

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 22-117—sHB 5473

Finance, Revenue and Bonding Committee

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

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Extends existing laws on enforcing tax debts in other states to the District of Columbia; requires the attorney general and DRS commissioner, by February 15, 2023, to report to the legislature on these enforcement efforts during the 2021 and 2022 calendar years

§ 35 — CONDITIONS FOR LICENSE OR PERMIT ISSUANCE OR RENEWAL

Expands the circumstances under which the DRS commissioner is prohibited from issuing or renewing certain permits or licenses

§ 36 — DRS STUDIES OF THE PERSONAL INCOME TAX AND DRS-ADMINISTERED TAXES AND FEES

Requires the DRS commissioner to study (1) alternative approaches for imposing the personal income tax with respect to taxpayer residency and (2) DRS-administered taxes and fees

§ 1 — RESPONSIBLE PARTY PENALTY FOR WITHHOLDING TAX

Increases the responsible party penalty for income tax withholding

By law, anyone required to collect, truthfully account for, and pay over Connecticut personal income tax who willfully fails to do so, or who willfully attempts to evade or defeat the tax or its payment, is liable for a penalty equal to the total amount of tax evaded or not collected, accounted for, or paid over. The act additionally makes him or her liable for any penalty or interest attributable to these actions. Under the act, the penalty amount for which a person may be personally liable under this provision must be collected according to existing state income tax collection laws.

EFFECTIVE DATE: Upon passage

§§ 2 & 3 — INCOME TAX REFUNDS DUE TO CHANGES MADE BY ANOTHER JURISDICTION

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Establishes conditions under which taxpayers must file amended income tax returns, and may file refund claims, because of certain changes and corrections made by another qualifying jurisdiction

By law, taxpayers must file an amended personal income tax return if (1) they claimed a credit for income tax paid to a qualifying jurisdiction (e.g., another state) on their original return and (2) the jurisdiction's tax officials or courts made a change to, or a correction that changes, the amount of tax the taxpayer owes to the jurisdiction (and thus changes the amount of the allowable Connecticut income tax credit). The act additionally requires any taxpayer who claimed this credit to file an amended return for any tax year in which the qualifying jurisdiction's tax officials or courts issued an assessment against the taxpayer for failing to file an income tax return with the jurisdiction.

As under existing law, taxpayers must file these amended returns within 90 days after the final determination of the tax due to the other jurisdiction. Under the act, if a taxpayer files an amended return as a direct result of paying an assessment to a qualifying jurisdiction, then the taxpayer is eligible for a refund for any resulting Connecticut income tax overpayment, but only if the amended return is filed within five years after the original Connecticut income tax return was due. Amended returns filed more than five years after this date are ineligible for a refund under the act. By law, a three-year limitation generally applies to refund claims, with certain exceptions, including for claims due to changes or corrections made by another jurisdiction affecting a taxpayer's Connecticut income tax liability.

EFFECTIVE DATE: Upon passage and applicable to tax years beginning on or after January 1, 2022.

§ 4 — INTEREST ON TAX REFUNDS

Caps at \$5 million the amount of interest (1) added to any tax refund issued by the DRS commissioner for a tax period and (2) that a court may award in any tax appeal in connection with a tax refund claim for a tax period

The act caps at \$5 million the amount of interest (1) that can be added to any tax refund issued by the Department of Revenue Services (DRS) commissioner for a tax period and (2) that a court may award in any tax appeal in connection with a tax refund claim for a tax period.

EFFECTIVE DATE: Upon passage

§ 5 — LIMITATION ON CLAIMS FOR REFUNDS FOR CLOSED AUDIT PERIODS

Limits the period during which taxpayers may file refund claims for closed audit periods

The act limits the period during which taxpayers may file refund claims for tax periods for which the results of any DRS-conducted civil audit, investigation, examination, or reexamination have become final. Under the act, taxpayers must file these claims within six months after the date the results become final by operation of law or by exhaustion of all available administrative and judicial rights

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of appeal, whichever is later.

Under the act, after this six-month period, the tax period covered by the audit, investigation, examination, or reexamination must close. The taxpayer may not file any additional refund claims for the period, except for specified refund claims authorized under existing corporation business and personal income tax laws.

EFFECTIVE DATE: Upon passage

§§ 6 & 7 — AUTHORIZATION TO SHARE RETURN INFORMATION IN CONNECTION WITH CRIMINAL INVESTIGATIONS

Establishes conditions under which the DRS commissioner and DRS special police may disclose specified tax return information in connection with criminal investigations

The act allows DRS special police, in connection with their official criminal tax investigation duties and the enforcement of any state criminal law, to disclose return information if it is not otherwise reasonably available to law enforcement officers. This information includes information on a tax return, including a taxpayer's identity and income sources and amounts.

The act also allows the DRS commissioner, subject to any terms and conditions he prescribes, to disclose returns and return information to authorized members of organized local police departments upon a written request by the department's police chief. The request must (1) establish the return or return information's relevance to an authorized investigation the department is conducting into a state criminal law violation, (2) establish that no other source of such information is available to the department, and (3) include the name of each department member who will be authorized to receive the information.

The DRS commissioner may disclose the information if he deems it relevant to the investigation. The act prohibits any police department member who receives the information from disclosing it except in connection with a criminal prosecution, including related judicial proceedings, when the information is directly involved in and necessary to the prosecution. Violators are subject to a fine up to \$1,000, up to one year in prison, or both.

EFFECTIVE DATE: Upon passage

§§ 8-14 — DRS SPECIAL POLICE

Designates DRS special police as "peace officers," giving them certain powers and legal protections under state law

The act expands the definition of "peace officer" to include DRS special police and makes conforming changes. Under prior law, DRS special police had many, but not all, the powers and protections afforded to peace officers. By designating them as peace officers, the act specifically allows them to do the following, among other things:

1. use a hand-held cellphone while simultaneously driving and performing official duties within the scope of their employment (CGS § 14-296aa);
2. be considered peace officers under the state's Blue Alert system, which can

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- be used to apprehend anyone suspected of killing or seriously injuring a peace officer or to locate any officer who is missing (CGS § 29-1k);
3. obtain a motor vehicle's event data recorder pursuant to a search warrant (CGS § 14-164aa); and
 4. be considered peace officers subjected to a substantial risk of bodily injury at the scene of 1st degree arson (CGS § 53a-111).

By law, the DRS special police are appointed by the emergency services and public protection commissioner from those the DRS commissioner nominates, and they have all the powers of state police.

EFFECTIVE DATE: Upon passage

§§ 15 & 16 — NONRESIDENT COMPOSITE INCOME TAX RETURNS

Codifies an existing DRS policy by allowing pass-through entities to elect to remit composite income tax on behalf of their nonresident members

Composite Return Election

The act codifies an existing DRS policy by allowing pass-through entities (PE) (i.e., affected business entities) to elect, on an annual basis, to remit composite income tax on behalf of their nonresident members. (Under the policy, if a PE makes this election, its nonresident members are excused from filing their own Connecticut personal income tax returns if they have no Connecticut source income other than from the electing PE.) Under the act, the PEs must (1) make this election by the due date or extended due date for filing their PE tax returns and (2) file the composite returns subject to any requirements and conditions the DRS commissioner prescribes in the return form and instructions.

Calculating the Tax Due

A PE that makes this election must remit to DRS the composite income tax, plus any applicable interest and penalties, on behalf of each of its nonresident individual members. Under the act, these payments are considered personal income tax payments by the nonresident individuals for the taxable period.

The composite income tax due on behalf of each nonresident individual member is each member's distributive share of the PE's Connecticut source income multiplied by 6.99% (i.e., the highest marginal rate for the taxable year), minus each member's PE tax credit. The amount due on any member's behalf may not be less than zero. Composite income tax payments are due at the same time as PE tax payments and subject to the same penalties and interest.

Nonresident Filing and Payment Requirements

Under the act, if the only Connecticut source income for the nonresident member (or in the case of joint filers, the nonresident member and spouse) is from one or more electing PEs, then the composite income tax return and payment the PE remitted on his or her behalf satisfies his or her Connecticut income tax filing

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and payment requirements. But the nonresident member (or member and spouse) is not excused from filing a separate Connecticut income tax return if he or she has Connecticut source income from sources other than the electing PE. Any such member must receive credit for the composite income tax payment the PE made on his or her behalf.

In either case, the DRS commissioner may make any deficiency assessments against the PE or the member, but the member's assessment must be limited to his or her share of the deficiency. These deficiency assessments generally must be made within three years after the PE annual return's filing, except as provided under existing law for income tax collections in which a taxpayer has not filed a return, committed fraud, or otherwise intended to evade the taxes due.

EFFECTIVE DATE: Upon passage

§§ 17-19 — TECHNICAL CORRECTIONS TO THE ESTATE AND GIFT TAX LAWS

Makes technical corrections to the estate and gift tax laws

The act reestablishes definitions of “federal basic exclusion amount” under the estate and gift tax laws and corrects a reference to the taxable threshold for filing estate tax returns with the DRS commissioner.

Under the act, the “federal basic exclusion amount” for the estate tax is the dollar amount published annually by the Internal Revenue Service (IRS) 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. For the gift tax, it is the IRS-published dollar amount over which a donor would owe federal gift tax based on the value of the donor's federally taxable gifts. The same definitions applied under prior law (PAs 18-49 and -81). (PA 22-110, §§ 15-17, includes these same provisions.)

EFFECTIVE DATE: October 1, 2022

§ 20 — CONVEYANCE TAX CREDIT AGAINST THE INCOME TAX

Modifies the conveyance tax credit that applies against the personal income tax

Prior law allowed taxpayers who paid conveyance tax at the 2.25% marginal rate to claim a property tax credit against their state income tax liability based on the amount they paid in conveyance tax at this rate. The act instead allows them to claim a credit equal to the tax they paid in excess of 1.25% on the portion of sales price exceeding \$800,000. (By law, the 2.25% rate applies to any portion of a residential dwelling's sales price that exceeds \$2.5 million; the 1.25% rate applies to any portion that exceeds \$800,000 and is less than or equal to \$2.5 million.)

As under existing law, taxpayers may use the conveyance tax payment as the basis for calculating the property tax credit for three years, beginning in the third tax year after the year in which the taxpayer paid the conveyance tax. The credit in each year cannot exceed 33.3% of the eligible tax payment. The act also makes technical changes.

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EFFECTIVE DATE: Upon passage

§§ 21-30 — SALES AND USE TAX REASSESSMENTS

Authorizes the DRS commissioner to impose more than one sales and use tax deficiency assessment (i.e., reassessments) for a tax period

Deficiency Assessments and Reassessments

The act authorizes the DRS commissioner to impose more than one sales and use tax deficiency assessment (i.e., reassessments) for a tax period. Prior law allowed him to impose only one assessment per tax period, except (1) in the case of fraud or tax evasion in which a return was filed or (2) if he found new information warranting more than one assessment regardless of whether a return was filed.

The act subjects these reassessments to the same requirements that apply to deficiency assessments under existing law, including interest, penalty, notice, and statute of limitations provisions. With certain exceptions, the DRS commissioner generally has three years from the tax return's due date to make a deficiency assessment. This three-year limitation does not apply under specified conditions (e.g., in the case of fraud or tax evasion) or if the taxpayer did not file a return for the filing period. The act also makes numerous conforming changes throughout the sales and use tax law.

Existing law authorizes the commissioner to issue a written notice of estimate, assessment, and penalty to sales and use taxpayers who fail to file a tax return. The act specifies that these provisions do not preclude the commissioner from issuing a deficiency assessment or reassessment for any period for which he has issued such a written notice.

Jeopardy Tax Collections

The act similarly authorizes the DRS commissioner to impose reassessments in sales and use tax jeopardy tax collections (i.e., when the commissioner takes action to collect sales and use taxes that are assessed but not yet due when he believes that the tax will be jeopardized by delay). It subjects these reassessments to the same requirements that apply under existing law to jeopardy assessments.

Written Protests

Prior law authorized taxpayers against whom a sales and use tax assessment or jeopardy assessment was made (or any person directly interested) to petition for a reassessment within 60 days after receiving notice of the assessment. The act instead allows them to file a written protest of the assessment and extends this same authorization to taxpayers against whom a reassessment or jeopardy reassessment has been made. The act also makes conforming changes.

EFFECTIVE DATE: Upon passage

§ 31 — STATUTE OF LIMITATIONS ON COLLECTION ACTIONS

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Generally prohibits the DRS commissioner from collecting a tax after 10 years (1) from the date the tax was reported on a return filed with DRS or (2) in the case of an assessment, from the date it became final

The act generally prohibits the DRS commissioner from collecting a tax after 10 years (1) from the date the tax was reported on a return filed with DRS or (2) in the case of an assessment, from the date the assessment became final. Any taxes that remain unpaid after the 10-year period are deemed abated as of the first day of the 11th year after the return was filed or the assessment became final, as applicable.

The 10-year statute of limitations does not apply to any taxes (1) for which the commissioner has entered into a compromise or closing agreement or (2) that have been secured by recording a lien on a taxpayer's real or personal property.

EFFECTIVE DATE: Upon passage

§ 32 — DRS STUDY ON SALE OF OUTSTANDING TAX LIABILITIES

Requires the DRS commissioner to study the feasibility of selling outstanding state tax liabilities and report his findings and recommendations to the legislature by January 1, 2023

The act requires the DRS commissioner to study the feasibility of selling outstanding state tax liabilities. The study must (1) identify the current balance of these liabilities and their breakdown by tax type; (2) analyze or project the amount of revenue the state could generate from selling these liabilities; and (3) provide the commissioner's conclusion as to whether the state should sell them and, if so, identify any necessary legislative changes.

The commissioner must submit the study's findings and recommendations to the Finance, Revenue and Bonding Committee by January 1, 2023. He may consult with any people, businesses, and state agencies he deems necessary or appropriate for the study and may enter into a contract with a public or private entity to prepare the report.

EFFECTIVE DATE: Upon passage

§§ 33 & 34 — OUT-OF-STATE DEBT COLLECTIONS

Extends existing laws on enforcing tax debts in other states to the District of Columbia; requires the attorney general and DRS commissioner, by February 15, 2023, to report to the legislature on these enforcement efforts during the 2021 and 2022 calendar years

Enforcement of Tax Debts in Other States

Existing law allows the attorney general, at the DRS commissioner's request, to bring suit in the appropriate court in any other state to collect any tax legally due to Connecticut. It also allows any political subdivision of the state to bring these suits to collect any tax due to it. The act allows the attorney general and political subdivisions to also file these suits in the District of Columbia.

The law similarly requires state courts to enforce liabilities for taxes imposed by other states and their subdivisions that are similar to those imposed in Connecticut so long as the other state extends the same privilege to Connecticut

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and its subdivisions. The act extends these same provisions to taxes imposed by the District of Columbia and makes conforming changes to the related procedures for enforcing these taxes.

Legislative Report

The act requires the attorney general and DRS commissioner, by February 15, 2023, to jointly report to the Finance, Revenue and Bonding Committee on the attorney general's enforcement efforts under this law. The report must cover the 2021 and 2022 calendar years and include the (1) number of these suits the attorney general brought during this period, (2) states in which they were brought, and (3) amount of taxes recovered as a result.

EFFECTIVE DATE: Upon passage

§ 35 — CONDITIONS FOR LICENSE OR PERMIT ISSUANCE OR RENEWAL

Expands the circumstances under which the DRS commissioner is prohibited from issuing or renewing certain permits or licenses

Existing law bars the DRS commissioner from issuing or renewing certain permits or licenses for any applicant whom he determines (1) has failed to file any required tax returns or (2) owes any state taxes for which all administrative or judicial remedies have expired or been exhausted. The act additionally bars him from issuing or renewing these licenses or permits if he determines that the applicant has a "related person" with outstanding returns or taxes. The related person must file any outstanding returns and pay any taxes owed, or arrange to do so, to the commissioner's satisfaction before the commissioner may issue or renew the license or permit. These same requirements apply to the applicants under existing law.

Under the act, a "related person" is a person or entity (i.e., corporation, partnership, association, or trust) that (1) controls or is controlled by the applicant, (2) is controlled by another person or entity that controls the applicant, or (3) is a member of the same controlled group as the applicant. In the case of a corporation, "control" means directly or indirectly owning 50% or more of the combined voting power of all classes of its stock. In the case of a trust, control means directly or indirectly owning 50% or more of the beneficial interest of the trust's principal or income. "Ownership" is defined as in federal income tax law.

By law, these provisions apply to applicants for a (1) cigarette dealer, distributor, or manufacturer license; (2) tobacco product distributor or unclassified importer license; or (3) sales tax seller's permit.

EFFECTIVE DATE: Upon passage

§ 36 — DRS STUDIES OF THE PERSONAL INCOME TAX AND DRS-ADMINISTERED TAXES AND FEES

Requires the DRS commissioner to study (1) alternative approaches for imposing the personal income tax with respect to taxpayer residency and (2) DRS-administered taxes and fees

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The act requires the DRS commissioner to study alternative approaches for imposing the personal income tax with respect to taxpayer residency. The study must identify legislative changes to (1) improve income tax collection or (2) implement an alternative approach for imposing the tax.

It additionally requires the commissioner to study each DRS-administered tax and fee to determine its overall effectiveness. The study must identify the (1) amount of revenue each tax or fee generated for the most recent year for which complete records are available, (2) cost DRS incurred in administering them, and (3) potential legislative changes to improve their administration.

The commissioner must, by January 1, 2023, report his findings and recommendations for each study to the Finance, Revenue and Bonding Committee. For both studies, the act allows the commissioner to (1) consult with any individuals, businesses, and state agencies he deems necessary or appropriate and (2) contract with a public or private entity to prepare the legislative reports.

EFFECTIVE DATE: Upon passage