

# Finance, Revenue and Bonding Committee

## JOINT FAVORABLE REPORT

**Bill No.:** Senate Bill 443

AN ACT CONCERNING CERTAIN TAX APPEALS, ACCRUAL OF INTEREST  
ON CERTAIN TAX UNDERPAYMENTS AND THE BUSINESS OPERATING

**Title:** LOSS CARRY-OVER PERIOD.

**Vote Date:** 4/3/2024

**Vote Action:** Joint Favorable Substitute

**PH Date:** 3/20/2024

**File No.:** 576

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### SPONSORS OF BILL:

Finance Revenue and Bonding Committee on behalf of United Rentals

Senator John Fonfara, 1<sup>st</sup> District

Representative Brian Lanoue, 45<sup>th</sup> District

Senator James Maroney, 14<sup>th</sup> District

Co-sponsors:

Representative Brian Lanoue, 45<sup>th</sup> District

Representative Mark DeCaprio, 48<sup>th</sup> District

Senator Rob Sampson, 16<sup>th</sup> District

### REASONS FOR BILL:

The raised bill contains multiple policy changes. It would allow for any taxpayer aggrieved because of a decision from the Commissioner of the Department of Revenue Services (DRS) to file for an appeal (under certain criteria) with the superior court no later than thirty days after such decision.

The bill also requires that interest not accrue on tax underpayments resulting from amended returns related to the Employee Retention Tax Credit (ERTC) Program. The ERTC Program affords business owners a tax credit to offset costs incurred to keep people employed during COVID-19 Pandemic Response. The law allowed eligible businesses to retroactively amend their tax filings for up to three years. After several Connecticut business owners did so on both their federal and state schedules, the Connecticut Department of Revenue Services (DRS) assessed interest and penalties against them for these tax years. These businesses did nothing wrong and were simply following the benefit that was afforded to them in federal law.

Finally, it allows business operating losses incurred in income years commencing on or after January 1, 2025, to be deductible over thirty income years. By allowing an employer to defer these tax payments into future years, businesses can invest with certainty rather than trading off growth opportunities for further losses.

**SUBSTITUTE LANGUAGE:**

Strikes sections 1 through 3 regarding the DRS decision appeal process, and renumbers the remaining sections accordingly. Pushes out the effective date of Section 4 to July 1, 2025, which prohibits interest from accruing on tax underpayments resulting from amended tax returns related to the Employee Retention Credit Program.

**RESPONSE FROM ADMINISTRATION/AGENCY:**

None expressed.

**NATURE AND SOURCES OF SUPPORT:**

[Christopher Davis, Vice President of Public Policy, Connecticut Business Industry Association](#), explained that net operating loss (NOL) deduction carryforwards are important economic development tools utilized across the country that allow employers to prioritize human and physical capital investment by smoothing entrepreneurial risk and encouraging innovation across all industry sectors. It is important to note that NOL deductions are only earned by an employer after they have made an investment in their operations in Connecticut while also paying property, sales, and employee income taxes, among other taxes. During times of economic downturn, these deductions are an important tool to accelerate recovery. Likewise, for an employer in its early stages, these deductions could make the difference when determining to make a capital investment or hire additional workforce needed to grow. By allowing an employer to defer these tax payments into future years, businesses can invest with certainty rather than trading off growth opportunities for further losses. Senate Bill 443 would bring Connecticut closer to conformity with many other states and the federal provisions by extending the carryforward period from twenty years to thirty years.

[Robert Day, Law by Day, PLLC](#), asserts that the bill increases taxpayer rights by assigning time limits by which DRS must resolve an appeal. Additionally, allowing for taxpayers to take a matter to Superior Court a year after an appeal is filed, can avoid significant interest accrual for the aggrieved taxpayer.

[Brian Lanoue, State Representative, Connecticut General Assembly](#), supports section 4 of the bill which would hold businesses harmless from any state tax interest and penalties associated with such business's participation in federal tax credit programs concurrent with a federal emergency declaration or major disaster declaration. Section 4 also acts as a safeguard for those that have already paid the accrual of any interest. Such payments will now be treated as an overpayment where they may be eligible for a refund of that interest.

[Ed Noonan, Director of Government Affairs, United Rentals](#), supports the bill with a recommended amendment that would provide taxpayers a one-time catch-up calculation to the 2017 declaration provided under Section 12-218g and allow the restoration of any credits or

losses that were lost as a result of the adoption of mandatory combined reporting in 2016 through a new amortizable attribute.

**Paul Pescatello, Senior Counsel and Executive Director, Connecticut Bioscience Growth Council**, supports the bill because extending the net operating loss carry forward period to 30 years will ensure that biotech companies are able to utilize the full value of the investment losses they incur as they develop new medicines.

**Bonnie Stewart, Executive Director and Chief Executive Officer, Connecticut Society of Certified Professional Accountants (CTCPA)**, is in favor of the bill as it allows taxpayers to request a decision from the Department of Revenue Services within 15 days if a protest remains unresolved one year after filing. CTCPA also requests that the limitation on Connecticut's NOL Carryover be removed, aligning it with federal law.

**Luke Wolff, Director of Tax Policy, AT&T**, supports the bill because extending the net operating loss deduction carryover period from 20 years to 30 years would give companies the ability to smooth out changes in business income over a longer investment horizon that may not perfectly align with the annual process of determining corporate tax liability.

**Mark Wynnich, Certified Public Accountant, Weinshel, Wynnich & Associates LLC**, is in favor of the bill, and offers substitute language regarding the business net operating loss carryover; proposing either the elimination of the 50% of income limitation on the net operating loss deduction retroactive to tax payers beginning in 2023, or allowing a net operating loss deduction for up to 100% of income on the final tax return filed (usually the year of dissolution) retroactive to tax years beginning in 2023.

#### **NATURE AND SOURCES OF OPPOSITION:**

None expressed.

**Reported by: Jay Snukis**

**Date: April 9, 2024**