



General Assembly

February Session, 2024

**Raised Bill No. 443**

LCO No. 2899



Referred to Committee on FINANCE, REVENUE AND BONDING

Introduced by:  
(FIN)

***AN ACT CONCERNING CERTAIN TAX APPEALS, ACCRUAL OF INTEREST ON CERTAIN TAX UNDERPAYMENTS AND THE BUSINESS OPERATING LOSS CARRY-OVER PERIOD.***

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

1 Section 1. Section 12-237 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2024, and*  
3 *applicable to written protests filed prior to, on or after July 1, 2024*):

4 (a) Any taxpayer aggrieved because of any order, decision,  
5 determination or disallowance of the Commissioner of Revenue  
6 Services under the provisions of this part may, not later than thirty days  
7 after service upon the taxpayer of notice of such order, decision,  
8 determination or disallowance, take an appeal therefrom to the superior  
9 court for the judicial district of New Britain. [ , which] If no order,  
10 decision, determination or disallowance has been issued within one  
11 year after a written protest was filed under the provisions of this part,  
12 the taxpayer may file a written request to the commissioner that an  
13 order, decision, determination or disallowance be issued and the  
14 commissioner shall issue such order, decision, determination or

15 disallowance not later than fifteen days after receipt of the written  
16 request.

17 (b) Any appeal to said court under subsection (a) of this section shall  
18 be accompanied by a citation to the Commissioner of Revenue Services  
19 to appear before said court. Such citation shall be signed by the same  
20 authority, and such appeal shall be returnable at the same time and  
21 served and returned in the same manner, as is required in case of a  
22 summons in a civil action. The authority issuing the citation shall take  
23 from the appellant a bond or recognizance to the state of Connecticut,  
24 with surety to prosecute the appeal to effect and to comply with the  
25 orders and decrees of the court in the premises. Such appeals shall be  
26 preferred cases, to be heard, unless cause appears to the contrary, at the  
27 first session, by the court or by a committee appointed by it.

28 (c) Said court may grant such relief as may be equitable and, if such  
29 tax has been paid prior to the granting of such relief, may order the  
30 Treasurer to pay the amount of such relief, with interest at the rate of  
31 eight per cent per annum, to the aggrieved taxpayer. If the appeal has  
32 been taken without probable cause, the court may tax double or triple  
33 costs, as the case demands; and, upon all such appeals [which] that may  
34 be denied, costs may be taxed against the appellant at the discretion of  
35 the court, but no costs shall be taxed against the state.

36 Sec. 2. Section 12-422 of the general statutes is repealed and the  
37 following is substituted in lieu thereof (*Effective July 1, 2024, and*  
38 *applicable to hearing applications and written protests filed prior to, on or after*  
39 *July 1, 2024*):

40 (a) Any taxpayer aggrieved because of any order, decision,  
41 determination or disallowance of the Commissioner of Revenue  
42 Services under section 12-418, 12-421 or 12-425 may, not later than thirty  
43 days after service upon the taxpayer of notice of such order, decision,  
44 determination or disallowance, take an appeal therefrom to the superior  
45 court for the judicial district of New Britain. [, which] If no order,  
46 decision, determination or disallowance has been issued within one  
47 year after an application for a hearing or a written protest, as applicable,

48 was filed under any of said sections, the taxpayer may file a written  
49 request to the commissioner that an order, decision, determination or  
50 disallowance be issued and the commissioner shall issue such order,  
51 decision, determination or disallowance not later than fifteen days after  
52 receipt of the written request.

53 (b) Any appeal to said court under subsection (a) of this section shall  
54 be accompanied by a citation to the Commissioner of Revenue Services  
55 to appear before said court. Such citation shall be signed by the same  
56 authority, and such appeal shall be returnable at the same time and  
57 served and returned in the same manner, as is required in case of a  
58 summons in a civil action. The authority issuing the citation shall take  
59 from the appellant a bond or recognizance to the state of Connecticut,  
60 with surety to prosecute the appeal to effect and to comply with the  
61 orders and decrees of the court in the premises. Such appeals shall be  
62 preferred cases, to be heard, unless cause appears to the contrary, at the  
63 first session, by the court or by a committee appointed by it.

64 (c) Said court may grant such relief as may be equitable and, if such  
65 tax has been paid prior to the granting of such relief, may order the  
66 Treasurer to pay the amount of such relief, with interest at the rate of  
67 two-thirds of one per cent per month or fraction thereof, to the  
68 aggrieved taxpayer. If the appeal has been taken without probable  
69 cause, the court may tax double or triple costs, as the case demands; and,  
70 upon all such appeals [which] that are denied, costs may be taxed  
71 against the appellant at the discretion of the court, but no costs shall be  
72 taxed against the state.

73 Sec. 3. Section 12-730 of the general statutes is repealed and the  
74 following is substituted in lieu thereof (*Effective July 1, 2024, and*  
75 *applicable to written protests filed prior to, on or after July 1, 2024*):

76 (a) Notwithstanding the provisions of chapter 54 to the contrary, any  
77 taxpayer aggrieved because of any determination or disallowance by  
78 the commissioner under section 12-729, 12-729a or 12-732 may, not later  
79 than thirty days after notice of the commissioner's determination or

80 disallowance is mailed to the taxpayer, take an appeal therefrom to the  
81 superior court for the judicial district of New Britain. [, which] If no  
82 determination or disallowance has been issued within one year after a  
83 written protest was filed under any of said sections, the taxpayer may  
84 file a written request to the commissioner that a determination or  
85 disallowance be issued and the commissioner shall issue such  
86 determination or disallowance not later than fifteen days after receipt of  
87 the written request.

88 (b) Any appeal to said court under subsection (a) of this section shall  
89 be accompanied by a citation to the commissioner to appear before said  
90 court. Such citation shall be signed by the same authority, and such  
91 appeal shall be returnable at the same time and served and returned in  
92 the same manner, as is required in case of a summons in a civil action.  
93 The authority issuing the citation shall take from the appellant a bond  
94 or recognizance to the state of Connecticut, with surety to prosecute the  
95 appeal to effect and to comply with the orders and decrees of the court  
96 in the premises. Such appeals shall be preferred cases, to be heard unless  
97 cause appears to the contrary, at the first session by the court or by a  
98 committee appointed by it.

99 (c) Said court may grant such relief as may be equitable and, if such  
100 tax has been paid prior to the granting of such relief, may order the  
101 Treasurer to pay the amount of such relief, with interest at the rate of  
102 two-thirds of one per cent per month or fraction thereof, to the  
103 aggrieved taxpayer. If the appeal has been taken without probable  
104 cause, the court may charge double or triple costs, as the case demands,  
105 and upon all such appeals [which] that may be denied, costs may be  
106 taxed against the appellant at the discretion of the court but no costs  
107 shall be taxed against the state.

108 Sec. 4. (*Effective from passage*) Sections 12-204c, 12-242d, 12-699a and  
109 12-722 of the general statutes shall not apply with respect to the accrual  
110 of any interest, in the case of any underpayment of tax by a taxpayer  
111 under chapter 208, 228z or 229 of the general statutes, to the extent such  
112 underpayment was due to the filing of an amended return necessitated

113 by the guidance in Notice 2021-20, issued by the Internal Revenue  
114 Service, concerning the federal employee retention credit program. If  
115 such interest has already been paid to the Department of Revenue  
116 Services, the Commissioner of Revenue Services shall treat such  
117 payment as an overpayment and shall refund the amount of such  
118 payment, without interest, to the taxpayer.

119       Sec. 5. Subdivision (4) of subsection (a) of section 12-217 of the 2024  
120 supplement to the general statutes is repealed and the following is  
121 substituted in lieu thereof (*Effective from passage*):

122       (4) Notwithstanding any provision of this section:

123       (A) Any excess of the deductions provided in this section for any  
124 income year commencing on or after January 1, 1973, over the gross  
125 income for such year or the amount of such excess apportioned to this  
126 state under the provisions of this chapter, shall be an operating loss of  
127 such income year and shall be deductible as an operating loss carry-over  
128 for operating losses incurred prior to income years commencing January  
129 1, 2000, in each of the five income years following such loss year; [ and]  
130 for operating losses incurred in income years commencing on or after  
131 January 1, 2000, and prior to January 1, 2025, in each of the twenty  
132 income years following such loss year; [ ] and for operating losses  
133 incurred in income years commencing on or after January 1, 2025, in  
134 each of the thirty income years following such loss; except that:

135       (i) For income years commencing prior to January 1, 2015, the portion  
136 of such operating loss that may be deducted as an operating loss carry-  
137 over in any income year following such loss year shall be limited to the  
138 lesser of (I) any net income greater than zero of such income year  
139 following such loss year, or in the case of a company entitled to  
140 apportion its net income under the provisions of this chapter, the  
141 amount of such net income that is apportioned to this state pursuant  
142 thereto, or (II) the excess, if any, of such operating loss over the total of  
143 such net income for each of any prior income years following such loss  
144 year, such net income of each of such prior income years following such

145 loss year for such purposes being computed without regard to any  
146 operating loss carry-over from such loss year allowed under this  
147 subparagraph and being regarded as not less than zero, and provided  
148 further the operating loss of any income year shall be deducted in any  
149 subsequent year, to the extent available for such deduction, before the  
150 operating loss of any subsequent income year is deducted;

151 (ii) For income years commencing on or after January 1, 2015, the  
152 portion of such operating loss that may be deducted as an operating loss  
153 carry-over in any income year following such loss year shall be limited  
154 to the lesser of (I) fifty per cent of net income of such income year  
155 following such loss year, or in the case of a company entitled to  
156 apportion its net income under the provisions of this chapter, fifty per  
157 cent of such net income that is apportioned to this state pursuant  
158 thereto, or (II) the excess, if any, of such operating loss over the  
159 operating loss deductions allowable with respect to such operating loss  
160 under this subparagraph for each of any prior income years following  
161 such loss year, such net income of each of such prior income years  
162 following such loss year for such purposes being computed without  
163 regard to any operating loss carry-over from such loss year allowed  
164 under this subparagraph and being regarded as not less than zero, and  
165 provided further the operating loss of any income year shall be  
166 deducted in any subsequent year, to the extent available for such  
167 deduction, before the operating loss of any subsequent income year is  
168 deducted; and

169 (iii) If a combined group so elects, the combined group shall  
170 relinquish fifty per cent of its unused operating losses incurred prior to  
171 the income year commencing on or after January 1, 2015, and before  
172 January 1, 2016, and may utilize the remaining operating loss carry-over  
173 without regard to the limitations prescribed in subparagraph (A)(ii) of  
174 this subdivision. The portion of such operating loss carry-over that may  
175 be deducted shall be limited to the amount required to reduce a  
176 combined group's tax under this chapter, prior to surtax and prior to the  
177 application of credits, to two million five hundred thousand dollars in  
178 any income year commencing on or after January 1, 2015. Only after the

179 combined group's remaining operating loss carry-over for operating  
 180 losses incurred prior to income years commencing January 1, 2015, has  
 181 been fully utilized, will the limitations prescribed in subparagraph  
 182 (A)(ii) of this subdivision apply. The combined group, or any member  
 183 thereof, shall make such election on its return for the income year  
 184 beginning on or after January 1, 2015, and before January 1, 2016, by the  
 185 due date for such return, including any extensions. Only combined  
 186 groups with unused operating losses in excess of six billion dollars from  
 187 income years beginning prior to January 1, 2013, may make the election  
 188 prescribed in this clause; and

189 (B) Any net capital loss, as defined in the Internal Revenue Code  
 190 effective and in force on the last day of the income year, for any income  
 191 year commencing on or after January 1, 1973, shall be allowed as a  
 192 capital loss carry-over to reduce, but not below zero, any net capital  
 193 gain, as so defined, in each of the five following income years, in order  
 194 of sequence, to the extent not exhausted by the net capital gain of any of  
 195 the preceding of such five following income years; and

196 (C) Any net capital losses allowed and carried forward from prior  
 197 years to income years beginning on or after January 1, 1973, for federal  
 198 income tax purposes by companies entitled to a deduction for dividends  
 199 paid under the Internal Revenue Code other than companies subject to  
 200 the gross earnings taxes imposed under chapters 211 and 212, shall be  
 201 allowed as a capital loss carry-over.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2024, and applicable to written protests filed prior to, on or after July 1, 2024</i>	12-237
Sec. 2	<i>July 1, 2024, and applicable to hearing applications and written protests filed prior to, on or after July 1, 2024</i>	12-422

Sec. 3	<i>July 1, 2024, and applicable to written protests filed prior to, on or after July 1, 2024</i>	12-730
Sec. 4	<i>from passage</i>	New section
Sec. 5	<i>from passage</i>	12-217(a)(4)

**Statement of Purpose:**

To (1) provide that an aggrieved taxpayer may, under certain circumstances, file a written request that the Commissioner of Revenue Services issue an order, decision, determination or disallowance, (2) require that interest not accrue on tax underpayments resulting from certain amended returns related to the employee retention credit program, and (3) allow business operating losses incurred in income years commencing on or after January 1, 2025, to be deductible over thirty income years.

*[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.]*