

1 Department of Revenue

2

3 Adopted Permanent Rule Relating to Banking Affiliated Returns

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5 Rule as Adopted

6 8019.0400 BANK AFFILIATED RETURNS.

7 Subpart 1. In general. Members of a unitary group  
8 required to be included on a combined report may elect to file a  
9 return on behalf of all corporations in the group.

10 Subp. 2. Definitions. For the purposes of this part, the  
11 following terms have the meanings given to them.

12 A. "Unitary group" means two or more corporations  
13 which are engaged in business operations as defined in Minnesota  
14 Statutes, section 290.17, subdivision 2, paragraph (4), and part  
15 8019.0100, and are required or permitted to file a combined  
16 report under Minnesota Statutes, sections 290.20, 290.34, and  
17 part 8019.0300.

18 B. "Bank" means a bank or trust company incorporated  
19 and doing business under the laws of the United States, the  
20 District of Columbia or any state and the substantial part of  
21 its business consists of receiving deposits and making loans and  
22 discounts, or of exercising fiduciary powers similar to those  
23 permitted to national banks under authority of the comptroller  
24 of the currency and which is subject by law to supervision and  
25 examination by a state or federal authority having supervision  
26 over banking institutions. Bank does not include domestic  
27 building and loan associations, credit unions, finance  
28 corporations, or acceptance companies.

29 C. "Bank affiliated return" is one return which  
30 includes all corporations included in the unitary group which  
31 are required to be included on a combined report during the  
32 taxable year for which the return is filed. The bank affiliated  
33 return is filed by one corporation elected by the group to be  
34 the key corporation.

35 D. "Key corporation" is the parent or other member of

1 the unitary group that has elected to file a bank affiliated  
 2 return, chosen by the group to file the return. The key  
 3 corporation must have nexus with Minnesota during the taxable  
 4 year for which the return is filed.

5 Subp. 3. Combined report. Members of a unitary group are  
 6 required to be included on a combined report for purposes of  
 7 this part if they would be included on the combined report under  
 8 Minnesota Statutes, section 290.34, subdivision 2.

9 Subp. 4. Eligibility requirements. A unitary group which  
 10 meets all of the following conditions during the entire taxable  
 11 year may elect to file a bank affiliated return:

12 A. the unitary group must contain at least one bank  
 13 which has nexus with Minnesota;

14 B. each member of the unitary group must use the same  
 15 accounting period (or, if a member is divested from the unitary  
 16 group during the taxable year, its accounting period for the  
 17 predivestiture portion of the year commenced on the same date as  
 18 the accounting period of the other members of the group);

19 C. each member of the unitary group must use the same  
 20 accounting method; and

21 D. the unitary group must make the election to file a  
 22 bank affiliated return in the manner prescribed in subpart 5.

23 Subp. 5. Election to file return. A representative of  
 24 each corporation in the unitary group shall sign a written  
 25 election to be included in the bank affiliated return. The name  
 26 and Minnesota and/or federal employer identification number of  
 27 all corporations included on the bank affiliated return must be  
 28 listed on the election. The election must be filed with the tax  
 29 return and must appoint a key corporation from among the group.  
 30 Each corporation in the unitary group shall grant power of  
 31 attorney to the key corporation to represent it on all tax  
 32 matters relating to the bank affiliated return. ~~The election is~~  
 33 ~~binding for all subsequent tax years and may be rescinded or~~  
 34 ~~modified only with the commissioner's permission. The key~~  
 35 ~~corporation may be changed only with the commissioner's~~  
 36 ~~permission.~~

1 Subp. 6. Filing requirements. The key corporation is  
 2 responsible for filing the bank affiliated return. The return  
 3 must be signed by a person designated by the key corporation who  
 4 has knowledge of the contents of the return. All taxes,  
 5 estimated taxes, payments, or charges must be paid in the name  
 6 of the key corporation on behalf of the corporations on the bank  
 7 affiliated return. The key corporation is responsible for all  
 8 changes in tax liability and assessments. Claims for refund  
 9 must be filed by the key corporation on behalf of the  
 10 corporations on the bank affiliated return. Refund checks must  
 11 be made payable to the key corporation.

12 If all corporations that would be included in the combined  
 13 report cannot be included on a bank affiliated return, a bank  
 14 affiliated return may not be filed and separate returns based on  
 15 a combined report must be filed.

16 Subp. 7. Payment of tax. ~~The members of the unitary group~~  
 17 ~~shall compute their income (loss) for the taxable year. The~~  
 18 ~~separate income (loss) of each member of the unitary group is~~  
 19 ~~subject to apportionment under Minnesota Statutes, sections~~  
 20 ~~290.17, 290.19, and parts 8017.3000, 8019.0200, and 8019.0300,~~  
 21 ~~or Minnesota Statutes, section 290.17 and part 8017.5000. Each~~  
 22 member of the unitary group shall compute its taxable net income  
 23 (loss) on the basis of a combined report which must be filed  
 24 with the return. Each member of the unitary group shall compute  
 25 its separate tax pursuant to Minnesota Statutes, section 290.06,  
 26 subdivision 1. The members of the unitary group shall compute  
 27 their aggregate tax for the taxable year. The key corporation  
 28 and each of the corporations on the bank affiliated return are  
 29 severally liable for the tax for such year on or before the due  
 30 date or extended due date.

31 Subp. 8. Extensions. Extensions An extension under  
 32 Minnesota Statutes, section 290.42, paragraph (6), must be filed  
 33 by the key corporation on behalf of the corporations included in  
 34 the bank affiliated return. A list of corporations included in  
 35 the return must be filed with the extension.

36 Subp. 9. Estimated payments. The key corporation shall

1 pay the total estimated group liability for the taxable year.  
2 Where corporations included in the bank affiliated return filed  
3 separate returns for the prior year, the prior year's tax for  
4 purposes of determining whether the taxpayer is covered by an  
5 exception to the penalty for underpayment of estimated tax is  
6 the combined amount of the prior year's tax liabilities of all  
7 corporations included in the bank affiliated return.

8 A bank affiliated group is considered a "large corporation"  
9 for purposes of Minnesota Statutes, section 290.934, subdivision  
10 4, paragraph (b), if any member of the group's taxable net  
11 income was \$1,000,000 or more during the three taxable years  
12 immediately preceding the taxable year involved.

13 Subp. 10. Net operating losses. A net operating loss from  
14 a year in which a combined report was filed may be carried to a  
15 year in which a bank affiliated return is filed. The net  
16 operating loss of each corporation on the combined report may be  
17 carried forward or back and deducted against the net income of  
18 that member of the bank affiliated group. The net operating  
19 loss deduction is allowed to the extent of the apportionment  
20 ratio of the loss year, or the year to which the loss is  
21 carried, whichever is smaller.

22 A net operating loss from a year in which a bank affiliated  
23 return was filed may be carried to a year in which combined  
24 reports were filed. The net operating loss of each member of  
25 the bank affiliated group may be carried forward or back and  
26 deducted against the net income of that member on the combined  
27 report. The net operating loss deduction is allowed to the  
28 extent of the apportionment ratio of the loss year or the year  
29 to which the loss is carried, whichever is smaller.

30 A net operating loss from a taxable year which began before  
31 July 1, 1981, may be carried to a taxable year which begins  
32 after June 30, 1981. The provisions of Minnesota Statutes,  
33 section 290.095, subdivision 3, paragraph (c), must be applied  
34 to each member of the bank affiliated group as if each  
35 corporation in the group is not included on a bank affiliated  
36 return or combined report for that year, when the corporation

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1 would be included in a bank affiliated return or combined report  
2 for that year. This provision applies only if the corporation  
3 was a member of the unitary group prior to July 1, 1981.

4 Subp. 11. Applicability. This part applies to tax years  
5 beginning after December 31, 1984.