

# CONSOLIDATED RETURNS: A GLOBAL PERSPECTIVE

The article provides an insight on the significance of consolidated tax returns and their impact in USA and some other countries of the world and need for the same in India.

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## **Brief History of Consolidated Returns in United States of America**

The origin of consolidated tax returns is embedded in the early regulations concerning the tax imposed on excess profits during the World War I. By 1918, Congress had made the filing of consolidated returns mandatory for affiliated groups not only for excess profits tax but also for income tax. However, in 1921 Congress made the filing of consolidated returns optional.

In 1934, influenced by the effects of the Great Depression and the ability of a loss corporation to offset the income of a profitable one, Congress abolished the use of the consolidated tax return. The consolidated tax return soon reappeared with the beginning of World War II as Congress extended corporations the privilege of filing a consolidated return in 1942.

## **Current Scenario of Consolidated Returns in USA**

The election to file a consolidated return is available to certain groups of US domestic corporations called "includable corporations" that are connected through stock ownership with a common parent (affiliated groups).

All US domestic corporations qualify as includable corporations with a few exceptions such as a tax-exempt corporations, regulated investment companies, real estate investment trusts and S corporations. A foreign corporation generally does not qualify as an includable corporation. Certain Mexican and Canadian corporations, however, may qualify.

In order to qualify as an affiliated group, an includible parent corporation must own directly at least 80 percent of the total voting power and 80 percent of the fair market value of the stock of at least one of the other includible corporations or

An includible corporation (other than the parent) has at least 80 percent of its voting stock and 80 percent of the fair market value of its non-voting stock is owned directly by one or more of the other includible corporations in the group.

## **Advantages of Consolidated Returns**

The benefit of filing a consolidated return is clear: treatment of the consolidated group as a single taxable

entity for purposes of computing tax.

Unused losses (both ordinary and capital) and credits of an affiliate may be used to offset the income and tax liability of other affiliated group members in the current year. By utilizing these losses and credits in the current year, the group receives immediate tax benefits and thereby avoids the need for carryovers to recover the benefits.

Intercompany dividends between group members are eliminated from income and are not subject to tax.

Deductions and credits that are subject to percentage limitations can be determined on a consolidated rather than on a separate company basis. This permits a single corporation subject to such limitations to effectively avoid them.

The basis in the stock of a subsidiary is increased by earnings and profits accumulated during consolidated return years. Thus, when a parent corporation disposes off a subsidiary any resulting gains are reduced or losses increased.

#### **Disadvantages of Consolidated Returns**

Electing to file consolidated returns requires compliance with the consolidated return regulations. This could create additional costs and administrative burdens.

Separate return credits and capital losses can be limited by operating losses and capital losses from other members of the group. Thus, the credit and loss carryovers may expire unused due to heavy losses incurred by an affiliated member. A subsidiary member is required to change its tax year to the same year as that of the common parent corporation. This can create a short tax year which shall be considered as a complete tax year for purpose of carry backs or carryovers in the case of unused losses and credits.

Though there are certain disadvantages of consolidated returns, the advantages outweigh the disadvantages.

#### **Consolidated Returns Status in Few Other Countries**

Particulars	Iceland	Denmark	Japan	Netherlands	U.K	India
Consolidated Returns Available	Yes	Yes	Yes	Yes	No	No
Requirement of common control	90%	100%	100%	95%	N/A	N/A

In United Kingdom there is no direct provision for consolidated returns. However, companies within a 75% group can surrender tax losses to other profitable group companies.

#### **Conclusion**

Currently India does not have provisions for filing of consolidated returns like in the US or the option to surrender tax losses to profitable companies in the group like in UK.

As India Inc competes in a global arena and integrates its financial reporting to meet the needs of a global investor, it is important for the country's tax laws to keep pace with the complexity that a truly global multinational environment demands. A level playing field is a need of the hour.

**Source:** Nishta Sharma (Partner) & Shishir Lagu (Manager - Tax & Advisory)

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