
OLR Bill Analysis

sHB 7373

AN ACT CONCERNING THE DEPARTMENT OF REVENUE SERVICES' RECOMMENDATIONS FOR TAX ADMINISTRATION AND MINOR REVISIONS TO THE TAX AND RELATED STATUTES.

SUMMARY

This bill makes various changes in the tax statutes. Among other things, the bill:

1. expands the (a) pass-through entity tax (PET) base to include guaranteed payments with respect to a partnership and (b) portion of an entity's income allocated to Connecticut resident partners under the alternative base method of calculating the tax (§ 1);
2. exempts PET taxpayers with less than \$1,000 in annual tax liability from required quarterly estimated tax payments (§ 2);
3. establishes conditions under which real and tangible personal property owned by a pass-through entity is treated as personally owned by a decedent for estate tax purposes (§ 31);
4. changes the order in which the Department of Revenue Services (DRS) commissioner must apply partial tax payments (§ 28);
5. prohibits applying urban and industrial sites reinvestment act tax credits against the (1) ambulatory surgical center gross receipts tax, (2) dry cleaning gross receipts tax, and (3) public service companies tax (§ 9);
6. increases, from \$1,000 to \$5,000, the threshold over which penalty waivers require Penalty Review Committee review and approval (§ 10);
7. requires businesses, as a condition of receiving a tax refund for a

tax they collected from a customer, to establish to the DRS services commissioner's satisfaction that the amount for which they are claiming a refund was or will be repaid to the customer (§ 30); and

8. makes various minor, technical, and conforming changes.

EFFECTIVE DATE: Upon passage, unless otherwise noted below.

§§ 1 & 2 — PASS-THROUGH ENTITY TAX (PET)

Guaranteed Payments

The bill requires PET taxpayers, when calculating income subject to the tax, to include guaranteed payments with respect to a partnership (i.e., payments made to partners to compensate them for services rendered or use of capital that are unrelated to the partnership's income). It further specifies that a pass-through entity's income excludes any item treated as an itemized deduction for federal income tax purposes, which conforms to existing DRS guidance on the tax. Under the bill, these changes apply to both the standard and alternative base method for calculating the tax.

Resident Portion of Unsourced Income

The bill expands the resident portion of unsourced income used to calculate an entity's tax under the alternative base method.

By law, an entity's alternative tax base equals the business's modified Connecticut source income plus its resident portion of unsourced income. Under current law, the latter equals unsourced income (i.e., income that is not sourced to Connecticut or to another state with which the entity has nexus) multiplied by the percentage of ownership interests that are directly held by Connecticut resident members. The bill expands it to also include ownership interests that are indirectly held by Connecticut resident members, thus increasing the percentage of a pass-through entity's income allocated to Connecticut resident members.

Quarterly Estimated Payments

The bill exempts entities with less than \$1,000 in annual PET liabilities from the requirement to pay the tax in four estimated installments.

Minor and Technical Changes

The bill also makes minor and technical changes in the PET statutes, including to the provision concerning nonresident partner filing requirements.

EFFECTIVE DATE: July 1, 2019, and applicable to tax years beginning on or after January 1, 2019.

§ 3 — CREDIT REVENUE BOND PROGRAM

The bill makes technical changes in the credit revenue bond statutes.

§ 4 — STATE TAX WARRANTS

Existing law allows DRS and other state collection agencies to (1) issue a tax warrant on the intangible personal property (e.g., bank accounts, receivables, and securities) of a taxpayer who fails to pay state taxes and (2) serve the warrant on a third party (e.g., bank or payment settlement entity) who possesses the property or is obligated to it in some way. The bill allows the warrant to be served to the third party by any electronic means, rather than just by email or fax.

EFFECTIVE DATE: October 1, 2019

§ 5 — SALES TAX CREDITS FOR UNCOLLECTIBLE AMOUNTS

Existing law allows retailers to claim a credit for sales tax they paid on accounts later deemed worthless; they must generally do so within three years after they remitted the tax to DRS. If a retailer who claimed such a credit subsequently collects all or some portion of that account, current law requires the retailer to include the amount it collected in its next regular sales tax payment. The bill (1) provides that the retailer must only include the amount of sales tax for which it claimed the credit and (2) requires that any payments made on the account be applied first to the sales tax.

EFFECTIVE DATE: Upon passage, and applicable to credit claims

received on or after such date.

§ 6 — ALCOHOLIC BEVERAGES TAX EXEMPTION

The bill makes a technical change to the alcoholic beverages tax exemption for sales of malt beverages consumed on the premises of an establishment covered by a manufacturer's permit by replacing the term "malt beverages" with beer.

EFFECTIVE DATE: July 1, 2019

§ 7 — TAX PREPARERS AND FACILITATORS

Current law requires those applying for a DRS-issued tax preparer or facilitator permit on or after January 1, 2020, to have completed an Internal Revenue Services-administered annual filing season program. The bill extends the implementation date for this requirement by two years, to January 1, 2022, and limits the requirement to tax preparer permit applicants.

Under current law, tax preparer or facilitator permittees granted inactive status from DRS can reactivate their permits by paying a renewal fee. The bill specifies that they may only do so before the permit's expiration date.

§ 8 — TRANSPORTATION NETWORK COMPANY (TNC) FEE

The bill requires the DRS commissioner, when reporting TNC fee revenue, to include it with the admissions and dues tax, rather than the motor carrier road tax.

§ 9 — APPLICATION OF URBAN AND INDUSTRIAL SITES REINVESTMENT ACT (URA) TAX CREDITS

The bill prohibits the application of URA tax credits against the (1) ambulatory surgical center gross receipts tax, (2) dry cleaning gross receipts tax, and (3) public service companies tax. As under current law, the credits continue to apply against the insurance premiums tax; corporation business tax; unrelated business income tax; air carriers tax; railroad companies tax; cable, satellite, and video companies tax; utility companies tax; and surplus lines brokers tax.

EFFECTIVE DATE: Upon passage, and applicable to income years beginning on or after such date.

§ 10 — PENALTY REVIEW COMMITTEE

The bill increases, from \$1,000 to \$5,000, the threshold over which a penalty waiver requires Penalty Review Committee review and approval. By law, the Penalty Review Committee must review and approve tax penalty waivers granted by the DRS commissioner and lottery sales agent penalty waivers granted by the consumer protection commissioner, if they exceed the minimum threshold.

The Penalty Review Committee consists of the comptroller, DRS commissioner, and Office of Policy and Management secretary or their designees. The committee must (1) meet at least monthly and make an itemized statement of all approved waivers available for public inspection and (2) approve a waiver only by majority vote.

§§ 11-27 & 33 — TAX APPEALS TIMEFRAME

The bill modifies the timeframe for aggrieved taxpayers to bring tax appeals to Superior Court by requiring that they do so within 30 days, rather than one month, after receiving notice. It also repeals an obsolete tax appeal statute.

§ 28 — ORDER OF APPLYING PARTIAL PAYMENTS

For periods ending on or after December 31, 2019, the bill requires the DRS commissioner to apply partial payments to penalties first, then to interest, and any remaining balance to the tax. Under current law, the commissioner must apply the payment to the penalties first, but he must apply the remaining balance first to the tax and then to the interest.

§ 29 — PENALTIES FOR PAYMENTS BY ELECTRONIC FUNDS TRANSFER

The bill replaces the graduated penalties that apply to late tax payments paid by electronic funds transfer with the existing penalties that apply to late payments for the respective tax being paid. Under current law, the penalty is 2% if it is less than six days late, 5% if it is six

to 15 days late, and 10% if it is more than 15 days late. For periods ending on or after December 31, 2019, the bill instead requires any late tax payments paid by electronic funds transfer to be subject to interest and penalty provisions that apply by law to the specific tax being paid.

§ 30 — STATE TAX REFUNDS

The bill requires businesses, as a condition of receiving a tax refund for a tax they collected from a customer, to establish to the DRS commissioner's satisfaction that the tax amount for which they are claiming a refund was or will be repaid to the customer.

EFFECTIVE DATE: July 1, 2019, and applicable to refund claims received on or that date.

§ 31 — ESTATE TAX ON SPECIFIED BUSINESS PROPERTY

The bill establishes conditions under which real and tangible personal property owned by a pass-through entity (i.e., partnership, S corporation, or a single member limited liability company that is disregarded for federal income tax purposes) is treated as personally owned by a decedent for estate tax purposes.

Under the bill, such property must be treated as personally owned by the decedent if the (1) entity does not actively carry on a business for profit or gain, (2) entity did not own the property for a valid business purpose, or (3) property was not acquired through a bona fide sale for full and adequate consideration and the decedent retained a power with respect to or interest in the property that would bring the property within the decedent's federal gross estate.

§ 32 — OBSOLETE GENERATION-SKIPPING TRANSFER TAX STATUTES

The bill repeals obsolete statutory provisions concerning the generation-skipping transfer tax. Due to the repeal of the federal law on which the tax was based, the tax applied only to transfers made before January 1, 2005.

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 50 Nay 0 (05/01/2019)