OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY

PA 13-232—sSB 1052
Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE INTEREST PAID BY THE STATE ON OVERPAYMENTS OF TAXES, VARIOUS CHANGES TO TAX CREDIT PROGRAMS AVAILABLE UNDER THE INSURANCE PREMIUMS TAX AND THE CORPORATION BUSINESS TAX, EXEMPTIONS FROM THE PETROLEUM PRODUCTS GROSS RECEIPTS TAX, AND A STUDY OF THE STRUCTURE OF THE PERSONAL INCOME TAX

SUMMARY: This act makes various changes to laws concerning state tax administration. Among other things, it (1) reduces the period during which the state must pay interest on overpayments of gift, estate, and gross earnings taxes; (2) extends a credit against the petroleum products gross earnings tax to the first sale of petroleum products sold to a purchaser who then incorporates them into paint, coating, or adhesive material for use or sale outside Connecticut; (3) requires captive insurance companies to pay premium taxes on assumed reinsurance premiums by March 1 annually, rather than in March; and (4) permits insurance companies and HMOs to transfer to their affiliates an insurance premium tax credit that, under existing law, may not be transferred or assigned.

The act also makes various changes to business tax credit programs, including (1) extending, from 15 to 25 years, the maximum period for carrying forward the credit for donating land for educational purposes; (2) allowing taxpayers to whom film infrastructure tax credits were assigned to carry them forward for up to three years; (3) allowing the economic and community development commissioner to limit the period for claiming the three-year job expansion tax credits and imposing an aggregate credit cap for the years they may be claimed; and (4) repealing certain obsolete or rarely used tax credit programs.

Lastly, the act requires the Department of Revenue Services (DRS) commissioner to study the state's income tax structure and how its rates and credits affect different taxpayers.

EFFECTIVE DATE: Various, see below.

§§ 1-2 & 5-6 — PERIOD FOR PAYING INTEREST ON TAX OVERPAYMENTS

By law, the state pays 0.66% per month or part of a month in interest to taxpayers when they overpay the gift tax; estate tax; or gross earnings taxes on railroad companies, cable and satellite television and video service providers, utility companies, and petroleum products distributors. Under prior law, the period for paying interest on:

1. gift tax overpayments began on the tax return's due date or the date the tax was paid, whichever was later;

2. gross earnings taxes overpayments was the period between the (a) later of the taxes' due date or the date they were overpaid and (b) date of the revenue services commissioner's notice that refunds were due (excluding refunds due to intentional overpayments); and
3. estate tax overpayments depended on the day a decedent died. For those who died before July 1, 2009, the state paid interest starting nine months after the transferor's death or the payment date, whichever was later. For those dying on or after that date, the period began six months after the transferor's death or the payment date, whichever was later.

The act shortens the period for paying interest on overpayments of gift and gross earnings taxes, depending on whether the overpayment was made pursuant to a tax return or amended tax return. For tax returns, the period for paying interest begins 91 days after the later of the (1) deadline for filing the return or (2) date the return was filed. For amended tax returns, the period begins 91 days after the amended tax returned was filed. For gift tax returns, the deadline for filing the return is determined regardless of any filing extension.

Although the act prescribes the same shortened periods for paying interest on estate tax overpayments, it retains the existing provisions requiring the period to begin nine months or six months after the transferor's death or the payment date. Consequently, it is unclear how the two periods combine to establish a new period for paying interest.

EFFECTIVE DATE: July 1, 2013, and applicable to refunds issued on or after that date.

§§ 3-4 — PETROLEUM PRODUCTS GROSS EARNINGS TAX

The act exempts from the petroleum products gross earnings tax the first sale of cosmetic grade mineral oil sold on or after July 1, 2013.

The law allows companies subject to the tax to receive a credit for products which the initial purchaser exports outside the state for sale or use, provided the purchaser properly documents the sale and the company passes the credit through to the purchaser. The act extends this credit to companies for petroleum products they sell to an initial purchaser who (1) incorporates them into a material used by businesses manufacturing paint, coatings, and adhesives (i.e., included in the North American Industrial Classification System's industry group 3255) and (2) subsequently exports the products for sale or use outside Connecticut. The credit equals the amount of tax the company paid when it sold the product to the initial purchaser.

The act similarly extends a credit to companies that import petroleum products into the state to incorporate in paints, coating, or adhesives they subsequently export for sale or use outside Connecticut. By law, companies qualify for a credit against the tax when they import petroleum products and subsequently export them for sale or use outside the state.

EFFECTIVE DATE: July 1, 2013, except for the tax credit provisions, which take effect July 1, 2015 and are applicable to quarterly periods beginning on or after that date.

§ 7 — ORDER FOR CLAIMING INSURANCE PREMIUM TAX CREDITS

The act establishes the order in which insurers must claim multiple credits in a calendar year. The order depends on whether the insurer can carry a credit backwards or forwards. The insurer must:

1. first apply the credits that it can carry backward to a preceding year, in the order in which they expire and, if more than one credit expires at the same time, in the order that gives the insurer the maximum benefit;
2. then apply credits it can neither carry backward or forward in the order that gives the insurer the maximum benefit; and
3. finally, apply the credits it can carry forward, in the order in which they expire and, if more than one credit expires at the same time, in the order that gives the insurer the maximum benefit.

A similar order applies under existing law to businesses eligible to claim more than one corporation business tax credit (CGS § 12-217aa).

The act specifies that insurers cannot claim an insurance premium credit more than once.

EFFECTIVE DATE: Upon passage and applicable to calendar years beginning on and after January 1, 2013.

§§ 8-9 — TAX CREDITS FOR DONATING LAND FOR EDUCATIONAL USE

The act extends, from 15 to 25 years, the maximum time during which taxpayers may carry forward the corporation business tax credit for donating land for educational uses. The 25-year carry forward period applies to credits allowed in any tax year starting on or after January 1, 2013. The 15-year carry forward period continues to apply to credits allowed during prior tax years.

By law, the credit equals 50% of the donated land's market value at its highest and best use or the value of the discounted sales price of the land or the interest in the land. Taxpayers qualify for the credit if they donate the land or sell the land or interests in it to any town, city, borough, or school district or regional school district that will use it for schools or related facilities.

The law already authorizes a 50% credit for donating land to be permanently preserved as open space or used as a public water supply source. The act consolidates the statutes authorizing this credit and the one for donating land for educational uses.

EFFECTIVE DATE: July 1, 2013 and applicable to income years beginning on and after January 1, 2013.

§ 10 — CARRY FORWARD FOR FILM INFRASTRUCTURE INVESTMENT TAX CREDIT

By law, parties investing in qualified film infrastructure projects qualify for tax credits, which they can claim over four years or assign (i.e., sell or transfer) to other taxpayers (i.e., assignees). Prior law required assignees to claim the tax credit only for the income year in which eligible expenditures were made for the

infrastructure project. The act instead allows assignees to claim the credits during the year in which the expenditures were made or in the three immediately succeeding income years.
EFFECTIVE DATE: Upon passage

§ 11 — JOB EXPANSION TAX (JET) CREDIT

The act allows the Department of Economic and Community Development (DECD) commissioner to reduce the time during which businesses may claim the JET credit for hiring certain types of employees from three years to one year.

By law, businesses qualify for the credit based on employee criteria. The credit equals $500 per month for each new employee who lives in Connecticut (i.e., new employee) or $900 per month if the employee either:

1. is (a) receiving unemployment compensation benefits or has not had a full-time job since exhausting them, (b) receiving vocational rehabilitation services from the Department of Rehabilitation Services, (c) receiving employment services from the Department of Mental Health and Addiction Services, or (d) participating in employment opportunities and day services operated or funded by the Department of Developmental Services (i.e., qualifying employee) or
2. is a current armed forces member or one who was honorably discharged or released under honorable conditions from active service in the armed forces (i.e., veteran employee).

Under prior law, businesses could claim the credit in the year the employee was hired and the next two income years. Beginning January 1, 2014, the act requires the commissioner to base her decision on whether to approve second- or third-year credits for new employees on whether doing so is consistent with the state's economic development priorities. She must continue basing her decision on whether to approve second- or third-year credits for qualifying and veteran employees on the current eligibility criteria.

The act also changes the cap on the JET credits. Prior law imposed an aggregate $20-million-per-year cap on these credits and those issued under three earlier job creation programs, which JET replaced. The act changes the cap from $20 million per year to $40 million over the JET program's duration. (However, it does not make conforming changes to the caps in the three other programs' statutes.)

By law, a business qualifies for the JET credit for jobs it creates between January 1, 2012 and January 1, 2014. Because JET is a three-year credit, the commissioner must apply the cap to the year she awards them and the subsequent two years during which businesses may claim them, including 2014 and 2015.
EFFECTIVE DATE: July 1, 2013

§ 12 — INCOME TAX STUDY

The act requires the DRS commissioner to study the state's personal income tax structure and how its rates and credits affect taxpayers, grouped according to their state tax filing status.

The study must:

1. analyze the taxes and credits imposed on each group of taxpayers at the same or equivalent income levels, based on adjusted gross income, and whether taxes and credits are the same or equivalent;
2. compare the effect of basing the income tax on federal adjusted gross income versus federal taxable income; and
3. consider how the tax rates and credits could be restructured to require all taxpayers to pay equivalent amounts while maintaining current revenue levels.

The commissioner must report his findings by January 15, 2014 to the Finance, Revenue and Bonding Committee, along with any recommendations for legislative changes to ensure an equitable income tax structure.

EFFECTIVE DATE: Upon passage

§§ 13-14 & 18 — REPEALED TAX CREDIT PROGRAMS

The act repeals the:

1. $125 per month tax credit for employers hiring Temporary Family Assistance program recipients for at least 30 hours per week (CGS § 12-217y),
2. 25% tax credit for research and development grants businesses make to colleges and universities in Connecticut exceeding the three-year average of prior grants (CGS § 12-217*l*),
3. $1,500 per worker credit available to electricity suppliers who hire workers displaced by electrical industry restructuring (CGS § 12-217bb), and
4. $1,500 credit for hiring workers whose (a) jobs were eliminated because of business restructuring in which at least 10 employees were terminated and (b) new salary is at least 75% of their previous wages or salaries (CGS § 12-217hh).

Under prior law, all of these credits applied against the corporation business income tax. The credit for hiring workers displaced by business restructuring also applied to the insurance premium and utility company taxes.

The act also makes conforming technical changes to laws referring to tax credit programs it repeals.

EFFECTIVE DATE: July 1, 2013

§ 15 — CAPTIVE INSURANCE COMPANY PREMIUM TAX PAYMENTS

The act requires captive insurance companies to pay premium taxes on assumed reinsurance premiums by March 1 annually, rather than in March. Under existing law, unchanged by the act, captive insurers must pay premium taxes on direct-written premiums by March 1 annually.

EFFECTIVE DATE: July 1, 2013

§ 16 — ESTIMATED INSURANCE PREMIUM TAX OVERPAYMENTS

The act allows domestic insurers who have timely filed their tax returns to (1) apply tax overpayments to the following year's estimated tax or (2) receive a refund as existing law provides.

By law, these insurers must pay their estimated insurance premium taxes in four installments during the calendar year according to the schedule the law specifies. If a company overpays an installment, the law requires the excess to be credited against the next installment. But, if the amount paid for the year exceeds the amount of tax due for that year, under prior law, the insurer had to receive a refund.

Under the act, the insurer can elect to apply the excess taxes to its estimated taxes for the following year instead of receiving a refund. If the insurer elects to do this, the state must apply the excess to the first installment due in the next income year and to any subsequent installments in the order they are due. The act also eliminates the DRS commissioner’s authority to adopt regulations concerning how excess estimated insurance premium tax payments are credited from one year to the next.

EFFECTIVE DATE: July 1, 2013, and applicable to estimated tax payments for calendar years starting on or after January 1, 2014.

§ 17 — TRANSFERABILITY OF INSURANCE PREMIUM TAX CREDITS

The law allows insurers and HMOs to apply tax credits against their insurance premium tax liability. Some tax credit programs require the entity that earns the credit to claim it, while others allow entities to transfer or assign the credits they earn to other taxpayers. The act allows insurers and HMOs to transfer credits to an affiliate that they would otherwise have to claim themselves (e.g., electronic data processing equipment property tax, historic homes rehabilitation, housing program contribution, and Neighborhood Assistance Act tax credits).

Existing law allows insurance companies and HMOs to transfer specific tax credits to other taxpayers (e.g., urban and industrial site reinvestment, film production, film infrastructure, digital animation, historic preservation, and insurance reinvestment fund tax credits). The transfers are generally subject to restrictions, including limits on the (1) number of times a particular credit may be transferred and (2) tax period for which a transferee may claim the credit. These restrictions apply to any tax credit transferred by an insurance company or HMO to its affiliate.

Although the act allows insurers and HMOs to transfer a credit to an affiliate, it prohibits the revenue services commissioner from allowing the affiliate to claim the transferred credit unless certain conditions are met. The insurer or HMO and affiliate must file any information the commissioner requires by the due date of the tax return on which the insurer or HMO would have taken the credit if it had not transferred it to the affiliate.

EFFECTIVE DATE: July 1, 2015, and applicable to calendar years beginning on or after January 1, 2015.

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