolidated  
180 group.

181

182 ~~(3) Standard for Allowing Consolidated Returns; Tentative~~  
183 ~~Permission; Revocation of Permission.~~

184

185 ~~(a) Clearly and Equitably Reflect Income Attributable to~~  
186 ~~Georgia.~~ Permission to file a Georgia consolidated return shall be  
187 granted by the Commissioner when the filing of such return will  
188 clearly and equitably reflect the income of the corporations attribut-  
189 able to property owned, business done, and income derived from  
190 sources by the members of the affiliated group in Georgia. A Geor-  
191 gia consolidated return will generally be deemed by the Commis-  
192 sioner to clearly and equitably reflect the income of the corporations  
193 included in the return attributable to property owned in Georgia,  
194 business done in Georgia, and income derived from sources within  
195 Georgia except as enumerated in subparagraphs (b) through (e) be-  
196 low.

197

198 ~~(b) Expenses Attributable to Related Members Not Included~~



199 ~~**in Georgia Consolidated Group.**~~ If any member of a group of cor-  
200 porations filing a Georgia consolidated return has interest expense  
201 attributable to indebtedness incurred in connection with an owner-  
202 ship interest in one or more related members which are not included  
203 in the Georgia consolidated return, or other deductions from income  
204 related to an ownership interest in one or more related members  
205 which are not included in the Georgia consolidated return, the Com-  
206 missioner may, as a condition to the granting of permission to file a  
207 consolidated Georgia return, require that such interest or other de-  
208 ductions be excluded in calculating the Georgia income of such  
209 member for purposes of the Georgia consolidated return. For pur-  
210 poses of this regulation, the term "related member" shall mean the  
211 same as it is defined in O.C.G.A. § 48-7-28.3.

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

227  
228 ~~**(d) Other Adjustments Necessary to Clearly and Equitably**~~  
229 ~~**Reflect Income Attributable to Georgia.**~~ The Commissioner may,  
230 as a condition to granting of permission to file a consolidated Geor-  
231 gia income tax return, require such other adjustments as he or she

232 may reasonably determine are necessary in order for the consoli-  
233 dated return to clearly and equitably reflect the income of the Geor-  
234 gia consolidated group attributable to property owned in Georgia,  
235 business done in Georgia, and income derived from sources within  
236 Georgia.

237

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

254

255 **(f) Tentative Permission.** If an application for permission to file  
256 a consolidated return is timely filed pursuant to paragraph (2), the  
257 Commissioner shall exercise his or her best efforts to fully consider  
258 such application and to either grant or deny it prior to the return's  
259 due date (including extensions), but any failure by the Commis-  
260 sioner to act on such application by such date shall not be deemed  
261 as a grant thereof or permit the filing of a consolidated return by the  
262 affiliated group. If, as of fifteen (15) days before the return's due  
263 date (including extensions), the Commissioner has requested but not  
264 yet received from the affiliated group any information that the

265 ~~Commissioner has reasonably determined is needed to decide if~~  
266 ~~such application should be granted, or if the affiliated group other-~~  
267 ~~wise has not received a response to its timely filed application, the~~  
268 ~~affiliated group may request and shall be entitled to receive tentative~~  
269 ~~permission from the Commissioner to file a consolidated return,~~  
270 ~~which permission may be conditioned on the affiliated group's~~  
271 ~~agreement to provide any such requested information by a date cer-~~  
272 ~~tain acceptable to the Commissioner. If tentative permission is~~  
273 ~~granted pending the receipt of information, the Commissioner shall~~  
274 ~~review and take final action on the application, using the standards~~  
275 ~~and criteria set forth in subparagraphs (a) through (e), within sev-~~  
276 ~~enty-five (75) days after receipt of such information. In all other cir-~~  
277 ~~cumstances where tentative permission has been granted, the Com-~~  
278 ~~missioner shall take such final action no later than four months from~~  
279 ~~the Commissioner's receipt of the first such consolidated return un-~~  
280 ~~less the affiliated group and the Commissioner agree to a longer time~~  
281 ~~period. If tentative permission has been granted pursuant to this sub-~~  
282 ~~paragraph the affiliated group may by written consent allow the~~  
283 ~~Commissioner additional time to complete his or her review and~~  
284 ~~take final action. The Commissioner's tentative permission shall be~~  
285 ~~revoked retroactively if the application is denied, and each member~~  
286 ~~of the affiliated group shall, not later than sixty (60) days after the~~  
287 ~~date of the Commissioner's written notice of denial, file an amended~~  
288 ~~Georgia income tax return on a separate company basis for the af-~~  
289 ~~fected tax period or periods and pay any additional tax and interest~~  
290 ~~attributable thereto. If the Commissioner determines that any distor-~~  
291 ~~tion can reasonably be eliminated by means of one or more adjust-~~  
292 ~~ments to the consolidated return, including but not limited to the~~  
293 ~~elimination of corporations from the consolidated group, the Com-~~  
294 ~~missioner may, in lieu of revoking his or her tentative permission,~~  
295 ~~modify it retroactively by written notice specifying the adjustments~~  
296 ~~that are required. Each member of the affiliated group shall, not later~~  
297 ~~than sixty (60) days after the date of the Commissioner's written~~

298 notice of modification, file either an amended consolidated Georgia  
299 income tax return or a separate company return for the affected tax  
300 period or periods that is consistent with the adjustments mandated  
301 by the Commissioner and pay any additional tax and interest at-  
302 tributable thereto. If the Commissioner has tentatively approved an  
303 application but does not issue a written notice of denial, a written  
304 notice of approval, or a written notice of modification within the  
305 period prescribed in this subparagraph, such application shall be  
306 deemed to have been approved.

307

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

323

324 **(h) Retroactive Revocation of Permission in Case of Material**  
325 **Omissions or Misstatements.** If the Commissioner grants permis-  
326 sion to file a consolidated Georgia return but later determines that  
327 the application upon which such permission was based contained  
328 material omissions or misstatements of fact, whether intentional or  
329 otherwise, the Commissioner may revoke his or her permission ret-  
330 roactively by sending written notice of revocation to the affiliated

331 group, recalculate the tax liabilities of each member of the affiliated  
332 group on a separate company basis for all affected tax periods, and  
333 within the applicable limitations period assess any additional tax,  
334 interest, and penalties attributable thereto. This subparagraph shall  
335 also apply in any case in which an application was deemed to have  
336 been approved by the Commissioner pursuant to subparagraph (f).

337

338 **(4) Tax Years for Which Consolidated Returns Must Be Filed**  
339 **once Permission Is Granted Five Year Binding Election.** If a  
340 Georgia consolidated ~~affiliated~~ group has received permission from  
341 the Commissioner ~~relected~~ to file a consolidated Georgia income tax  
342 consolidated return for any taxable year, ~~consolidated Georgia con-~~  
343 ~~solidated~~ returns must be filed for all ~~future tax years~~ the taxable year  
344 in which the election is made and for the four succeeding taxable  
345 years, except in the following circumstance:

346

347 (a) The Commissioner either revokes his or her prior permission  
348 to file a consolidated Georgia income tax return pursuant to para-  
349 graph (3) of this regulation or grants permission to cease filing such  
350 a return; or

351

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

362

363 **(5) Separate Company Computation of Taxable Income or**

364 **Loss.** Corporations that file a Georgia consolidated ~~Georgia income~~  
365 ~~tax~~ return are required to consolidate separate company income or  
366 loss on a post-apportionment basis. This shall be accomplished by  
367 ~~way of~~ the following process:

368

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

371

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

374

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

383

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

388

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

393

394 (f) Intercompany transactions are not eliminated in this process  
395 of determining a corporation's separate company Georgia taxable  
396 income or loss. However, the Commissioner reserves the right to

397 examine intercompany transactions, and to make appropriate adjust-  
398 ments, to ensure that taxpayers clearly reflect income attributable to  
399 controlled transactions or to prevent the avoidance of taxes with re-  
400 spect to such transactions.

401

402 (g) The separate company income or loss of each corporation in  
403 the Georgia ~~consolidated~~affiliated group, as reflected on the sepa-  
404 rate company Form 600's, would then be consolidated on a ~~group~~the  
405 Georgia consolidated return Form 600 and reflected on line 5 of  
406 Schedule 1 of that Form.

407

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

412

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

415

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

425

426 **(7) Earning, Claiming and Assigning of Tax Credits.** ~~The jobs~~  
427 ~~tax credit, the investment tax credit, and any other~~Any tax credits  
428 which may be claimed against the Georgia corporate income tax  
429 must be calculated and claimed on a separate company basis. When

430 the code specifies that the amount of the credit taken in any one tax-  
 431 able year be limited to an amount not greater than 50 percent (or  
 432 another percentage) of the taxpayer's state income tax liability, such  
 433 limit shall be computed on a separate company basis. For credit lim-  
 434 itation purposes, net operating loss carryovers must be accounted for  
 435 on a separate company basis. Assignment of Georgia income tax  
 436 credits under the terms of O.C.G.A. § 48-7-42 is available within a  
 437 consolidated Georgia return. All credits utilized against the tax lia-  
 438 bility of the Georgia affiliated group must be assigned to the consol-  
 439 idated parent, unless generated by the parent. Credits may only be  
 440 assigned in the year generated and assignments must be made by the  
 441 due date of the return, including extensions. Carryforward credits  
 442 are not assignable. In the event tentative permission is granted pur-  
 443 suant to subparagraph (3)(f), the members of the consolidated group  
 444 may make a new assignment or may change such assignment pro-  
 445 vided such new assignment or change is made on the returns which  
 446 are required to be filed not later than sixty (60) days after the date of  
 447 the Commissioner's written notice of denial or modification.  
 448

449 Credit Example:\*

450

<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



**Substantive Regulations**

**Chapter 560-7-3**

<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	-	-	-	-
Retraining Credit Limitation	<u>4,500</u>	-	<u>4,200</u>	<u>1,800</u>
Investment Credit Limitation	<u>1,437.50</u>	-	-	<u>725</u>
Total Tax Credits Utilized in Current Tax Year	<u>3,000</u>	-	<u>4,200</u>	<u>1,800</u>
Remaining Tax Liability**	-	-	<u>4,200</u>	<u>1,800</u>
<u>Tax Credits to be Carried Forward:</u>				
Investment Tax Credit	<u>5,750</u>	-	-	-
Retraining Tax Credit	<u>-62.50</u>	-	<u>300</u>	<u>775</u>

**Consolidated Tax Calculation:**

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

451

452

\* Credits assignments must be made on the separate company tax

453 returns, with a detailed summary provided on a schedule attached to  
454 the consolidated tax return. The schedule shall list the credit type,  
455 the credit amount generated by the member, the credit amount uti-  
456 lized in the taxable year by the parent, and the credit carryforward  
457 amount.

458

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

474

475 \*\*\* In no case may the combined tax credits utilized offset more  
476 than 100% of the consolidated tax liability. Such excess shall be car-  
477 ried forward by the appropriate separate companies provided it is  
478 otherwise eligible for carryforward.

479

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

486

487 (a) The Georgia consolidated net operating loss for a taxable year  
488 shall include the separate company federal taxable income or loss of  
489 each member corporation, with the adjustments provided for in sub-  
490 section (b) of O.C.G.A. § 48-7-21 and O.C.G.A. § 48-7-28.2, and  
491 allocated and apportioned as provided in O.C.G.A. § 48-7-31. In  
492 calculating the separate company income or loss of each member  
493 corporation, no deduction will be taken for either federal or Georgia  
494 net operating losses from other years;

495

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

500

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

504

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

513

514 (e)

515

516 1. Net operating losses arising in tax years beginning before Jan-  
517 uary 1, 2018 and carried to a consolidated return year from a Geor-  
518 gia separate return limitation year (GSRLY) may be used to reduce

519 the group's income only to the extent of the income contributed by  
 520 the GSRLY member. This computation shall be performed first, and  
 521 then any consolidated loss of the group ~~would~~shall be applied  
 522 against any remaining income of the group. (See Example 1)  
 523  
 524

## Example 1

Company	A	B	C	Consolidated Total
12/31/2001 (Separate Return Loss Year)	(75,000) (1)	25,000	10,000	
12/31/2002	(50,000)	20,000	15,000	(15,000) (2)
12/31/2003	50,000	20,000	15,000	
Less: 2001 GSRLY NOL from Company A	(50,000) (3)	-	-	
12/31/2003 Income	-	20,000	15,000	35,000 (4)
2002 Consolidated NOL				(15,000) (5)
12/31/2003 Net Taxable Income				20,000 (6)
Total GSRLY Carryforward for Company A	(25,000) (7)			

525

526

## Explanation For Example 1:

527

528 1. The year 12/31/01 is a Georgia separate return year, and the  
 529 (\$75,000) loss of company A is limited in subsequent years to the  
 530 income of company A. The years 12/31/02 and 12/31/03 are con-  
 531 solidated post apportionment years.

532

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

535

536 3. In 12/31/03, the first consolidated profitable year, any GSRLY  
 537 loss applies first. Therefore, (\$50,000) of company A's loss from  
 538 12/31/01 is used against company A's income in 12/31/03.

539

- 540 4. The reduced income of the group for 12/31/03 is \$35,000.  
 541  
 542 5. The consolidated loss of (\$15,000) from 12/31/02 which was  
 543 carried forward may now be deducted.  
 544  
 545 6. The reduced taxable income is \$20,000.  
 546  
 547 7. Company A has a remaining GSRLY loss of \$25,000 which  
 548 may be carried forward;  
 549  
 550 2. Net operating losses arising in tax years beginning after De-  
 551 cember 31, 2017 and carried to a consolidated return year from a  
 552 Georgia separate return limitation year (GSRLY) may be used to  
 553 reduce the group's income only to the extent of 80% of the Georgia  
 554 taxable income contributed by the GSRLY member. (See example  
 555 1A)

556  
 557 Example 1A - NOL Limitation  
 558

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

559

560           **Explanation For Example 1A:**

561

562           1. The year 12/31/18 is a Georgia separate return year, and the  
563           (\$75,000) loss of company A is limited in subsequent years to  
564           80% of the income of company A. The years 12/31/19 and  
565           12/31/20 are consolidated post apportionment years.

566

567           2. The 12/31/19 tax year reflects a (\$15,000) consolidated loss  
568           which may be carried forward.

569

570           3. In 12/31/20, the first consolidated profitable year, any GSRLY  
571           loss applies first. Therefore, \$40,000 ( $\$50,000 \times .80$ ) of company  
572           A's loss from 12/31/18 is used against company A's income in  
573           12/31/20.

574

575           4. The reduced income of the group for 12/31/20 is \$45,000.

576

577           5. The consolidated loss of (\$15,000) from 12/31/19 which was  
578           carried forward may now be deducted. The maximum amount of  
579           consolidated NOL carry forward arising in tax years beginning  
580           after December 31, 2017 that can be used is limited to 80%.  
581           Therefore, a maximum of \$36,000 could be used ( $45,000 \times$   
582           80%); however, there is only a \$15,000 consolidated NOL carry  
583           forward available, as such so the entire \$15,000 can be used.

584

585           6. The reduced taxable income is \$30,000.

586

587           7. Company A has a remaining GSRLY loss of \$35,000 which  
588           may be carried forward;

589

590           (f) If a Georgia consolidated net operating loss can carry forward  
591           to a Georgia separate return year of a corporation which was a mem-  
592           ber of an Georgia affiliated group in the year in which the loss arose,

593 then the portion of the net operating loss attributable to such corpo-  
594 ration shall be apportioned to such corporation under the provisions  
595 of subparagraph (g) and shall be a net operating loss carryover to  
596 such Georgia separate return year. However, such portions shall not  
597 be included in the consolidated net operating loss carryovers to the  
598 equivalent consolidated return year;

599

600 (g) The portion of a Georgia consolidated net operating loss at-  
601 tributable to a member of a group is the consolidated net operating  
602 loss multiplied by a fraction, the numerator of which is the separate  
603 net operating loss of such corporation, and the denominator of which  
604 is the sum of the separate net operating losses of all members of the  
605 group in the year in which such losses were incurred. See example  
606 2. The separate net operating loss of such corporation and of each  
607 member as is mentioned in this subparagraph shall be computed as  
608 follows:

609

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

613

614 2. The separate net operating loss for each taxable year prior to  
615 the 2002 taxable year ~~that this regulation is first applicable to~~ shall  
616 be computed as follows:

617

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

626 percentage to the separate corporation's income or loss subject to  
627 apportionment.

628

629 (ii) Income or loss subject to allocation pursuant to O.C.G.A. §  
630 48-7-31(c). The portion of the separate net operating loss, attributa-  
631 ble to income or loss subject to allocation, of each separate corpora-  
632 tion shall be equal to its separate corporation income or loss subject  
633 to allocation.

634

635 Example 2

636

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)

637

638 \*SNTI=Separate Net Taxable Income

639

640 \*\*SNOL=Separate Net Operating Loss

641

642 Explanation For Example 2, Member Leaving Group:

643

644 Corporation A, B and C file a consolidated return in 12/31/02. On  
645 1/1/03, Corporation C is sold to Corporation D. This example above  
646 computes Corporation C's loss carryforward to its new ~~consolidat-~~  
647 ~~ed~~ Georgia affiliated group and the loss carryforward of the original  
648 group, Corporation A&B. Corporation C has a loss carryforward of  
649 (\$667) and the remaining group (Corporation A&B) has a loss car-  
650 ryforward of (\$3,333);

651

652 (h) If a corporation ceases to be a member during a consolidated  
653 return year, any Georgia consolidated net operating loss carryover



654 from a prior tax year must first be carried to such Georgia consoli-  
655 dated return year even though all or a portion of the Georgia consol-  
656 idated net operating loss giving rise to the carryover is attributable  
657 to the corporation which ceases to be a member. To the extent not  
658 ~~absorbed~~ deducted in such consolidated return year, the portion of  
659 the consolidated net operating loss attributable to the corporation  
660 ceasing to be a member shall then be carried to the corporation's first  
661 Georgia separate return year;

662

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

666

667 1. Except as otherwise provided in this regulation, the Internal  
668 Revenue Code § 108 provisions shall be applied on a separate entity  
669 basis and the Internal Revenue Service regulations relating to how  
670 to apply such provisions to consolidated returns shall not apply in  
671 the same manner as provided in the Internal Revenue Code and re-  
672 lated regulations (including those regulations relating to how to ap-  
673 ply Internal Revenue Code § 108 to consolidated returns). The re-  
674 duction in the Georgia net operating losses shall be determined by  
675 applying the Georgia apportionment percentage for the year of the  
676 discharge to the amount of the Internal Revenue Code § 108 net op-  
677 erating loss reduction determined pursuant to this regulation. A de-  
678 termination under the federal consolidated regulations that the sep-  
679 arate entity has an amount of discharge of indebtedness income  
680 and/or is required to reduce tax attributes shall also apply for Geor-  
681 gia purposes, except that paragraph (a)(4) of the Internal Revenue  
682 Service Regulation § 1.1502-28 shall not apply.

683

684 2. ~~The reduction of tax attributes provided in paragraph (a)(4) of~~  
685 ~~Internal Revenue Service Regulation § 1.1502-28 shall be applied~~  
686 ~~in the same manner as such regulation requires except that the~~

687 ~~excluded discharge of indebtedness income not applied to reduce the~~  
688 ~~tax attributes attributable to the member shall be used to reduce the~~  
689 ~~Georgia consolidated tax attributes instead of the federal consoli-~~  
690 ~~dated tax attributes.~~

691

692 3. Any elections, with respect to the order of the tax attribute re-  
693 ductions, made for federal income tax filing purposes and pursuant  
694 to Internal Revenue Service Regulations, shall also apply for Geor-  
695 gia purposes.

696

697 (j) Except as otherwise provided in this regulation, the provisions  
698 of Internal Revenue Code § 381, as they relate to Georgia net oper-  
699 ating losses, shall be applied in the same manner as provided in the  
700 Internal Revenue Code and related regulations (including those reg-  
701 ulations relating to how to apply Internal Revenue Code § 381 to  
702 consolidated returns).

703

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

707

708 1. Except as otherwise provided in this regulation, the Internal  
709 Revenue Code § 382 limitation shall be applied in the same manner  
710 as provided in the Internal Revenue Code and related regulations.  
711 Such limitation shall be computed on a separate entity basis even  
712 when a consolidated federal income tax return is filed. Except as  
713 otherwise provided in this regulation, the Internal Revenue Service  
714 Regulations regarding how to apply Internal Revenue Code § 382  
715 when a consolidated return is filed and paragraph (f) of Internal Rev-  
716 enue Service Regulation § 1.382-8 shall not apply for Georgia pur-  
717 poses.

718

719 2. A determination that an ownership change has occurred for

720 federal income tax filing purposes and pursuant to Internal Revenue  
721 Service Regulations (including those regulations relating to how to  
722 apply Internal Revenue Code § 382 to consolidated returns) shall  
723 apply for Georgia purposes.  
724

725 3. Adjustments to prevent duplication of value contained in the  
726 Internal Revenue Code § 382 regulations (including those regula-  
727 tions relating to how to apply Internal Revenue Code § 382 to con-  
728 solidated returns) apply for Georgia purposes. However, the election  
729 to restore value provided in paragraph (c) of Internal Revenue Ser-  
730 vice Regulation § 1.382-8 shall not be available.  
731

732 4. Whenever an ownership change occurs, an Internal Revenue  
733 Code § 382 limitation will apply to all Georgia pre-change losses  
734 that are carried over to a post-change year. "Pre-change years" end  
735 on or before the date of an ownership change, while "post-change  
736 years" end after the date of an ownership change. In a post-change  
737 year, the limitation on the use of any pre-change year Georgia net  
738 operating losses shall be determined by applying that post-change  
739 year's apportionment percentage to the Internal Revenue Code § 382  
740 limitation for that post-change year determined pursuant to this reg-  
741 ulation.  
742

743 5. The Internal Revenue Code § 382 limitation does not reduce  
744 the total amount of pre-change Georgia net operating losses availa-  
745 ble for carryforward but, similar to federal treatment, restricts the  
746 amount of net operating losses from pre-change years that can be  
747 applied to the income in a post-change year.  
748

749 6. If there is any unused Internal Revenue Code § 382 limitation  
750 for Georgia purposes in a post-change year, the following year's lim-  
751 itation shall be increased by the excess amounts determined for  
752 Georgia tax purposes in a manner similar to Internal Revenue Code

753 § 382(b)(2).

754

755 7. In the event the Internal Revenue Code § 382 limitation and  
756 the GSRLY limitation both apply to a net operating loss, the net op-  
757 erating loss shall be subject to both the GSRLY limitation and the  
758 Internal Revenue Code § 382 limitation. For example, a taxpayer  
759 has a net operating loss of \$1000. The Internal Revenue Code § 382  
760 limitation only allows \$500 of the loss to be used. The GSRLY lim-  
761 itation only allows \$200 of the loss to be used. \$200 of the loss is  
762 allowed to be used. Conversely, a taxpayer has a net operating loss  
763 of \$1000. The Internal Revenue Code § 382 limitation only allows  
764 \$200 of the loss to be used. The GSRLY limitation only allows \$500  
765 of the loss to be used. \$200 of the loss is allowed to be used.

766

767 (l) Except as otherwise provided in this regulation, the provisions  
768 of Internal Revenue Code § 384, as they apply to Georgia net oper-  
769 ating losses, shall be applied in the same manner as provided in the  
770 Internal Revenue Code and related regulations. The adjustment for  
771 such Internal Revenue Code Section shall be determined on a sepa-  
772 rate entity basis. The limitation on offsetting losses against any re-  
773 cognized built in gains which are allocated to Georgia shall be equal  
774 to the Internal Revenue Code § 384 limitation (determined pursuant  
775 to this regulation) attributable to such gains. The limitation on off-  
776 setting losses against any recognized gains which are apportioned to  
777 Georgia shall be equal to the Internal Revenue Code § 384 limitation  
778 (determined pursuant to this regulation) attributable to such gains  
779 multiplied by the apportionment percentage for the recognition pe-  
780 riod taxable year.

781

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

785

786 1. If the net operating loss is carried to a consolidated return year  
787 from a Georgia separate return limitation year (GSRLY), the Geor-  
788 gia net operating loss shall be the separate Georgia net operating loss  
789 of the member for the applicable year.

790

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

796

797 (n) A Georgia consolidated net operating loss may not be carried  
798 back to a Georgia separate return limitation year.

799

800 (o) In the event a taxpayer is entitled to a refund of income taxes  
801 by reason of a net operating loss carryback under paragraph (10.1)  
802 of subsection (b) of O.C.G.A. § 48-7-21, the taxpayer may file an  
803 amended return within the time period prescribed by O.C.G.A. § 48-  
804 7-21 or alternatively may file an "application for a tentative car-  
805 ryback adjustment of the taxes" within a period of twelve (12)  
806 months following the end of the taxable year of the net operating  
807 loss. The application shall be in such form as the Commissioner  
808 shall prescribe. Such application shall not constitute a claim for  
809 credit or refund for purposes of O.C.G.A. § 48-2-35. Within a period  
810 of ninety (90) days from the last day of the month in which the ap-  
811 plication for a tentative carryback adjustment is filed, the Commis-  
812 sioner shall make, to the extent he or she deems practicable in such  
813 period, a limited examination of the application to determine the  
814 amount of tax decrease attributable to such carryback adjustment  
815 upon the basis of the application and examination. The Commis-  
816 sioner may disallow, without further action, any application which  
817 contains errors of computation which he or she deems cannot be  
818 corrected within such ninety (90) day period or which contains

819 material omissions. The decrease so determined shall be applied  
820 against any unpaid amount of the tax and the remainder shall, within  
821 such ninety (90) day period, be either credited against any income  
822 tax then due from the taxpayer, or refunded to the taxpayer. Any  
823 such credit or refund made within such ninety (90) day period shall  
824 be without interest. If the Commissioner should determine that the  
825 amount credited or refunded under this paragraph is in excess of the  
826 amount properly attributable to the carryback adjustment, he or she  
827 may assess the amount of the excess as a deficiency as if it were due  
828 to a mathematical error appearing on the face of a return.

829

830 (p) Complete schedules must be submitted for all net operating  
831 losses carried forward to or from consolidated returns. Schedules  
832 must contain information to substantiate which corporations in-  
833 curred net operating losses and the age of the net operating losses.

834

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

836

837 (a) Any Georgia affiliated group, which was granted permission  
838 to file a consolidated return for taxable years beginning before Jan-  
839 uary 1, 2023 and elects to file a Georgia consolidated return under  
840 subparagraph (2)(b)2. for the taxable year beginning on or after Jan-  
841 uary 1, 2023 and for the four succeeding taxable years, will be eli-  
842 gible to carry forward to the Georgia consolidated return the credits  
843 shown on the last-filed consolidated return filed under the prior  
844 grant of permission.

845

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

848

849 ~~(9)~~**(10) Transition Rules for Net Operating Loss Carryfor-**  
850 **ward.**

851

852       ~~(a) Except as provided in subparagraphs (9)(b) and (9)(e), any~~  
853 ~~corporation which has received permission to join in the filing of a~~  
854 ~~Georgia consolidated income tax return and which has joined in the~~  
855 ~~filing of a Georgia consolidated income tax return, in the first taxa-~~  
856 ~~ble year beginning prior to January 1, 2002, will be eligible to car-~~  
857 ~~ryforward to a consolidated return year the net operating loss shown~~  
858 ~~on the returns, filed and accepted by the Department, without being~~  
859 ~~subject to the GSRLY limitations as described in subparagraph~~  
860 ~~(8)(e)~~

861

862       (b) ~~A corporation which filed as a party to a Georgia consolidated~~  
863 ~~return in the first taxable year beginning prior to January 1, 2002~~  
864 ~~and which will not be included in the Georgia consolidated return in~~  
865 ~~the first taxable year beginning on or after January 1, 2002 shall be~~  
866 ~~treated as ceasing to be a member of that group for the first taxable~~  
867 ~~year beginning prior to January 1, 2002 as described at subparagraph~~  
868 ~~(8)(h). The separate company Georgia net operating loss for the cor-~~  
869 ~~poration, if any, will then be determined according to subparagraphs~~  
870 ~~(8)(f) and (8)(g).~~

871

872       (c) ~~The separate company net operating loss carryforward for a~~  
873 ~~corporation coming into the group, that did not join in the filing of~~  
874 ~~the Georgia consolidated return for the group in the first taxable year~~  
875 ~~beginning prior to January 1, 2002 or which has joined in the filing~~  
876 ~~of a Georgia consolidated income tax return of another group in the~~  
877 ~~first taxable year beginning prior to January 1, 2002, shall be treated~~  
878 ~~pursuant to the terms of subparagraph (8)(e). A corporation which~~  
879 ~~has joined in the filing of a Georgia consolidated income tax return~~  
880 ~~of another group in the first taxable year beginning prior to January~~  
881 ~~1, 2002 shall be treated as ceasing to be member of that group for~~  
882 ~~the first taxable year beginning prior to January 1, 2002 as described~~  
883 ~~at subparagraph (8)(h). The separate company Georgia net operating~~  
884 ~~loss for the corporation, if any, will then be determined according to~~

885 ~~subparagraphs (8)(f) and (8)(g).~~

886

887 (a) Any Georgia affiliated group, which was granted permission  
888 to file a consolidated return for taxable years beginning before Jan-  
889 uary 1, 2023 and elects to file a Georgia consolidated return under  
890 subparagraph (2)(b)2. for the taxable years beginning on or after  
891 January 1, 2023 and for the four succeeding taxable years, will be  
892 eligible to carry forward to the Georgia consolidated return the net  
893 operating loss shown on the last-filed consolidated return filed under  
894 the prior grant of permission.

895

896 (b) A corporation which was a member of a Georgia affiliated  
897 group that filed a consolidated return under the prior grant of per-  
898 mission but will not be included in the Georgia consolidated return  
899 shall be treated as ceasing to be a member of that group, as described  
900 in subparagraph (8)(h), for the first taxable year that the election to  
901 file the Georgia consolidated return is made by the group. The sep-  
902 arate member Georgia net operating loss for the member, if any,  
903 shall then be determined according to subparagraphs (8)(f) and  
904 (8)(g).

905

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

910

911 **(11) Estimated Tax Payments.**

912

913 (a) Georgia affiliated groups that file a Georgia consolidated re-  
914 turn or will elect to file a Georgia consolidated return are required  
915 to make corporate estimated income tax payments. The payments  
916 are to be calculated and paid on the consolidated parent return. The  
917 other member(s) are not required to make estimated income tax



918 payments based on the estimated net worth or income tax liability  
919 of the member(s).

920

921 (b) If the member(s) of the Georgia affiliated group, other than  
922 the consolidated parent, submits estimated income tax payments,  
923 then such member(s) must electronically request a refund of such  
924 payments through the Georgia Tax Center.

925

926 **(12) Special Issues.**

927

928 (a) If a corporation ceases to be a member of the federal consoli-  
929 dated group part way through the taxable year, and as a result, has a  
930 taxable year that ends prior to the taxable year end of the consoli-  
931 dated group, such corporation will have two short taxable periods.  
932 The first short taxable period will be part of the Georgia consoli-  
933 dated return, and the second short taxable period will be on a sepa-  
934 rate return if that corporation does not become part of another Geor-  
935 gia affiliated group.

936

937 1. The due date of the separate return for the first short taxable  
938 period shall be the 15<sup>th</sup> day of the fourth month following the end of  
939 the first short taxable period.

940

941 2. The due date of the separate return for the second short taxable  
942 period shall be the 15th day of the fourth month following the end  
943 of the second short taxable period.

944

945 3. If the corporation, instead, becomes part of another Georgia  
946 affiliated group, then the due date of the return for the second short  
947 taxable period shall be the due date of that Georgia affiliated group's  
948 Georgia consolidated return.

949

950 (b) If a corporation ceases to be a member during a consolidated

951 return year, the corporation must notify the Department of the  
952 amount of credits and net operating loss carryforwards attributable  
953 to the corporation ceasing to be a member that will be carried over  
954 to the corporation's first Georgia separate return year. Notifications  
955 regarding the amount of credit carryforwards can be made via email  
956 to taxcredits.inquiries@dor.ga.gov and notifications regarding net  
957 operating loss carryforwards can be made via email to corporate.in-  
958 cometaxissues@dor.ga.gov.

959  
960 ~~(10)~~(13) **Effective Date.** This regulation will apply to taxable  
961 years beginning on or after January 1, ~~2005~~2023. Taxable years be-  
962 ginning before January 1, 2023 will be governed by the regulations  
963 of Chapter 560-7 as they exist before January 1, 2023 in the same  
964 manner as if the amendments thereto set forth in this regulation had  
965 not been promulgated. Taxable years beginning on or after January  
966 1, 2002 and before January 1, 2005 will be governed by the prior  
967 provisions of this regulation. Taxable years beginning before Janu-  
968 ary 1, 2002 will be governed by Regulation 560-7-3-.06(4) as it was  
969 in effect at that time.

970

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