OLR Bill Analysis

sSB 877

AN ACT CONCERNING REVENUE ITEMS TO IMPLEMENT THE BIENNIAL BUDGET.

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BACKGROUND

Information on 2018 estate and gift tax changes, the angel investor tax credit program, and CUTPA

SUMMARY

This bill makes various changes to state tax laws. Among the income tax provisions, the bill (1) imposes a 2% surcharge on capital gains for taxpayers with incomes in the top income tax bracket, (2) extends the limits for the property tax credit to the 2019 and 2020 tax years, and (3) requires the Department of Revenue Services (DRS) to analyze the impact on taxpayers of implementing a payroll tax on wages and correspondingly reducing personal income tax rates.

Among the sales tax provisions, it (1) increases, from 6.35% to 7.35%, the rate on sales of meals and beverages; (2) increases, from 1% to 6.35%, the rate on digital goods and certain electronically delivered software; and (3) extends the sales and use tax to new specified services.

The bill makes various business tax changes, including (1) eliminating the business entity tax, (2) phasing out the capital base tax over four years, (3) extending the 10% corporation business tax surcharge for two additional years, (4) reducing the corporation business tax credit cap on certain credits, and (5) imposing a tax credit cap on the utility companies tax. It also eliminates a scheduled reduction in the hospital tax rates on inpatient and outpatient services by maintaining the rates at FY 19 levels, but requiring a base

adjustment each biennium.

The bill imposes a new tax on e-cigarette wholesalers equal to 50% of the wholesale price of e-cigarette products and increases the minimum mark up for cigarettes from 8% to 18%. It imposes a 10 cent fee on single-use plastic and paper bags provided at the point of sale. It increases the alcoholic beverages tax by 10% and reduces, by 50%, the tax on beer for off-premises consumption that is sold on the premises covered by a manufacturer's permit.

A section-by-section analysis follows.

EFFECTIVE DATE: Various, see below

§ 1 — PAYROLL TAX STUDY

Requires DRS to analyze the impact on taxpayers of implementing a payroll tax on wages and correspondingly reducing the personal income tax rates

The bill requires DRS to analyze the impact on taxpayers of (1) implementing a 5% payroll tax on wages and (2) reducing the personal income tax rates on wage income by four percentage points for individuals in the top three income tax brackets and five percentage points for individuals in other income tax brackets.

The analysis must determine (1) the net federal and state income tax liability for wage income for each income tax bracket for all taxpayers and (2) the refundable income tax credits necessary for taxpayers in certain income tax brackets to ensure that no income tax bracket realizes an overall increase in income tax liability. It must also include tables showing the adjusted net federal and state income tax liability for each tax bracket for all taxpayers and information about the rates, bases, and credits required to implement the reduction.

DRS must submit the analysis, by January 1, 2020, to the Finance, Revenue and Bonding Committee.

EFFECTIVE DATE: Upon passage

§ 2 — INCOME TAX EXEMPTION FOR TEACHER PENSIONS

Delays, by two years, the scheduled increase in the teacher pension income tax exemption from 25% to 50%

The bill delays, by two years, the scheduled increase in the income tax exemption for income received from the state teachers' retirement system. Under current law, the exemption increases from 25% to 50% for 2019 and subsequent tax years. The bill instead maintains it at 25% for 2019 and 2020 and increases it to 50% beginning in 2021.

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

§ 3 — CAPITAL GAINS SURCHARGE

Imposes a 2% surcharge on capital gains for taxpayers with incomes in the top income tax bracket

Beginning with the 2020 tax year, the bill imposes a 2% surcharge on net gain from the sale or exchange of capital assets (i.e., capital gains) for taxpayers, other than trusts or estates, with incomes that exceed specified thresholds. The surcharge (1) applies to capital gains that are included in the taxpayer's Connecticut adjusted gross income and are derived from or connected with sources in the state and (2) is in addition to any other tax, fee, or surcharge for which the taxpayer is liable.

The surcharge applies to taxpayers with Connecticut taxable income of more than (1) $500,000 for single filers and married individuals filing separately, (2) $800,000 for heads of households, and (3) $1,000,000 for married joint filers and surviving spouses.

The bill requires taxpayers who owe the surcharge to file a return with DRS in the form, and containing the information, the commissioner prescribes. The return must accurately list the taxpayer's capital gains for the year and the amount of the taxpayer's surcharge liability for that year. Any taxpayer who is required to file a return must pay, without assessment, notice, or demand, the surcharge by April 15.

The bill imposes, on any taxpayer who fails to pay the surcharge owed, a penalty of 10% of the tax due or $50, whichever is greater. The

penalty gathers interest at the rate of 1% per month or partial month from the due date of the surcharge until the date of payment. The commissioner may waive all or part of any penalty, subject to the law's provisions on the Penalty Review Committee, when the taxpayer proves to the commissioner's satisfaction that the failure to pay the surcharge was due to reasonable cause and not intentional or due to neglect.

The bill additionally applies to the surcharge certain tax collection and enforcement provisions that apply to the income tax under existing law. Among other things, these provisions cover (1) tax payment and return filing deadline extensions; (2) deficiency and jeopardy assessment procedures; (3) refunds for tax overpayments, including applicable hearing and appeals processes; and (4) penalties for certain willful violations or fraud.

The bill requires the comptroller, at the close of each fiscal year beginning with FY 20, to record as revenue for the fiscal year any surcharge payments he receives by five business days after the last day of July immediately following the fiscal year.

Lastly, the bill allows the DRS commissioner to adopt regulations to implement the bill's provisions.

EFFECTIVE DATE: January 1, 2020

§§ 4-7 — GIFT TAX REPEAL AND THREE-YEAR LOOKBACK FOR GIFTS MADE IN CONTEMPLATION OF DEATH

Beginning January 1, 2019, (1) eliminates the gift tax and (2) limits the gifts made on or after that date that must be included in a decedent's estate for state estate tax purposes to those the decedent made in the three years preceding his or her death

For gifts made on or after January 1, 2019, the bill (1) eliminates the state gift tax and (2) limits the gifts that must be included in a decedent's estate tax base to those the decedent made in the three years preceding his or her death (i.e., gifts made in contemplation of death), with certain exclusions.

Under current law, the gift tax is unified with the estate tax, meaning that taxable gifts a decedent made during his or her lifetime

(on or after January 1, 2005) are treated as part of the estate, with a credit given for any Connecticut gift taxes paid on such gifts.

For those who die on or after January 1, 2019, the bill limits the gifts made on or after January 1, 2019, that taxpayers must include in their estate tax base (i.e., Connecticut taxable estate). Under the bill, taxpayers must add to their Connecticut taxable estate the amount of any federally taxable gifts, except as described below, (1) made on or after January 1, 2019, (2) not otherwise included in the decedent's gross estate, and (3) made during the three-year period preceding the decedent's death. The bill excludes such gifts that were (1) made when a decedent was a nonresident or (2) real property or tangible personal property with an actual situs outside the state at the time the gifts were made.

Under the bill, taxpayers must continue to include in their Connecticut taxable estate (1) federally taxable gifts made on or after January 1, 2005, but before January 1, 2019 (other than those that are includable in the decedent's gross estate for federal tax purposes) and (2) the amount of any Connecticut gift tax the decedent or his or her estate paid during the three years preceding the decedent's death for gifts the decedent or his or her spouse made.

The bill also reestablishes a definition of "federal basic exclusion amount" for purposes of the estate tax. Under the bill, the "federal basic exclusion amount" is the amount published annually by the Internal Revenue Service at which a decedent would be required to file a federal estate tax return based on the value of his or her gross estate and federal taxable gifts, or for the gift tax. The same definition applied under prior law (see BACKGROUND).

EFFECTIVE DATE: Upon passage; gift tax sunset provision is applicable to gifts made on or after January 1, 2019, and gift tax definition and estate tax provisions are applicable to estates of decedents dying on or after January 1, 2019 (§§ 6 & 7).

§§ 8 & 9 — MOTOR VEHICLE SALES AND USE TAX DIVERSION

Modifies the scheduled diversion of motor vehicle sales and use tax revenue to the Special Transportation Fund

Current law phases in a diversion of motor vehicle sales and use tax revenue to the Special Transportation Fund (STF) from FYs 19 to 23, according to a specified schedule. As Table 1 shows, the bill modifies this schedule by reducing the required diversion for FY 20, from 33% to 15%, and freezing it at 18% beginning in FY 21.

Table 1: Schedule of Motor Vehicle Sales and Use Tax Diversion to STF

FY	% of Revenue Diverted to STF	
	Current Law	Bill
20	33%	15%
21	56	18
22	75	18
23 and thereafter	100	18

EFFECTIVE DATE: July 1, 2019, and applicable to sales occurring on or after that date.

§§ 10-13 — SALES AND USE TAX ON DIGITAL GOODS AND CERTAIN ELECTRONICALLY DELIVERED SOFTWARE

(1) Increases, from 1% to 6.35%, the sales and use tax rate on digital goods and certain electronically delivered software and (2) establishes conditions under which sales of canned or prewritten software and digital goods or taxable services are considered sales for resale and thus exempt from sales tax

Rate Increase

The bill increases, from 1% to 6.35%, the sales and use tax rate on:

1. digital goods (i.e., electronically accessed or transferred audio, visual, or audio-visual works; reading materials; or ring tones), and
2. canned or prewritten software that is electronically accessed or transferred, other than when purchased by a business for use by such business, and any additional content related to such software.

Under current law, both are considered computer and data processing services and are thus subject to the 1% rate for such services. By law, unchanged by the bill, canned or prewritten computer software delivered by other means is considered tangible

personal property and thus subject to the 6.35% rate.

Sales for Resale

The bill establishes conditions under which sales of (1) canned or prewritten computer software and (2) digital goods or taxable services are considered "sales for resale" and are thus exempt from sales tax.

Under the bill:

1. sales of canned or prewritten computer software are considered sales for resale if the purchaser subsequently sells, licenses, or leases the software unaltered to an ultimate consumer, and

2. sales of digital goods or taxable services (e.g., computer and data processing services) are considered sales for resale if they are an integral, inseparable component part of another digital good or taxable service that the purchaser subsequently resold to an ultimate consumer.

In either case, the purchaser must maintain records that substantiate (1) from whom the software, digital goods, or services were purchased and to whom they were resold; (2) the purchase price; and (3) the nature of the transaction with the ultimate consumer, which for software sales must demonstrate that the same software was provided unaltered.

EFFECTIVE DATE: October 1, 2019, and applicable to sales occurring on or after that date.

§§ 13 & 14 — TRANSPORTATION NETWORK COMPANIES

Imposes the sales tax on rides provided by transportation network companies (TNCs)

The bill imposes the 6.35% sales tax on rides provided by TNCs (e.g., Uber and Lyft) that originate in this state. It correspondingly sunsets, on October 1, 2019, the existing TNC fee, which requires TNCs to pay a 25 cent fee on each ride originating in the state.

EFFECTIVE DATE: Upon passage, except that the provision imposing sales tax on TNC rides is effective October 1, 2019, and

applicable to sales occurring on or after that date.

§§ 15 & 16 — SALES AND USE TAX ON MEALS AND BEVERAGES

Increases, from 6.35% to 7.35%, the sales and use tax rate on sales of meals and beverages

The bill increases, from 6.35% to 7.35%, the sales and use tax rate on sales of (1) meals sold by eating establishments, caterers, or grocery stores and (2) liquors, soft drinks, sodas, and beverages ordinarily dispensed at, or in connection with, bars and soda fountains.

By law, a "meal" is food sold in ready-to-eat form or wrapped as "take-out" or "to-go" to be eaten elsewhere. An "eating establishment" includes a restaurant, cafeteria, grinder shop, pizzeria, drive-in, fast food outlet, ice cream truck, hot dog cart, refreshment stand, sandwich shop, private and social club, cocktail lounge, tavern, diner, snack bar, and hotel or boarding house that furnishes both lodging and meals to its guests (CGS § 12-412 (13)).

EFFECTIVE DATE: January 1, 2020, and applicable to sales occurring on or after that date.

§§ 17 & 18 — SALES AND USE TAX EXTENDED TO ADDITIONAL SERVICES

Extends the sales and use tax to (1) specified parking services; (2) dry cleaning and laundry services, excluding coin-operated services; and (3) interior design services, except for business-to-business

The bill extends the sales and use tax to the following motor vehicle parking services:

1. motor vehicle parking in lots with fewer than 30 spaces, except for employer-operated lots (a) owned or leased for a minimum of 10 years and (b) operated for the exclusive use of employees (lots with 30 or more spaces are already subject to tax under current law, subject to the same exclusion for employer-operated lots);

2. metered parking;

3. parking in seasonal lots operated by the state or political subdivisions and municipally owned lots; and

4. parking in municipally operated, or state-owned and operated, railroad parking facilities in municipalities located in a designated severe nonattainment area for ozone.

The bill also extends the tax to (1) dry cleaning and laundry services, excluding coin-operated services, and (2) interior design services described in industry group 54141 of the North American Industry Classification System, excluding such services that are purchased by a business for use by such business. (NAICS industry group 54141 is comprised of establishments primarily engaged in planning, designing, and administering projects in interior spaces to meet the physical and aesthetic needs of people using them, taking into consideration building codes, health and safety regulations, traffic patterns and floor planning, mechanical and electrical needs, and interior fittings and furniture.)

To qualify for the exemption for interior design services purchased by a business for business use, the purchaser must present a certificate, prescribed by the DRS commissioner, to the seller. The certificate must certify that the purchaser is a business and is purchasing such services for its business. Under the bill, the purchaser is liable for the tax otherwise imposed if it provides the certificate to the seller improperly. Anyone who willfully delivers to a seller a certificate that is known to be materially fraudulent or false is guilty of a class D felony (up to five years in prison, a fine of up to $5,000, or both), in addition to any other penalty the law provides.

EFFECTIVE DATE: January 1, 2020, and applicable to sales occurring on or after that date.

§ 19 — AUTOMATED SALES TAX COLLECTION

Requires the DRS commissioner to require retailers to enter into an agreement with an electronic payment processing company to provide automated sales tax collection and remittance

The bill requires the DRS commissioner to require retailers to enter into an agreement with an electronic payment processing company to provide automated sales tax collection and remittance. Under the bill, this automated process must (1) segregate an amount equal to the sales

tax, if any, for each sales transaction payment the company processes and (2) remit the segregated amount to DRS within 24 hours after the sale.

The commissioner may issue a request for proposals to evaluate companies that are eligible to provide these services and must publish annually a list of approved companies.

EFFECTIVE DATE: July 1, 2019

§ 20 — PROPERTY TAX CREDIT LIMIT

Extends, to the 2019 and 2020 tax years, the limits on eligibility for the property tax credit against the personal income tax

For the 2017 and 2018 tax years, the law limits eligibility for the property tax credit against the personal income tax to people who (1) are age 65 or older before the end of the tax year or (2) validly claim at least one dependent on their federal income tax return for that year. The bill extends these limits to the 2019 and 2020 tax years.

By law, taxpayers earn the credit for property taxes paid on their primary residences or motor vehicles, and the amount of property taxes paid that can be taken as a credit declines as adjusted gross income increases until it completely phases out. The maximum credit is $200 per tax return.

The bill also makes technical changes.

EFFECTIVE DATE: Upon passage

§ 21 — REAL ESTATE CONVEYANCE TAX EXEMPTION FOR CERTAIN PROPERTY WITH CRUMBLING FOUNDATIONS

Exempts from the real estate conveyance tax transfers of certain property with crumbling foundations

The bill exempts from the real estate conveyance tax transfers of certain principal residences with concrete foundations that have deteriorated due to the presence of pyrrhotite. To be eligible, the transferor must have obtained a written evaluation from a licensed professional engineer indicating that the foundation was made with defective concrete.

The exemption applies to the first transfer of the residence after the written evaluation is obtained and is not available to a transferor who received financial assistance to repair or replace the foundation from the Crumbling Foundations Assistance Fund.

The bill also makes technical changes.

EFFECTIVE DATE: July 1, 2019

§§ 22 & 23 — BUSINESS ENTITY TAX

Sunsets the business entity tax beginning January 1, 2019

This bill sunsets the business entity tax beginning January 1, 2019. Under current law, the business entity tax is a $250 tax, due every other taxable year, imposed on certain business entities (e.g., S corps, limited partnerships, limited liability partnerships, and limited liability companies).

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

§ 24 — CAPITAL BASE TAX PHASE OUT

Phases out the capital base tax over four years

The bill phases out the capital base tax on corporations over four years, from 2020 to 2023. Currently, the tax rate is 3.1 mills per dollar of a corporation’s capital base (i.e., its net worth apportioned to Connecticut). Under the bill, the rate decreases to 2.6 mills in 2020, 2.1 mills in 2021, 1.1 mills in 2022, and zero mills beginning in 2023.

The capital base tax is a component of the state’s corporation business tax. Under current law, for most corporations, the tax rate is (1) 7.5% of net income, (2) 3.1 mills per dollar of capital base (up to $1 million), or (3) $250, whichever produces the larger tax.

EFFECTIVE DATE: Upon passage

§§ 25-28 — CORPORATION BUSINESS TAX SURCHARGE

Extends the 10% corporation business tax surcharge for two additional years, to the 2019 and 2020 income years

The bill extends the 10% corporation business tax surcharge for two additional years, to the 2019 and 2020 income years.

Companies must calculate their surcharges based on their tax liability, excluding any credits. As under existing law, the surcharge for 2019 and 2020 applies to companies that have more than $250 in corporation tax liability and either (1) have at least $100 million in annual gross income in those years or (2) are taxable members of a combined group that files a combined unitary return, regardless of the amount of annual gross income.

The bill provides that the law on estimated corporation business tax payments and interest on underpayments does not apply to any additional tax due as a result of the corporation surcharge extension for any income year beginning before the bill's passage.

EFFECTIVE DATE: Upon passage; surcharge is applicable to income years beginning on or after January 1, 2019.

§ 29 — CAP ON COMBINED GROUP'S TAX LIABILITY ON A UNITARY BASIS

Limits to manufacturing businesses the application of the $2.5 million cap on a combined group's corporation income tax liability on a unitary basis

The bill limits to manufacturing businesses the application of the $2.5 million cap on a combined group's corporation income tax liability on a unitary basis. As under current law, the cap applies to the amount by which a combined group's tax, calculated on a unitary basis and before the application of tax credits and the corporation tax surcharge, can exceed the tax it would have paid on a separate basis (i.e., its nexus combined base tax).

EFFECTIVE DATE: Upon passage, and applicable to income years beginning on or after January 1, 2019.

§§ 30-32 — BUSINESS FILING FEES

Increases, from $20 to $80, the fee that foreign and domestic limited partnerships, limited liability companies, and limited liability partnerships pay for filing an annual report with the secretary of the state

The bill increases, from $20 to $80, the fee that foreign and domestic

limited partnerships, limited liability companies, and limited liability partnerships must pay for filing an annual report with the secretary of the state.

EFFECTIVE DATE: July 1, 2019

§ 33 — ANGEL INVESTOR TAX CREDIT

Extends the angel investor tax credit program by five years, to July 1, 2024; increases (1) from $3 million to $5 million, the aggregate amount of angel investor credits CI may reserve each fiscal year and (2) from $250,000 to $500,000, the total amount of tax credits allowed to any angel investor; authorizes CI to prioritize certain unreserved credits for various businesses

The bill extends the angel investor tax credit program (see BACKGROUND) by five years, from July 1, 2019, to July 1, 2024. It increases (1) from $3 million to $5 million, the aggregate amount of angel investor credits Connecticut Innovations (CI) may reserve each fiscal year and (2) from $250,000 to $500,000, the total amount of tax credits allowed to any angel investor.

By law, the amount of credits that CI may reserve each year for investments in emerging technology businesses is capped at 75% of the total amount of credit available that year, but CI may exceed the cap if any unreserved credits remain after April 1 in each year. The bill authorizes CI to prioritize the unreserved credits for veteran-owned, women-owned, or minority-owned businesses and businesses owned by individuals with disabilities.

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

§ 34 — CORPORATION BUSINESS TAX CREDITS CAP

Reduces, from 70% to 50.01%, the amount by which a company may reduce its tax liability using R&D and Urban Reinvestment Act (URA) credits

The bill reduces, from 70% to 50.01%, the amount by which a company may reduce its tax liability using research and development and Urban Reinvestment Act (URA) credits. Under existing law, the 50.01% credit cap applies to all other corporation business tax credits.

EFFECTIVE DATE: Upon passage, and applicable to income years

beginning on or after January 1, 2019.

§ 35 — UTILITY COMPANIES TAX CREDIT CAP

Caps, at 50.01%, the amount by which a utility company may reduce its tax liability using tax credits

The bill caps, at 50.01%, the amount by which a utility company may reduce its tax liability using tax credits. This cap applies to quarterly periods beginning on or after July 1, 2019.

EFFECTIVE DATE: Upon passage, and applicable to quarterly periods beginning on or after July 1, 2019.

§ 36 — UTILITY COMPANIES TAX EXEMPTION REPEAL

Eliminates a utility companies tax exemption for selling natural gas to certain facilities

The bill eliminates a utility companies tax exemption for certain natural gas sales, thus applying the tax to sales of natural gas to an existing combined cycle facility comprised of three gas turbines that provide electric generation services with a total capacity of 775 megawatts.

EFFECTIVE DATE: July 1, 2019

§ 37 — MINIMUM MARK-UP FOR CIGARETTES

Increases the minimum mark-up for cigarettes from 8% to 18%

The law requires different types of cigarette sellers to mark up their cigarettes by different percentages based on their cost of doing business. Selling cigarettes below cost is prohibited. At a minimum, sellers must charge their basic cost (i.e., the invoiced cost of the cigarettes, less certain discounts) plus a percentage representing their cost of doing business, which is calculated as it would be for federal income tax purposes.

The bill increases, from 8% to 18%, a cigarette dealer's presumed cost of doing business. (Cigarette sellers may file satisfactory proof with the DRS commissioner of a different cost of doing business.)

EFFECTIVE DATE: July 1, 2109

§ 38 — E-CIGARETTE TAX

Imposes a tax on e-cigarette wholesalers equal to 50% of the wholesale price of e-cigarette products

Imposition of Tax

The bill imposes a tax on all sales of electronic cigarette (e-cigarette) products by e-cigarette wholesalers. "E-cigarette products" are electronic nicotine delivery systems; liquid nicotine containers; vapor products; and liquids that, when used in an electronic nicotine delivery system, produce a vapor that may or may not contain nicotine and is inhaled by the system's user (i.e., e-cigarette liquid).

The tax is imposed each calendar month at a rate of 50% of the wholesale sales price of such products, whether or not sold at wholesale, or if not sold, at the same rate upon use by the wholesaler. "Wholesale sales price" means the price of e-cigarette products or, if no price has been set, the wholesale value of the products. Under the bill, only one sale of the same product is used to compute the tax.

Under the bill, an e-cigarette wholesaler is (1) a person engaged in the business of selling e-cigarette products at wholesale in the state, (2) a person who purchases e-cigarette products at wholesale from a manufacturer, or (3) a dealer, retailer, or other person that otherwise imports, or causes another to import, untaxed e-cigarette products into the state.

Administration

The bill requires e-cigarette wholesalers, by the last day of each month, to (1) file electronically with DRS a report for the calendar month immediately preceding in the form and manner the DRS commissioner prescribes and (2) submit with the return the tax payment, paid by electronic funds transfer. The bill specifies that no tax credits are allowable against the tax.

At the close of each fiscal year, beginning with FY 20, the bill allows the comptroller to record as revenue for the fiscal year the amount DRS received from e-cigarette tax revenue within five business days from the last day of July immediately following the end of the fiscal year.

The bill also allows DRS to adopt regulations to implement the tax.

Enforcement and Penalties

The bill imposes on anyone who fails to pay the tax a penalty of 10% of the tax due or $50, whichever is greater. The penalty gathers interest at the rate of 1% per month from the due date of the tax until it is paid. The commissioner may waive all or part of any penalty, subject to existing law's provisions on the Penalty Review Committee, when the taxpayer proves to the commissioner's satisfaction that the failure to pay was due to reasonable cause and not intentional or due to neglect.

The bill additionally applies certain tax collection and enforcement provisions that apply to the admissions and dues tax under existing law. Among other things, these provisions cover (1) refunds for tax overpayments, (2) hearing and appeals processes, (3) penalties for certain willful violations or fraud, and (4) the issuance of tax warrants.

The bill also imposes a penalty on each person, other than an e-cigarette wholesaler, who is required to collect, truthfully account for, and pay the e-cigarette tax on behalf of a wholesaler but fails to do so or willfully attempts to evade or defeat the tax. The penalty (1) equals the total amount of tax evaded, not collected, or not accounted for and paid, including any penalty or interest attributable to the above violations, and (2) applies in addition to other penalties the law provides. The penalty may only be imposed against such a person in the event that the tax, penalty, or interest cannot otherwise be collected from the e-cigarette wholesaler. The penalty amount imposed on such a person may be collected under the same provisions that apply to the admissions and dues tax under current law, including through the issuance of tax warrants.

Under the bill, the dissolution of an e-cigarette wholesaler does not discharge the liability of any person liable for a (1) willful failure to collect or truthfully account for and pay e-cigarette taxes or (2) willful attempt to evade or defeat the tax prior to the dissolution.

EFFECTIVE DATE: October 1, 2019 and applicable to sales occurring on or after that date.

§§ 39 & 40 — ALCOHOLIC BEVERAGES TAX

Increases the excise tax on alcoholic beverages by 10% and sets the tax on beer for off-premises consumption that is sold on the premises covered by a manufacturer's permit at 50% the rate otherwise applicable to beer; requires sellers to pay a floor tax on alcoholic beverages in their inventories as of the opening of business on July 1, 2019; makes a technical change

The bill generally increases the excise tax on alcoholic beverages by 10%. It sets, at half the rate otherwise applicable to beer, beer for off-premises consumption that is sold on the premises covered by a manufacturer's permit. It requires sellers to pay an additional tax on alcoholic beverages in their inventories as of the opening of business on July 1, 2019. Current and proposed new rates for the alcoholic beverages tax and the inventory tax are shown in the following table.

Table 2: Current and Proposed Alcoholic Beverages Tax Rates

Alcoholic Beverage	*Unit Taxed*	*Current Rate*	*Proposed Rate*	*Proposed Per-Unit Inventory Tax*
Beer and cider with no more than 7% alcohol (except as provided below)	barrel (31 gallons)	$7.20	$7.92	$0.72
	½ barrel	3.60	3.96	0.36
	¼ barrel	1.80	1.98	0.18
	wine gallon or fraction under ¼ barrel	0.24	0.26	0.02
Beer sold for off-premises consumption on the premises covered by a manufacturer's permit	barrel (31 gallons)	7.20	3.96	N/A
	½ barrel	3.60	1.98	N/A
	¼ barrel	1.80	0.99	N/A
	wine gallon or fraction under ¼ barrel	0.24	0.13	N/A
Still wines (up to 21% alcohol by volume) and cider not taxed at the beer rate	wine gallon	0.72	0.79	0.07
Still wines produced by small wineries producing up to 55,000 wine gallons annually (certificate required)	wine gallon	0.18	0.20	0.02
Sparkling and fortified wines	wine gallon	1.80	1.98	0.18
Alcohol (more than 100 proof)	proof gallon	5.40	5.94	0.54
Liquor	wine gallon	5.40	5.94	0.54
Liquor coolers (up to 7% alcohol by volume)	wine gallon	2.46	2.71	0.25

The bill requires sellers to file an inventory report with DRS and pay

the tax due on the inventory by August 15, 2019. If a seller fails to file an inventory report and pay the tax by that date, the DRS commissioner must estimate the seller's inventory tax based on information he has or obtains. Regular provisions of the alcoholic beverages tax laws concerning failure to file returns, DRS examination of returns, deficiency assessments or assessments for failure to file a return, tax collection, penalties, and interest apply to the bill's inventory tax. Under those provisions, someone who fails to pay the tax on time is subject to a penalty of 10% of the tax due with a $50 minimum and interest at the rate of 1% per month from the tax due date to the payment date. The bill also makes the failure to file a report and pay the tax on time grounds for revoking any other DRS-issued license or permit the seller possesses.

The act requires the Department of Consumer Protection (DCP) commissioner to cooperate with the DRS commissioner to enforce the inventory tax.

The bill also 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, and applicable to sales occurring on or after July 1, 2019, except the inventory tax is effective upon passage.

§ 41 — ADMISSIONS TAX

Increases the admissions tax rate on movie tickets from 6% to 6.35%, beginning October 1, 2019; reduces the admissions tax rate on certain venues in two steps: from 10% to 7.5% for sales occurring on or after July 1, 2019, and from 7.5% to 5% for sales occurring on or after July 1, 2020

Beginning October 1, 2019, the bill increases the admissions tax rate on movie tickets from 6% to 6.35%. By law, unchanged by the bill, movie tickets costing $5 or less are exempt from the tax.

The bill also reduces the admissions tax rate on certain venues in two steps: from 10% to 7.5% for sales occurring on or after July 1, 2019, and from 7.5% to 5% for sales occurring on or after July 1, 2020. The

lower rate applies to the following venues:

1. the XL Center in Hartford;
2. Dunkin' Donuts Park in Hartford;
3. athletic events presented by a member team of the Atlantic League of Professional Baseball at the New Britain Stadium;
4. Webster Bank Arena in Bridgeport;
5. Oakdale Theatre in Wallingford; and
6. events, other than interscholastic athletic events, at Rentschler Field.

EFFECTIVE DATE: July 1, 2019, and applicable to sales made on or after July 1, 2019.

§ 42 — FEE FOR PLASTIC AND PAPER SINGLE USE BAGS

Imposes a 10 cent fee on single-use plastic and paper bags provided at the point of sale

Imposition of Fee

The bill requires each "store" to charge a 10 cent fee for each single-use checkout bag provided to a customer at the point of sale. "Store" means any entity considered a retailer for sales tax purposes that maintains a retail store in the state and sells tangible personal property directly to the public. The store must indicate the number of single-use checkout bags and the total fee charged on any transaction receipt provided to a customer.

Scope

The fee applies to "single-use checkout bags," which are plastic bags with a thickness of less than four mils or paper bags that are provided to a customer at the point of sale. The bill exempts from the fee (1) "compostable plastic bags;" (2) bags provided to contain meat, seafood, loose produce, or unwrapped food items; (3) newspaper bags; and (4) laundry or cleaning bags.

"Compostable plastic bags" are plastic bags that:

1. conform to, and are certified and labeled as meeting, the American Society of Testing Materials (ASTM) standard D6400, and

2. are capable of undergoing biological decomposition in a compost site such that the material breaks down into carbon dioxide, water, inorganic compounds, and biomass at a rate consistent with known compostable materials.

Administration and Enforcement

Each store must report all fees it collects to the DRS commissioner with its sales tax return and remit the fees at the same time and in the same manner as is required for the sales tax.

Under the bill, any unpaid fees are subject to the penalties and interest that apply under existing law to unpaid sales tax (e.g., a penalty of 15% of the tax owed plus 1% interest). The bill allows the DRS commissioner to collect the fees, as if they were taxes due to the state, in the same manner in which he may collect other taxes, including levying warrants on the property of people who owe fees to the state. The bill additionally applies to the fee certain enforcement-related provisions that apply to the sales tax under current law, including provisions on deficiency assessments, hearings, appeals, tax abatement, and refunds.

At the close of each fiscal year, beginning with FY 20, the bill allows the comptroller to record as revenue for such fiscal year the amount of fee revenue DRS received within five business days from the last day of July immediately following the end of the fiscal year.

The bill authorizes the DRS commissioner to adopt, in consultation with the Department of Energy and Environmental Protection, regulations to carry out the department's responsibilities under the bill.

EFFECTIVE DATE: July 1, 2019

§ 43 — HOSPITAL PROVIDER TAX

Eliminates a scheduled reduction in the hospital tax rates on inpatient and outpatient services by maintaining the rates at FY 19 levels but requiring the base year for calculating the tax to be adjusted each biennium; among other things, requires the DSS commissioner to issue refunds if he determines for any fiscal year that the effective hospital tax rate exceeds the rate permitted under federal law

Tax Rate and Base

Existing law sets the FY 19 hospital provider tax rate for (1) inpatient hospital services at 6% of each hospital's FY 16 audited net revenue attributable to such services and (2) outpatient hospital services at $900 million, minus the total tax imposed on all hospitals for providing inpatient services, divided by the total FY 16 audited net revenue attributable to outpatient services for all hospitals subject to the tax. Under current law, these rates are scheduled to decrease for FY 20 and thereafter for both inpatient and outpatient hospital services to $384 million, divided by the total FY 16 audited net revenue for all hospitals subject to the tax.

The bill eliminates the scheduled rate decrease by maintaining the rates for inpatient and outpatient hospital services at FY 19 levels but requiring a base adjustment each biennium. Under the bill, beginning with the FY 20-21 biennium, the fiscal year upon which the inpatient and outpatient hospital services tax is based must be the fiscal year three years prior to the first year of the biennium, rather than FY 16 (i.e., FY 17 for the FY 20-21 biennium).

Audited Net Revenue

As under current law, the tax is based on the hospital’s audited net revenue for the applicable fiscal year. The bill makes conforming changes to the definitions of audited net inpatient revenue, audited net outpatient revenue, and audited net revenue to account for the required base year adjustments.

Current law required hospitals to submit to the DRS commissioner any information he required in order to calculate FY 16 audited net inpatient revenue, net outpatient revenue, and net revenue for all hospitals. The bill extends this requirement to FY 20 and thereafter by requiring hospitals to biennially submit the information the commissioner requires to calculate these amounts for the applicable

fiscal year. They must provide the information (1) by June 30, 2019, for FY 20 and (2) by January 15 of the second year of the preceding biennium for the FY 22-23 biennium and thereafter.

As under current law, the commissioner must request additional information he needs to fully audit each hospital's net revenue. Once he has completed his examination, the commissioner must notify each hospital of its audited net inpatient revenue, net outpatient revenue, and net revenue for the applicable fiscal year.

As under current law, hospitals that fail to provide the requested information, or fail to comply with a request for additional information, are subject to a penalty of $1,000 per day for each day the failure continues.

Hospital Mergers, Consolidations, or Reorganizations

Under the bill, if a hospital or hospitals subject to the tax merge, consolidate, or otherwise reorganize, then the surviving hospital must assume and be liable for the total tax imposed on the merging, consolidating, or reorganizing hospitals. The surviving hospital must also assume any outstanding liabilities from periods before the merger, consolidation, or reorganization.

The amount of tax due from each hospital is not recalculated if (1) a hospital ceases to operate as a hospital for any reason other than a merger, consolidation, or reorganization or (2) ceases for any reason to be subject to the hospital provider tax. Rather, the total amount of hospital provider tax to be collected under the rates described above must be reduced by the amount of the tax liability imposed on the hospital that is no longer subject to the tax.

Refunds for Exceeding Federally Permissible Tax Rate

If for any fiscal year the Department of Social Services (DSS) commissioner determines that the effective hospital provider tax rate for inpatient services exceeds the rate allowed under federal Medicaid law, the bill requires the amount of excess tax collected to be refunded to hospitals. Each hospital’s refund must be in proportion to the

amount of inpatient hospital service net revenue on which it was taxed. The effective tax rate must be calculated by comparing the amount of tax hospitals paid on inpatient hospital service net revenue in a state fiscal year with the amount of net revenue received by all hospitals for such services for the equivalent fiscal year.

Beginning by July 1, 2020, each hospital subject to the provider tax must report annually to the DSS commissioner the amount of (1) hospital provider tax it paid and (2) net revenue it received for providing inpatient hospital services in the state fiscal year beginning two years before the reporting date.

Within 90 days after receiving completed reports from all such hospitals, the DSS commissioner must notify the DRS commissioner of the amount of any refund due to each hospital in order to comply with federal law. Within 30 days after receiving this notice, the DRS commissioner must notify the comptroller of the refund amounts; the comptroller must draw an order on the treasurer to pay each such refund. No interest may be added to the refunds.

Request for Federal Waiver to Exempt Certain Hospitals

The bill moves up the date by which the DSS commissioner must next seek the Center for Medicare and Medicaid Services' approval to exempt financially distressed hospitals from the tax on outpatient hospital services. Current law required him to first do so before January 1, 2018. The bill requires him to do so again before July 1, 2019, and, as under current law, every three years thereafter.

EFFECTIVE DATE: Upon passage

§ 44 — USER FEE ON INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES

Increases the user fee on ICF-IDs from $27.26 to $27.76

For calendar quarters beginning on or after July 1, 2019, the bill increases the user fee for ICF-IDs from $27.26 to $27.76. Each facility's total fee is the product of its total resident days during the quarter, multiplied by the user fee.

EFFECTIVE DATE: Upon passage

§§ 45 & 46 — ADVANCE DEPOSIT WAGERS AT OFF-TRACK BETTING FACILITIES

Explicitly prohibits and criminalizes unauthorized off-track betting (OTB) wagers and advance deposit wagers in Connecticut

The bill explicitly prohibits any unauthorized person or business from conducting off-track betting (OTB) or accepting OTB wagers or advance deposit wagers (i.e., an OTB wager on racing events using a telephone or other electronic means) in Connecticut. Under the bill, a violation is an unfair trade practice under the Connecticut Unfair Trade Practices Act (CUTPA, see BACKGROUND). The bill also subjects violators to the penalties for professional gambling and transmitting gambling information, both of which are class A misdemeanors (punishable by up to one year imprisonment, up to a $2,000 fine, or both).

The bill also makes a technical change.

EFFECTIVE DATE: October 1, 2019

§ 47 — GAAP DEFICIT

Deems that $1 is appropriated in FYs 20 and 21 to pay off the state's GAAP deficit for FYs 13 and 14

The bill deems that $1 is appropriated in FYs 20 and 21 to pay off the General Fund's unassigned negative balances (i.e., Generally Accepted Accounting Principles (GAAP) deficits) for FYs 13 and 14, which reflect the negative balances that accumulated before the state adopted GAAP in FY 14.

By law, the OPM secretary must annually publish recommended schedules to fully amortize the deficits by FY 28.

EFFECTIVE DATE: Upon passage

§ 48 — TRANSFER OF STF RESOURCES FROM FY 20 TO FY 21

Transfers $20 million in STF resources from FY 20 to FY 21

By June 30, 2020, the bill requires the comptroller to transfer $20 million of FY 20 STF resources to be accounted for as FY 21 STF

revenue.

EFFECTIVE DATE: July 1, 2019

§ 49 — TRANSFER OF FY 19 GENERAL FUND REVENUE TO FY 20 AND FY 21

Transfers $100 million in FY 19 General Fund revenue to FY 20 and FY 21

By June 30, 2019, the bill requires the comptroller to designate $100 million of FY 19 General Fund resources to be accounted for as General Fund revenue in FYs 20 and 21 (i.e., $50 million in each year).

EFFECTIVE DATE: Upon passage

§§ 50 & 51 — 7/7 PROGRAM REPEAL

Repeals the 7/7 program

The bill repeals the 7/7 program, which currently authorizes a package of state and local tax incentives for eligible property owners after they remediate, redevelop, and use formerly contaminated, abandoned, or underutilized properties. The incentives are available in two seven-year stages, with the second stage available only to owners of contaminated and remediated properties.

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

§ 51 — STEM GRADUATE TAX CREDIT REPEAL

Repeals the STEM graduate tax credit program

The bill repeals the refundable personal income tax credit for college graduates in science, technology, engineering, or math (STEM) fields. Under current law, the annual credit amount is $500, which qualifying graduates may claim in each of the five successive tax years after they graduate.

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

§ 52 — PUBLIC, EDUCATIONAL, AND GOVERNMENTAL PROGRAMMING AND EDUCATION TECHNOLOGY INVESTMENT ACCOUNT (PEGPETIA)

Eliminates the requirement that $3.5 million be transferred to the General Fund each year from the PEGPETIA

The bill eliminates the requirement that $3.5 million be transferred to the General Fund each year from the PEGPETIA.

EFFECTIVE DATE: July 1, 2019

§ 53 — SALES AND USE TAX IMPOSED ON SAFETY APPAREL

Eliminates and the sales and use tax exemption for safety apparel

The bill eliminates the sales and use tax exemption for "safety apparel," which current law defines as clothing and protective equipment worn by employees at work.

EFFECTIVE DATE: January 1, 2020

BACKGROUND

Information on 2018 estate and gift tax changes, the angel investor tax credit program, and CUTPA

2018 Estate and Gift Tax Threshold Changes

In 2017 the legislature enacted a law phasing in an increase of the estate and gift tax threshold from $2 million to the federal threshold (i.e., federal basic exclusion amount) over three years from 2018 to 2020 (PA 17-2, June Special Session, §§ 632-636). The federal Tax Cuts and Jobs Act of 2017 subsequently doubled the federal threshold to approximately $11 million in 2018 after adjusting for inflation.

In 2018 the legislature amended the gift and estate threshold in two different public acts. PA 18-49, §§ 14-18, set the threshold at $5.49 million beginning in 2020. PA 18-81, §§ 66-68, instead extended the phase-in to the federal threshold by three additional years to 2023.

Angel Investor Tax Credit Program

Under this program, angel investors (i.e., investors who are considered "accredited investors" by the Securities and Exchange Commission) who invest at least $25,000 in approved businesses are eligible for a personal income tax credit equal to 25% of their investment up to a capped amount. A business must apply to CI for approval to receive credit-eligible investments. CI then certifies that

the business meets the applicable criteria (e.g., is principally located in the state, has been in operation less than seven years, and has less than $1 million in annual revenue).

Connecticut Unfair Trade Practices Act (CUTPA)

CUTPA prohibits businesses from engaging in unfair and deceptive acts or practices. It allows the DCP commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than $10,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to $5,000 for willful violations and up to $25,000 for a restraining order violation.

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute
Yea 29 Nay 21 (05/01/2019)