



General Assembly

February Session, 2016

Raised Bill No. 413

LCO No. 2637



Referred to Committee on FINANCE, REVENUE AND BONDING

Introduced by:
(FIN)

AN ACT CONCERNING A TAX ON CERTAIN ENDOWMENT FUNDS OF INSTITUTIONS OF HIGHER EDUCATION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 12-242aa of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective January 1, 2017, and*
3 *applicable to taxable years commencing on or after January 1, 2017*):

4 (a) As used in this chapter:

5 (1) "Taxpayer" means any organization which is exempt from
6 taxation in accordance with any of the provisions of Section 501 of the
7 Internal Revenue Code and which, notwithstanding the provisions of
8 said Section 501, is subject to taxation under said code on unrelated
9 business taxable income attributable to a trade or business carried on
10 in this state.

11 (2) "Unrelated business taxable income" means income as defined
12 and determined in accordance with Section 512 of the Internal Revenue
13 Code and subsection (b) of this section.

14 (3) "Taxable year" means the calendar year upon the basis of which
15 the taxpayer's unrelated business taxable income is computed,
16 provided, if a fiscal year other than a calendar year has been
17 established for purposes of the Internal Revenue Code, "taxable year"
18 means such fiscal year.

19 (4) "Unrelated trade or business" means unrelated trade or business
20 as defined in the Internal Revenue Code.

21 (5) "Internal Revenue Code" means the Internal Revenue Code of
22 1986, or any subsequent corresponding internal revenue code of the
23 United States, as from time to time amended.

24 (6) "Commissioner" means the Commissioner of Revenue Services.

25 (7) "Organization" means an organization described in Section
26 511(a)(2)(A) of the Internal Revenue Code or a trust described in
27 Section 511(b)(2) of the Internal Revenue Code.

28 (b) The unrelated business taxable income of a taxpayer subject to
29 the tax imposed by section 12-242bb shall be such taxpayer's federal
30 unrelated business taxable income, as determined under the Internal
31 Revenue Code for the taxable year, with the following modifications:
32 (1) There shall be added to federal unrelated business taxable income
33 the amount of any tax imposed and paid under section 12-242bb
34 during such taxable year; (2) there shall be added to federal unrelated
35 business taxable income any increase in the taxpayer's endowment
36 fund calculated pursuant to section 2 of this act for such taxable year;
37 (3) there shall be subtracted from federal unrelated business taxable
38 income the amount of any refund or credit for overpayment of the tax
39 imposed under section 12-242bb during such taxable year; and [(3)] (4)
40 there may be subtracted from federal unrelated business taxable
41 income a net operating loss deduction, which shall be the same as the
42 net operating loss deduction allowed under section 12-217, except that
43 (A) any net operating loss included in determining such deduction
44 shall be adjusted to reflect the addition and subtraction from unrelated

45 business taxable income required by subdivisions (1) and [(2)] (3) of
46 this subsection, (B) such deduction shall not include any net operating
47 loss sustained during any taxable year beginning prior to January 1,
48 1992, or during any taxable year in which the taxpayer was not subject
49 to the tax imposed by section 12-242bb, and (C) such deduction shall
50 not exceed the deduction for the taxable year allowable under
51 paragraph (6) of subsection (b) of Section 512 of the Internal Revenue
52 Code.

53 (c) Any terms used in this section, [and] section 12-242bb and
54 section 2 of this act have the same meaning as when used in a
55 comparable context in the Internal Revenue Code unless a different
56 meaning is clearly required.

57 Sec. 2. (NEW) (*Effective January 1, 2017, and applicable to taxable years*
58 *commencing on or after January 1, 2017*) (a) (1) Each taxpayer that is an
59 independent institution of higher education having one or more
60 endowment funds of ten billion dollars or more in the aggregate at the
61 end of the taxable year shall add the amount calculated pursuant to
62 this subdivision to its federal unrelated business taxable income
63 pursuant to subdivision (2) of subsection (b) of section 12-242aa of the
64 general statutes, as amended by this act. Such amount shall be the
65 amount by which any increase in the taxpayer's endowment fund from
66 the preceding taxable year to the current taxable year exceeds the sum
67 of (A) the taxpayer's total expenditures for its tax exempt purposes
68 during the taxable year, plus (B) the product of the amount of the
69 taxpayer's endowment fund for the preceding taxable year multiplied
70 by the percentage increase in the calendar year preceding the taxable
71 year of the Consumer Price Index For All Urban Consumers For
72 Northeast Urban-All Items published by the Bureau of Labor Statistics
73 of the United States Department of Labor, or any successor index. If
74 the taxpayer has more than one endowment fund, the amount by
75 which the taxpayer's endowment fund increases from the preceding
76 taxable year to the current taxable year shall be measured by the
77 amount of the increase of the total of all endowment funds combined.

78 (2) Decreases in the taxpayer's endowment funds shall not be
79 subtracted from federal unrelated business taxable income.

80 (b) Each taxpayer shall include on the tax return filed with the
81 commissioner pursuant to subsection (e) of section 12-242bb of the
82 general statutes (1) the amount of its endowment fund for the end of
83 the taxable year, and for the preceding taxable year and if the taxpayer
84 has more than one endowment fund, the taxpayer shall state such
85 amounts separately, and (2) all additions to such endowment fund,
86 including donations and contributions, in cash or in kind, and realized
87 and unrealized appreciation of assets.

88 (c) Each taxpayer shall file a tax return with the commissioner, in
89 such form and containing such information as he may prescribe, which
90 return shall be due on the same day such taxpayer's return for federal
91 tax on unrelated business income shall be due without regard to
92 extensions to file. The tax imposed by this section shall be due and
93 payable to the commissioner on or before the date prescribed herein
94 for the filing of the return.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2017, and applicable to taxable years commencing on or after January 1, 2017</i>	12-242aa
Sec. 2	<i>January 1, 2017, and applicable to taxable years commencing on or after January 1, 2017</i>	New section

Statement of Purpose:

To impose the unrelated business income of nonprofit corporations' tax on a portion of certain endowment funds of independent institutions of higher education.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]