



STATE OF CONNECTICUT
DEPARTMENT OF REVENUE SERVICES

PS 2007(4)

25 Sigourney Street
Hartford CT 06106-5032

POLICY STATEMENT

**Connecticut Tax Treatment of Eligible Production Companies,
Payroll Services Companies, and Loan-Out Companies**

Purpose: This Policy Statement explains the treatment of eligible production companies, payroll services companies, and loan-out companies for purposes of Connecticut income tax, Connecticut income tax withholding, Connecticut business entity tax, Connecticut corporation business tax, and Connecticut sales and use taxes.

Effective Date: Effective upon issuance.

Statutory Authority: Conn. Gen. Stat. §§12-214; 12-217jj, as amended by 2007 Conn. Pub. Acts 236, §1; 12-284b; 12-407(a)(8), (9), (37), and (38), as amended by 2007 Conn. Pub. Acts 236, §§7, 8, and 9; 12-707; 12-719; and 12-726.

Definitions: As used in this Policy Statement:

C corporation means a corporation that is not an S corporation for federal income tax purposes.

Connecticut business entity tax means the annual \$250 Connecticut tax imposed on every domestic and on certain foreign S corporations, limited liability companies, limited partnerships, and limited liability partnerships. The business entity tax is not imposed on domestic or foreign C corporations or a single member limited liability companies that elect to be taxed for federal income tax purposes as C corporations. **Domestic**, when used to describe a business entity, means a business entity formed under the laws of Connecticut. **Foreign**, when used to describe a business entity, means a business entity not formed under the laws of Connecticut, but formed under the laws of another state or country. Domestic business entities that are pass-through entities are subject to the business entity tax. Foreign business entities that are pass-through entities are subject to the business entity tax when they are transacting business in Connecticut.

Connecticut wages means all wages paid to an employee who is a:

- Connecticut resident (irrespective of where the services of the employee are performed);
- Nonresident of Connecticut, if the services of the employee are performed entirely within Connecticut; **and**
- Nonresident of Connecticut, if the services of the employee are performed both partly within Connecticut and partly outside of Connecticut unless the employer maintains adequate current records to determine accurately the amount of the wages paid for the performance of services within Connecticut, or unless the employee files **Form CT-W4NA, Employee Withholding or Exemption Certificate—Nonresident Apportionment**, with the employer. However, an employer may not withhold Connecticut income tax on the basis of an employee's Form CT-W4NA if the employer knows or has reason to know that the apportionment shown on the Form CT-W4NA is not correct.

An **eligible production company** is an entity that has as its principal business activity the production of qualified productions, as defined in Conn. Gen. Stat. §12-217jj, as amended by 2007 Conn. Pub. Acts 236, §1, including motion pictures.

A **loan-out company** is an entity used by an individual (loaned-out individual) in the entertainment industry (such as an actor, director, etc.) to provide his or her services to eligible production companies. A loan-out company is typically owned by the loaned-out individual or by a combination of the loaned-out individual, his or her business representative(s), and his or her family member(s). An eligible production company wishing to obtain the services of a loaned-out individual generally has to engage the individual's loan-out company to obtain his or her services.

A *media payroll services company* (or payroll services company) is a company that has as its principal business activity the management and payment of compensation, fringe benefits, workers' compensation, and payroll taxes or assessments to individuals providing services to an eligible production company.

Pass-through entity means an S corporation, general partnership, limited partnership, limited liability partnership, publicly-traded partnership, limited liability company treated as a partnership for federal income tax purposes, or other entity treated as a partnership for federal income tax purposes. Members of a pass-through entity mean and include partners of a partnership, members of a LLC treated as a partnership for federal income tax purposes, and shareholders of an S corporation.

S corporation means a corporation that is an S corporation for federal income tax purposes.

Loan-Out Companies

Connecticut income tax withholding: If a loan-out company is treated as an employer for federal income tax withholding purposes, the loan-out company will be treated as an employer for Connecticut income tax withholding purposes. Even though a loan-out company may be present in Connecticut for a limited time only, the loan-out company is considered to be transacting business in Connecticut and, as an employer, is required to register with the Department of Revenue Services (DRS) as an employer for Connecticut income tax withholding purposes. The loan-out company is required to deduct and withhold Connecticut income tax from the Connecticut wages of its employees. For more information on the Connecticut income tax withholding responsibilities of employers, see the most recent edition of *Circular CT, Employer's Tax Guide*, which may be downloaded from the DRS website.

Connecticut sales and use taxes: Payments by an eligible production company to a loan-out company, whether directly made to the loan-out company or made first through a payroll services company and then to the loan-out company, are not subject to Connecticut sales and use taxes as either payments for providing of personnel services, with respect to a loaned-out individual under Conn. Gen. Stat. §12-407(a)(37)(C) or business management services under Conn. Gen. Stat. §12-407(a)(37)(J) by the loan-out company to the eligible production company.

Connecticut income tax: If a loan-out company is a pass-through entity, the loan-out company is required to file **Form CT-1065/CT-1120SI**, *Connecticut Composite Income Tax Return*, and may be required to make a composite Connecticut income tax payment on behalf of its nonresident members. See **Informational Publication 2006(22)**, *Connecticut Income Tax Changes Affecting Pass-Through Entities*, for more information.

Connecticut business entity tax: Every domestic loan-out company that is a pass-through entity is subject to the Connecticut business entity tax. A foreign loan-out company that is a pass-through entity, if in Connecticut for a qualified production, is considered to be transacting business in Connecticut and is subject to the Connecticut business entity tax even though the foreign loan-out company may be present in Connecticut for a limited time only. See **Informational Publication 2006(21)**, *Q&A on the Business Entity Tax*, for more information.

Connecticut corporation business tax: If a loan-out company is a C corporation or an entity that elects to be taxed as a C corporation for federal income tax purposes, the loan-out company is treated as a C corporation for Connecticut corporation business tax purposes. The loan-out company is required to file **Form CT-1120**, *Corporation Business Tax Return*, and to pay the Connecticut corporation business tax.

Payroll Services Companies

Connecticut income tax withholding: If a payroll services company has its own employees and is treated as an employer for federal income tax withholding purposes, the payroll services company is treated as an employer for Connecticut income tax withholding purposes and, as an employer, is required to register with DRS as an employer for Connecticut income tax withholding purposes. The payroll services company is required to deduct and withhold Connecticut income tax from the Connecticut wages of its employees. For more information on the Connecticut income tax withholding responsibilities of employers, see the most recent edition of *Circular CT, Employer's Tax Guide*.

Connecticut sales and use taxes: Where a payroll services company provides the services of its employees to an eligible production company, and the employees are subject to the management and control of the eligible production company, the payroll services company is providing personnel services to the eligible production company. The payments by an

eligible production company to a payroll services company are subject to Connecticut sales and use taxes under Conn. Gen. Stat. §12-407(a)(37)(C). However, in computing the taxable portion of the payment for personnel services made by an eligible production company to the payroll services company, the payroll services company is authorized to exclude the separately stated compensation, fringe benefits, workers' compensation, and payroll taxes or assessments that the payroll services company charged to the eligible production company.

Where a payroll services company is engaged by an eligible production company to manage and pay the compensation attributable to loan-out companies providing loaned-out individuals to the production (and compensation attributable to the loan-out companies would pass from the eligible production company through the payroll services company to the loan-out companies), payments by the payroll services company to the loan-out companies are not subject to Connecticut sales and use taxes under Conn. Gen. Stat. §12-407(a)(37)(C) or (J) as either payments for the providing of either personnel services or business management services by the loan-out companies.

Connecticut income tax: If a payroll services company is a pass-through entity, the payroll services company is required to file **Form CT-1065/CT-1120SI**, *Connecticut Composite Income Tax Return*, and may be required to make a composite Connecticut income tax payment on behalf of its nonresident members. See **Informational Publication 2006(22)**, *Connecticut Income Tax Changes Affecting Pass-Through Entities*, for more information.

Connecticut business entity tax: Every domestic payroll services company that is a pass-through entity is subject to the Connecticut business entity tax. A foreign payroll services company that is a pass-through entity, if in Connecticut for a qualified production, is considered to be transacting business in Connecticut and is subject to the Connecticut business entity tax even though the foreign payroll services company may be present in Connecticut for a limited time only. See **Informational Publication 2006(21)**, *Q&A on the Business Entity Tax*, for more information.

Connecticut corporation business tax: If a payroll services company is a C corporation or an entity that elects to be taxed as a C corporation for federal income tax purposes, the payroll services company is treated as a C corporation for Connecticut corporation business tax purposes. The payroll services company

is required to file **Form CT-1120**, *Corporation Business Tax Return*, and to pay the Connecticut corporation business tax.

Eligible Production Companies

Connecticut income tax withholding: If an eligible production company is treated as an employer for federal income tax withholding purposes, the eligible production company is treated as an employer for Connecticut income tax withholding purposes. Even though an eligible production company may be present in Connecticut for a limited time only, the eligible production company is considered to be transacting business in Connecticut and, as an employer, is required to register with DRS as an employer for Connecticut income tax withholding purposes. The eligible production company is required to deduct and withhold Connecticut income tax from the Connecticut wages of its employees. For more information on the Connecticut income tax withholding responsibilities of employers, see the most recent edition of *Circular CT, Employer's Tax Guide*, which may be downloaded from the DRS website.

Connecticut sales and use taxes: Payments by an eligible production company to a loan-out company (whether directly made to the loan-out company or made first through a payroll services company and then to the loan-out company) are not subject to Connecticut sales and use taxes as either payments for the providing of personnel services (with respect to a loaned-out individual) under Conn. Gen. Stat. §12-407(a)(37)(C) or business management services under Conn. Gen. Stat. §12-407(a)(37)(J) by the loan-out company to the eligible production company.

Where a payroll services company provides the services of its employees to an eligible production company, and the employees are subject to the management and control of the eligible production company, the payroll services company is providing personnel services to the eligible production company, and the payments by an eligible production company to a payroll services company are subject to Connecticut sales and use taxes under Conn. Gen. Stat. §12-407(a)(37)(C). However, in computing the taxable portion of the payment for personnel services made by an eligible production company to the payroll services company, the payroll services company is authorized to exclude the separately stated compensation, fringe benefits, workers' compensation, and payroll taxes or assessments that the payroll services company charged to the eligible production company.

Connecticut income tax: If an eligible production company is a pass-through entity, the eligible production company is required to file **Form CT-1065/CT-1120SI**, *Connecticut Composite Income Tax Return*, and may be required to make a composite Connecticut income tax payment on behalf of its nonresident members. See **Informational Publication 2006(22)**, *Connecticut Income Tax Changes Affecting Pass-Through Entities*, for more information.

Connecticut business entity tax: Every domestic eligible production company that is a pass-through entity is subject to the Connecticut business entity tax. A foreign eligible production company that is a pass-through entity, if in Connecticut for a qualified production, is considered to be transacting business in Connecticut and is subject to the Connecticut business entity tax even though the foreign eligible production company may be present in Connecticut for a limited time only. See **Informational Publication 2006(21)**, *Q&A on the Business Entity Tax*, for more information.

Connecticut corporation business tax: If an eligible production company is a C corporation or an entity that elects to be taxed as a C corporation for federal income tax purposes, the eligible production company is treated as a C corporation for Connecticut corporation business tax purposes. The eligible production company is required to file **Form CT-1120**, *Corporation Business Tax Return*, and to pay the Connecticut corporation business tax.

Effect on Other Documents: None affected.

Effect of This Document: A Policy Statement explains in depth a current Department of Revenue Services (DRS) position, policy, or practice affecting the tax liability of taxpayers.

For Further Information: Call DRS during business hours, Monday through Friday:

- **1-800-382-9463** (Connecticut calls outside the Greater Hartford calling area only); **or**
- **860-297-5962** (from anywhere).

TTY, TDD, and Text Telephone users only may transmit inquiries anytime by calling 860-297-4911.

PS 2007(4)
Multiple Taxes
Issued: 09/20/2007

Forms and Publications: Forms and publications are available anytime by:

- **Internet:** Visit the DRS website at **www.ct.gov/DRS** to download and print Connecticut tax forms; **or**
 - **Telephone:** Call **1-800-382-9463** (Connecticut calls outside the Greater Hartford calling area only) and select **Option 2** from a touch-tone phone, or call **860-297-4753** (from anywhere).
-

Paperless Filing/Payment Methods (fast, easy, free, and confidential):

- **For business returns, tax payments and electronic bill payments:** Use the *Taxpayer Service Center (TSC)* to file a variety of tax returns and extensions, as well as to pay taxes or bills, over the Internet. Visit the DRS website at **www.ct.gov/DRS** and click on the *TSC* logo or on *File/Register OnLine* for a complete list of taxes that can be electronically filed or paid.
 - **For income tax returns, extensions, estimated payments, and electronic bill payments:** Use the *Taxpayer Service Center (TSC)* to file personal income tax returns and extensions, or to make estimated payments and electronic bill payments over the Internet. Visit the DRS website at **www.ct.gov/DRS** and click on the *TSC* logo or on *File/Register OnLine*.
-

DRS E-News Service: Get connected to the latest news from DRS. Receive notification by email of changes to legislation, policies, and procedures. **DRS E-News** is easy to sign up for – visit **www.ct.gov/DRS** and follow the directions. Subscription services are available for employer's withholding tax, *TSC-BUS* Online Filing Alerts, News – Press Releases, and Top 100 Delinquency List.