

By Representative Lacasa

1 A bill to be entitled
2 An act relating to limited liability companies;
3 amending ss. 199.023 and 199.052, F.S.;
4 specifying membership interests in certain
5 corporations as indicia of ownership for
6 certain purposes; including limited liability
7 companies within certain provisions relating to
8 corporations; providing an effective date.

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10 Be It Enacted by the Legislature of the State of Florida:

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12 Section 1. Subsection (8) of section 199.023, Florida
13 Statutes, 1998 Supplement, is amended to read.

14 199.023 Definitions.--As used in this chapter:

15 (8) "Affiliated group of corporations" means one or
16 more chains of corporations connected through stock ownership
17 with a common parent corporation, providing that:

18 (a) Stock or a membership interest possessing at least
19 80 percent of the voting power of all classes of stock or
20 membership interests and at least 80 percent of each class of
21 the nonvoting stock or membership interest of each
22 corporation, except for the common parent corporation, is

23 owned directly by one or more of the other corporations; and

24 (b) The common parent corporation directly owns stock
25 or a membership interest possessing at least 80 percent of the
26 voting power of all classes of stock or membership interests
27 and at least 80 percent of each class of the nonvoting stock
28 or membership interest of at least one of the other
29 corporations.

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1 As used in this subsection, the term "nonvoting stock or
2 membership interest" does not include nonvoting stock or a
3 membership interest which is limited and preferred as to
4 dividends. As used in this subsection, "corporation" includes
5 limited liability companies under chapter 608.

6 Section 2. Subsection (10) of section 199.052, Florida
7 Statutes, 1998 Supplement, is amended to read.

8 199.052 Annual tax returns; payment of annual tax.--

9 (10) An affiliated group of corporations may elect to
10 make a consolidated return for any year. The election shall
11 be made by timely filing a consolidated return. Once made, an
12 election may not be revoked, and it is binding for the tax
13 year. The mere making of a consolidated return shall not in
14 itself provide a business situs in this state for intangible
15 personal property held by a corporation. The fact that
16 members of an affiliated group own stock or a membership
17 interest in corporations which do not qualify under the stock
18 ownership requirements as members of an affiliated group shall
19 not preclude the filing of a consolidated return on behalf of
20 the qualified members. Where a consolidated return is made,
21 intercompany accounts, including the capital stock or
22 membership interest of an includable corporation, other than
23 the parent, owned by another includable corporation, shall not
24 be subject to annual taxation. However, capital stock or a
25 membership interest and other intercompany accounts of a
26 nonqualified member of the affiliated group shall be subject
27 to annual tax. Each consolidated return shall be accompanied
28 by documentation identifying all intercompany accounts and
29 containing such other information as the department shall
30 require. Failure to timely file a consolidated return shall
31 not prejudice the taxpayer's right to file a consolidated

1 return, provided that the failure to file a consolidated
2 return is limited to 1 year and the taxpayer's intent to file
3 a consolidated return is evidenced by the taxpayer having
4 filed a consolidated return for the 3 years prior to the year
5 the return was not timely filed. As used in this subsection,
6 "corporation" includes limited liability companies under
7 chapter 608.

8 Section 3. This act shall take effect upon becoming a
9 law.

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12 HOUSE SUMMARY

13 Specifies membership interests in affiliated groups of
14 corporations as indicia of ownership for definitional and
15 tax purposes. Includes limited liability companies within
16 provisions relating to affiliated groups of corporations.
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