



State of Vermont
Department of Taxes
133 State Street
Montpelier, VT 05633-1401

Agency of Administration

December 22, 2009

[REDACTED]

Formal Ruling 2009-12

Dear [REDACTED]

You have requested a ruling as to whether the [REDACTED] is subject to the Vermont Corporate Income Tax or Financial Institutions Franchise Tax.

The facts as relayed in your letter of [REDACTED] are as follows:

The bank is a federally-chartered savings institution headquartered in [REDACTED]. The Bank provides a variety of financial services to individuals, businesses and municipalities through its offices located in [REDACTED]. Its primary products include savings, checking and certificates of deposit accounts, residential and commercial mortgage loans, commercial business loans and consumer loans. In addition, wealth management services are offered to individuals and businesses through the Bank's [REDACTED] offices. The Bank also offers third-party outsourcing services through a department of the Bank that does business as [REDACTED]. [REDACTED] maintains a physical office in Vermont but does not collect deposits from customers or lend funds to individuals, businesses or municipalities located in the State of Vermont. The Bank employs 16 individuals in the [REDACTED] department in Vermont. [REDACTED] is consolidated for financial reporting purposes with other operations of the Bank.

Further facts as follows were ascertained from review of the Department's records and through telephone conversations with you. The Bank filed Vermont corporate income tax returns for 2005 and 2006 with minimum payments for each year. It filed an extension for 2007 with the minimum payment of \$250. These were filed under its own Vermont Business Account Number [REDACTED]. The Bank is wholly owned by [REDACTED], a holding company created in 2004 to permit a public offering of the Bank's stock. [REDACTED] filed a combined corporate income tax return for 2007 which applied the Bank's \$250 minimum payment to its liability. Tax was paid with this return. This filing generated a letter from the Vermont Department of Taxes (Department) in [REDACTED] acknowledging the return and assigning a Vermont Business Account Number [REDACTED]. [REDACTED]. The letter advised [REDACTED] of its ongoing responsibility to file corporate income tax returns. The notice stated that a return must be filed even if the tax liability for the period is zero. [REDACTED] filed a combined return for [REDACTED] with payment.



Vermont adopted unitary combined filing for tax years beginning on and after January 1, 2006. 2005, No. 152 (Adj. Sess.), Pursuant to that law a corporation which is part of an affiliated group engaged in a unitary business must file a group return reporting the combined net income of the affiliated group; 32 V.S.A. §5862a. The combined income of the group is then apportioned in accordance with Reg. §1.5833.

██████████ properly filed a group corporate income tax return with Vermont for ██████████ and ██████████. It appears that a group return should have been filed for ██████████ as well. For purposes of apportionment, because the Bank is subject to Vermont tax other than corporate income tax, the factors (sales, payroll and property) of the Bank are not included in the Vermont numerator and no corporate tax is due from it. Reg. §1.5862(d)-8(a). To the extent that the holding company or other subsidiaries in the group have factors in Vermont, a Vermont tax liability would be generated.

The Bank is subject to a franchise tax on financial institutions. 32 V.S.A. §5836. The tax is measured by the average monthly deposits held in Vermont by the corporation. According to your letter, ██████████ has no deposit activity and therefore will have no franchise tax liability to Vermont for the years in question.

In sum, the affiliated group must file a corporate tax return and the Bank must file a franchise tax return. Whether corporate tax is due or not will depend upon the presence and activity of the non-bank affiliates in Vermont. The tax due on the franchise return will depend upon the deposits in Vermont.

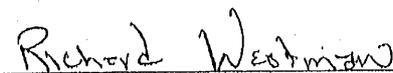
This ruling will be made public after deletion of the parties' names and any information which may identify the parties. A copy of this ruling showing the proposed deletions is attached, and you may request within thirty (30) days that the Commissioner delete any further information that might identify the interested parties. The final discretion as to deletions rests with the Commissioner. This ruling is issued solely to the requester and is limited to the facts presented as affected by current statutes and regulations. Other taxpayers may refer to this ruling to determine the Department's general approach, but the Department is not bound by this ruling in the case of any other taxpayer or in the case of any change in relevant statutes or regulations. Section 808 of Title 3 provides that this ruling has the same status as an agency decision or an order in a contested case. You have the right to appeal this ruling within thirty (30) days.

Sincerely,



Molly Bachman
General Counsel

Approved this 23 day of December, 2009.



Richard Westman
Commissioner of Taxes