

North Carolina Department of Revenue

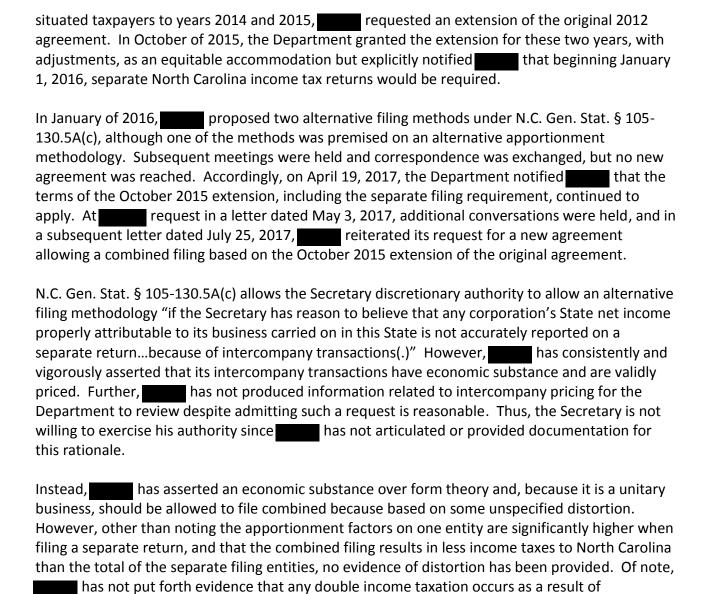
Roy Cooper Ronald G. Penny Governor Secretary

August 11, 2017

Re: Voluntary Redetermination Agreement Request
Voluntary Redetermination Agreement Request
Dear :
After reviewing the facts presented from submitted documentation and from information gathered in additional conversations and correspondence, we respectfully decline and Subsidiaries ("") request to file a combined income tax return for the tax year beginning lanuary 1, 2016. A summary of the relevant facts and basis of this conclusion is discussed below.
and the Department entered into an agreement allowing for a combined return filing for the then existing companies located in the United States. The agreement was for an undefined term; however, certain defined actions, including a material change, were set out in the October 2012 agreement as events that could terminate the agreement. In January of 2014, took actions on its own initiative which caused a material change. In June of 2015, informed the Department of a restructure, which resulted in a material change for a combined return filing for the then existing companies located in the United States. The agreement was for an undefined term; however, certain defined actions, including a material change, were set out in the October 2012 agreement as events that could terminate the agreement. In January of 2014, took actions on its own initiative which resulted in a material change for a combined return filing for the then existing companies located in the United States. The agreement was for an undefined term; however, certain defined actions, including a material change, were set out in the October 2012 agreement as events that could terminate the agreement. In January of 2014, took actions on its own initiative which resulted in a material change for a combined return filing for the under the october 2012 agreement as events that could terminate the agreement.
also requested a new agreement based on a combination of newly created entities, including a newly created entity formed in a combination was not allowed by North Carolina statute, the Department denied the request in July of 2015. In August of 2015, proposed a new agreement based on combining the U.S. entities and making an adjustment to eliminate the intercompany profits by an add-back on the North Carolina return. On August 26, 2015, after a meeting with the Department requested information to evaluate this proposal. However, in an email dated August
Informed the Department's request was reasonable, they did not feel comfortable reversing valid transactions, and therefore withdrew the request for a new
agreement.

Because estimated tax payments for 2014 and part of 2015 had been made using the existing combined methodology and because the Department extended agreements with other similarly

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The mere fact that a combined return would result in a lower State income tax liability than separately filed State income tax returns does not establish that net income is not properly attributable to the State. In the Department's opinion, when a taxpayer asserts, and the Secretary has no evidence to the contrary, that intercompany transactions are at fair value and have economic substance but believes that the amount of tax paid to the State is not appropriate based primarily on the results of the statutory apportionment factor, a remedy under N.C. Gen. Stat. § 105-130.5A(c) is not appropriate. For this reason, the initial agreement was incorrectly issued pursuant to the statutory requirements of N.C. Gen. Stat. § 105-130.5A(c). Therefore, argument that such a methodology should be endorsed based on consistency reasons is inconsistent with sound tax administration and must be rejected.

intercompany transactions or based on the North Carolina statutory apportionment methodology.

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was explicitly notified in October of 2015 of the requirement to file separate returns after being granted equitable relief for 2014 and 2015 tax years. Chose to make estimated tax payments based on an assumption that a new agreement would be reached, despite no indication or assurances from the Department of such a result, and by choosing to ignore timely clear written evidence to the contrary. Therefore, the Department does not agree that had a reasonable basis to rely on the ability to file combined returns for tax year 2016, as such a conclusion is inconsistent with the facts and prudent tax advice. Granting additional relief in this case would be unfair and unjust to other taxpayers that have complied with written directions from the Department, and would also establish a precedent that would be inconsistent with equitably applied standards.

For the foregoing reasons, your request to continue filing a combined return for tax year 2016 is denied. Accordingly, must file North Carolina corporate income tax returns for 2016 on a separate entity basis. However, if the Department determines after completion of the current tax return review that the income of will not be accurately reported to North Carolina on separate entity returns due to intercompany transactions, then the Department will adjust intercompany transactions, or it will allow to subsequently file a combined 2016 tax year return in a manner mutually agreed upon pursuant to N.C. Gen. Stat. § 105-130.5A(c). If that occurs, that return would supersede the previously filed 2016 separate income tax returns. The granting of any filing methodology requested pursuant to N.C. Gen. Stat. § 105-130.5A(c) is predicated on providing sufficient detailed information and documentation to allow the Department to adequately evaluate the intercompany transactions, including details to any change in price and nature of intercompany charges from the 2014 and 2015 tax years. A request for relief based primarily on apportionment concerns rather should be submitted pursuant to N.C. Gen. Stat. §§ 105-130.4(t1) and 105-122(c1).

Sincerely,

Anthony Edwards, Assistant Secretary Tax Administration

cc: Ronald Penny, Secretary of Revenue Jocelyn Andrews, Chief Operating Officer Lennie Collins, Director of Corporate Tax