

Pine Tree Zone Guidance – Single Business Enterprise

The following definitions and examples apply to the Pine Tree Development Zone law, 30-A M.R.S.A. Ch. 206, Sub-Ch. 4.

“Business” means an enterprise engaged in for profit activity that is conducted by an individual, a legal entity (incorporated or not) or an affiliated group when the Commissioner determines that the affiliated group will constitute a single business enterprise that will be engaged in one or more qualified business activities or the business of manufacturing.

“Affiliated group” means a group of two or more legal entities or individuals in which more than 50% of the voting stock of each member corporation or more than 50% of the ownership interest in any non-corporate member is directly or indirectly owned by one or more common owner or owners, either corporate or non-corporate, or by one or more member legal entities or individuals.

Where one or more members of an affiliated group will engage in segments or portions of a business and the segments or portions, if engaged in by a single entity, would be “qualified business activities,” the affiliated group constitutes a “single business enterprise.” In the case of a manufacturing business, such business segments may include, for example, functions such as the production process, as well as supporting activities such as research and development, warehousing, administration, procurement, marketing, sales and distribution, quality control, receiving, shipping, and facilities and equipment management and maintenance, and ownership of buildings and

intellectual property. Segments or portions of a business engaged in by a member of an affiliated group that are unrelated to the qualified business activities, shall not be considered part of the qualified business activities of a single business enterprise.

Examples

1. Single Business Enterprise (Manufacturing)

Parent owns 100% of Subsidiary A and Subsidiary B. Parent performs administrative functions related to the manufacturing business. Subsidiary A owns equipment used to manufacture widgets and employs workers who operate the equipment used to manufacture the widgets. Subsidiary B effectuates the marketing, distribution and sale of the widgets. Parent, Subsidiary A and Subsidiary B are part of a single business enterprise engaged in manufacturing because each of their activities would have been considered part of the qualified business activities if they had instead been undertaken by a single business entity.

2. Single Business Enterprise (Financial Services)

Corporation A and Corporation B are 100% owned by Parent. Corporation A develops, administers and markets financial services products to its customers. Corporation B owns the building in which Corporation A operates and leases the building to Corporation A. Corporation A and B are engaged in a single business enterprise because each of their activities would have been considered part of the qualified business activities if they had instead been undertaken by a single business entity.

If Corporation B also owns a retail clothing store, this business segment is unrelated to the qualified business activities of the single business enterprise (financial services) and would therefore not be included as part of the qualified business activities of the affiliated group comprising the single business enterprise.

3. Not a Single Business Enterprise.

Corporation A and Corporation B are both owned 100% by Parent. Corporation A and Corporation B are housed in the same building. Corporation A engages in financial services within the meaning of 30-A M.R.S.A. § 5250-I(8). Corporation B is engaged in the real estate brokerage business. Corporation A and B are not a single business enterprise because real estate brokerage would not have been a segment of a qualified business activity if it instead had been undertaken by the same business entity providing the financial services.

In the case of a single business enterprise, the Pine Tree Development Zone Certificate shall be issued to each legal entity and individual comprising the affiliated group constituting the single business enterprise, but only to the extent that they are engaged in qualified business activities.

Each member of the affiliated group comprising a single business enterprise that is certified as a Qualified Pine Tree Development Zone business shall be issued a Pine Tree Zone Sales Tax Exemption Certificate, but only to the extent that they are engaged in qualified business activities. ETIF benefits shall be applied for and calculated in the

aggregate for the members of the affiliated group comprising a single business enterprise that is certified as a Qualified Pine Tree Development Zone business.

In the case of a single business enterprise, applicable jobs and investment thresholds shall be determined based on the affiliated group in the aggregate.

ETIF Guidance

For purposes of the Maine Employment Tax Increment Financing Act, the term “business” means an enterprise engaged in for profit activity that is conducted by an individual, a legal entity (incorporated or not) or an affiliated group when the Commissioner determines that the affiliated group will constitute a single business enterprise. If the Commissioner determines that an affiliated group constitutes a single business enterprise for purposes of the Pine Tree Development Zone Act, that same affiliated group shall constitute a single business enterprise for purposes of ETIF.