

1997 and 1998 Legislative Changes Affecting the Corporation Business Tax

PURPOSE: The purpose of this Special Notice is to summarize 1997 and 1998 corporation business tax legislation as specified by the Public Act citations throughout this document.

EFFECTIVE DATE: The effective dates of the legislative changes affecting the corporation business tax are noted herein.

STATUTORY AUTHORITY: Conn. Gen. Stat. §§12-213; 12-214; 12-217; 12-217g; 12-217i; 12-217j; 12-217n; 12-217p; 12-218; 12-219; 12-222; 12-223a; 12-242d; 12-632; 12-634; 8-395.

CORPORATION BUSINESS TAX RATE REDUCTION

Conn. Gen. Stat. §12-214 was amended to accelerate the reduction of the corporation business tax rate as follows:

For income years beginning on or after	But before	Tax rate
1/1/96	1/1/97	10.75%
1/1/97	1/1/98	10.5%
1/1/98	1/1/99	9.5%
1/1/99	1/1/00	8.5%
1/1/00	-	7.5%

(1995 Conn. Pub. Acts 160, §32)

S CORPORATIONS

Phaseout of the corporation business tax on S corporations

Conn. Gen. Stat. §12-217 was amended to phaseout the corporation business tax on S corporations as follows:

For income years beginning on or after	But before	Net income subject to tax
1/1/97	1/1/98	90%
1/1/98	1/1/99	75%
1/1/99	1/1/00	55%
1/1/00	1/1/01	30%
1/1/01	-	0%

During the phaseout period, S corporations are eligible for tax credits to the extent and in the same percentage that their net income is subject to the corporation business tax. S corporations will continue to be subject to the corporation business tax on the capital base and the \$250 minimum tax for income years beginning before January 1, 2001. (1996 Conn. Pub. Acts 175, §1; 1997 Conn. Pub. Acts 283, §1; 1998 Conn. Pub. Acts 244, §6 as amended by 1998 Conn. Pub. Acts 1, §106 (June Spec. Sess.))

Definition

Conn. Gen. Stat. §12-213 was amended to include a Qualified Subchapter S Subsidiary ("QSSS") in the definition of S corporation. Applicable to income years beginning on or after January 1, 1998. (1998 Conn. Pub. Acts 244, §5)

Returns

Conn. Gen. Stat. §12-222 was amended to make S corporation returns due on or before the fifteenth day of the fourth month following the end of the income year. Applicable to income years beginning on or after January 1, 1998. (1998 Conn. Pub. Acts 244, §7)

INCOME DERIVED FROM CREDIT CARD ACTIVITIES – SPECIAL APPORTIONMENT

Conn. Gen. Stat. §12-218(j) was added to allow certain qualified institutions to apportion income derived from credit card activities to Connecticut using a single factor apportionment formula that attributes receipts to the location of the cardholder. Qualified institutions may **elect**, on or before the due date of their corporation business tax return, to use the special apportionment formula. The election is irrevocable for five successive income years and is available until 2001. Thereafter, the election is terminated and qualified institutions must attribute receipts to the location of the cardholder. Applicable to income years beginning on or after January 1, 1997. (1997 Conn. Pub. Acts 4, §1 (June Spec. Session), as amended by 1998 Conn. Pub. Acts 110, §18)

FINANCIAL SERVICE COMPANIES

Special apportionment

A qualifying "financial service company" may apportion its net income to Connecticut using a single factor gross receipts apportionment formula based on the location of the financial service company's customers. Applicable to income years beginning on or after January 1, 1999. (1998 Conn. Pub. Acts 110, §11)

Limited passive investment company

The new law permits the creation of a "passive investment company" that is exempt from the corporation business tax. The term "passive investment company" means any company that is a related person to a financial service company or to an insurance company and (a) employs a minimum of five full-time equivalent employees in Connecticut; (b) maintains an office in Connecticut; and (c) confines its activities to the purchase, receipt, maintenance, management and sale of intangible investments which are limited to loans secured by real property. Applicable to income years beginning on or after January 1, 1999. (1998 Conn. Pub. Acts 110, §12)

Exempt from tax on capital

Conn. Gen. Stat. §12-219 was amended to exempt financial service companies from the tax on capital and the minimum tax. Applicable to income years beginning on or after January 1, 1999. (1998 Conn. Pub. Acts 110, §19)

ESTIMATED TAX PAYMENTS

Definition of required annual payment

Conn. Gen. Stat. §12-242d was amended to accelerate the implementation of the safe harbor provisions for the estimated tax payments of the corporation business tax. The definition of "required annual payment" means:

- For income year beginning in 1998, the lesser of (1) ninety percent of the tax shown on the return for the income year, or, if no return is filed, ninety percent of the tax for such year, or (2) 100 percent of the tax shown on the return for the next preceding income year, without regard to any credits;
- For income year beginning in 1997, the lesser of (1) ninety percent of the tax shown on the return for the income year, or, if no return is filed, ninety percent of the tax for such year, or (2) 150 percent of the tax shown on the return for the next preceding income year, without regard to any credits;

- For income year beginning in 1996, the lesser of (1) ninety percent of the tax shown on the return for the income year, or, if no return is filed, ninety percent of the tax for such year, or (2) 200 percent of the tax shown on the return for the next preceding income year, without regard to any credits.

(1997 Conn. Pub. Acts 163, §1)

Annualization

Conn. Gen. Stat. 12-242d was also amended to allow corporations to annualize estimated tax payments. Applicable to income years beginning on or after January 1, 1999. (1998 Conn. Pub. Acts 244, §9)

TAX CREDITS

Neighborhood Assistance Act Program Credit

Conn. Gen. Stat. §12-632 was amended to increase the aggregate credit available under the Neighborhood Assistance Act from \$3 million to \$4 million annually. Applicable to income years beginning on or after January 1, 1998. (1997 Conn. Pub. Acts 251, §1)

In addition, Conn. Gen. Stat. §12-634 was amended to increase the maximum amount of credit available to business firms that contribute to community programs for planning, construction, renovation or acquisition of child day care facilities from \$10,000 to \$50,000 annually. Applicable to income years beginning on or after January 1, 1998. (1997 Conn. Pub. Acts 259, §24)

Fixed Capital Investment Credit

A new corporation business tax credit is available for fixed capital investments. "Fixed capital" means the amount paid or incurred by a corporation on tangible personal property which:

- Has a class life of more than four years as described in section 168(e) of the Internal Revenue Code;
- Is acquired by purchase from a person other than a related person;
- Is not acquired to be leased, and is not leased, to another person during the twelve full months following acquisition; and
- Will be held and used in this state by a corporation in the ordinary course of the corporation's trade or business for not less than five full years following acquisition.

It does not include inventory, land, buildings or structures, or mobile transportation property.

A credit against the corporation business tax in an amount paid or incurred for fixed capital investment is allowed as follows:

For Income Years Beginning On or After	But Before	Percentage of amount paid or incurred
1/1/98	1/1/99	3%
1/1/99	1/1/00	4%
1/1/00	-	5%

If the fixed capital is not held and used in this state for at least three years, the corporation must recapture 100% of the credit. If the fixed capital is held and used in this state for more than three years but less than five years, the corporation must recapture 50% of the credit. The recaptured amount will be subject to interest charges if it is not timely paid to the commissioner.

Any tax credit not used in the income year during which the acquisition was made may be carried forward for five income years. Applicable to income years beginning on or after January 1, 1998. (1997 Conn. Pub. Acts 295, §1, as amended by 1998 Conn. Pub. Acts 262, §10)

Human Capital Investment Credit

A new corporation business tax credit is available for human capital investments. "Human capital investment" means the amount paid or incurred by a corporation on:

- Job training which occurs in this state for persons who are employed in this state;
- Work education programs in this state including, but not limited to, programs in public high schools and work education-diversified occupation programs;
- Worker training and education for persons who are employed in this state provided by institutions of higher education in this state;
- Donations or capital contributions to institutions of higher education in this state for improvements or advancements of technology, including physical plant improvements;

- Planning, site preparation, construction, renovation or acquisition of facilities in this state for the purpose of establishing a day care facility in this state to be used primarily by the children of employees who are employed in this state; and
- Subsidies to employees who are employed in this state for child care to be provided in this state.

A credit against the corporation business tax in an amount paid or incurred for human capital investment is allowed as follows:

For Income Years Beginning On or After	But Before	Percentage of amount paid or incurred
1/1/98	1/1/99	3%
1/1/99	1/1/00	4%
1/1/00	-	5%

Any tax credit not used in the income year when the investment was made may be carried forward for five income years. Applicable to income years beginning on or after January 1, 1998. (1997 Conn. Pub. Acts 295, §2)

Opportunity Certificate Tax Credit Program

The opportunity voucher corporation business tax credit is available for business firms who hire "qualifying employees." The term "qualifying employee" means any employee who is employed not less than 15 hours per week and at the time of being hired by such business firm, is and has been receiving benefits from the temporary family assistance program for more than nine months.

A firm that hires such an employee in any income year may apply to the Commissioner of Social Services for an allocation of a tax credit in the amount of \$125 for each full month that the firm employs the employee.

The aggregate credit amount for all corporations may not exceed \$1,000,000 in any one fiscal year. The credit may be carried forward for five income years until the full credit has been allowed. (1997 Conn. Pub. Acts 295, §7)

Apprenticeship Training Credit in Manufacturing, Plastics and Construction Trades

Conn. Gen. Stat. §12-217g was amended to expand the credit for machine tool and metal trades to cover all manufacturing trades. A new credit was also introduced for apprenticeship training in construction trades. Calculation of the credit has been modified. Applicable to tax returns filed on or after January 1, 1997. (1997 Conn. Pub. Acts. 295, §16)

Housing Program Contribution Credit

The Commissioner will grant a credit in any amount equal to the amount specified by the Connecticut Housing Finance Authority (CHFA) in a tax credit voucher. Conn. Gen. Stat. §8-395 (Rental housing assistance trust fund program) was amended to provide that the housing credit sought must be claimed on the tax return for the income year that the contribution was paid.

For income years beginning on or after January 1, 1998, if CHFA determines that a housing program will not be completed within three years from the date of approval, the authority may reclaim any remaining funds and reallocate such funds to another eligible program.

Any credit not used may be carried forward or backward for the five immediately succeeding or preceding income years. Applicable to tax returns filed on or after January 1, 1997. (1997 Conn. Pub. Acts 295, §13)

Employer Assisted Housing Credit

Conn. Gen. Stat. §12-217p was amended to provide that the employer assisted housing credit for low and moderate income employees will be allowed in an amount equal to the amount paid during the income year by a corporation into a revolving loan fund.

For income years beginning on or after January 1, 1998, if CHFA determines that 60% or more of a revolving loan fund has not been properly loaned, the corporation will be required to recapture the credits previously granted. Such amount will be subject to interest charges if it is not timely paid to the Commissioner.

Any credit not used may be carried forward or backward for the five immediately succeeding or preceding income years. Applicable to tax returns filed on or after January 1, 1997. (1997 Conn. Pub. Acts 295, §18, as amended by 1998 Conn. Pub. Acts 262, §2)

Clean Alternative Fuel Credit

Conn. Gen. Stat. §12-217i was amended to extend the clean alternative fuel credit until January 1, 2000. Effective July 8, 1997. (1997 Conn. Pub. Acts 295, §23)

Corporation Business Tax Credit Review Committee

A corporation business tax credit review committee has been established to study and evaluate the existing corporation business tax credits. The committee will study whether:

- The credit has provided a benefit to the state;
- There is sufficient justification to continue the credit as it currently exists; or
- The credit could be more efficiently administered as part of a broad-based credit; and
- The credit adds unnecessary complexity in the application, administration and approval process for the credit.

The committee will report its findings to the General Assembly by January 30, 2002. (1997 Conn. Pub. Acts 295, §4)

Credit for Displaced Workers Hired by Electric Suppliers

A new credit may be applied against the Connecticut corporation business tax for each Connecticut electric supplier that hires a displaced worker for a minimum period of 6 months. The displaced worker may be hired on or after July 1, 1998.

The credit amount available to each electric company is \$1,500 for each displaced worker hired for a minimum period of 6 months. Applicable to income years beginning on or after January 1, 1999. (1998 Conn. Pub. Acts. 28, §47)

Research and Experimental Incremental Expenditure Credit

Conn. Gen. Stat. §12-217j was amended to provide a special carryforward provision. For income years beginning on or after January 1, 2000, the 15-year credit carryforward that had been available only to biotechnology companies will be extended to all corporations. (1998 Conn. Pub. Acts 110, §22)

Research and Development Nonincremental Expenditures Credit

Conn. Gen. Stat. §12-217n was amended to provide a research and development credit for qualified small businesses. For income years beginning on or after January 1, 2000, a credit of 6% will be available for research and development expenses incurred by a qualified small business.

A qualified small business is defined as a company that has gross income for the previous income year that does not exceed \$100 million and has not met the gross income test through transactions with a related person. (1998 Conn. Pub. Acts 110, §23)

Collection of delinquent corporate taxes

The commissioner may disallow any credit otherwise allowable against the corporation business tax if the company has any outstanding taxes (including interest, penalties or fees) due and unpaid to the state for more than thirty days. Applicable to income years beginning on or after January 1, 1998. (1997 Conn. Pub. Acts 193, §2)

Ordering rules for claiming corporation business tax credits

New legislation established specific ordering rules for corporations claiming more than one Connecticut Corporation Business Tax Credit. The credits must be applied in the following order:

- Carrybacks expiring first;
- Current year credits that do not have a carryforward or carryback provision;
- Any credit carryforward expiring first;
- Non-expiring credits.

Notwithstanding the specific ordering of credits, the Financial Institutions Credit must be claimed before any other credit allowed against the Connecticut corporation business tax. In addition, the Electronic Data Processing Equipment Property Tax Credit must be claimed after all other tax credits have been applied. Applicable to income years beginning on or after January 1, 1998. (1998 Conn. Pub. Acts 244, §10, as amended by 1998 Conn. Pub. Acts 261, §4)

Repealed Credits

The following credits have been repealed effective January 1, 1998:

- Air pollution abatement facilities (Conn. Gen. Stat. §§12-217c; 12-252a; 12-258b; 12-265b);
- Industrial waste treatment facilities (Conn. Gen. Stat. §§12-217d; 12-252b; 12-258c; 12-265c);
- Work education credits for high school students (Conn. Gen. Stat. §12-217f);
- Employee training credit (Conn. Gen. Stat. §12-217k);
- New facilities credit (Conn. Gen. Stat. §12-217m);
- Child day care credits (Conn. Gen. Stat. §§17b-740 through 17b-742);
- Critical industries development account (Conn. Gen. Stat. §32-41q);

Any taxpayer with remaining credit for any of these specified repealed tax credits, may carry such remaining tax credit forward as the provisions of the appropriate section would have allowed prior to repeal. Applicable to income years beginning on or after January 1, 1998. (1997 Conn. Pub. Acts 295, §§ 12, 21, 24)

MISCELLANEOUS PROVISIONS

"Add-back" of intangible deductions and interest deductions

A corporation is required to add back into income otherwise deductible intangible property costs and interest expenses paid or incurred, directly or indirectly, in transactions with related corporations, unless it can demonstrate by clear and convincing evidence that such adjustments are unreasonable or it enters into an agreement with the Commissioner to use an alternate method of apportionment. Applicable to income years beginning on or after January 1, 1999. (1998 Conn. Pub. Acts 110, §20)

Domestic insurance company exemption

Conn. Gen. Stat. §12-214 was amended to exempt domestic insurers from the corporation business tax. Applicable to income years beginning on or after January 1, 1999. (1998 Conn. Pub. Acts 110, §13)

Non-United States corporation trading for own account exemption

Conn. Gen. Stat. §12-214 was amended to exempt any non-United States corporation whose sole activity in Connecticut consists of trading in stocks, securities or commodities for that corporation's own account from the corporation business tax. (1998 Conn. Pub. Acts 244, §6 as amended by 1998 Conn. Pub. Acts 1, §106 (June Spec. Sess.))

Five-year combined corporation business tax return election

Corporations filing a Connecticut combined corporation business tax return must wait a total of five years (including years prior to 1998) before revoking their election to file such combined return. Similarly, corporations electing to file separate returns must wait five years before electing to be included in a combined return. Applicable for income years beginning on or after January 1, 1998. (1998 Conn. Pub. Acts 244, §8)

Qualified real estate investment trusts

Conn. Gen. Stat. §12-217 was amended to provide that dividends received from a real estate investment trust are not deductible in determining the corporation business tax unless the dividends are: (a) deductible under section 243 of the Internal Revenue Code; or (b) received by a qualified dividend recipient from a qualified real estate investment trust. A "qualified dividend recipient" means a dividend recipient who has invested in a qualified real estate investment trust prior to April 1, 1997. A "qualified real estate investment trust" means an entity that was incorporated and had contributed to it a minimum of \$500 million dollars worth of real estate assets prior to April 1, 1997, and that elects to be a real estate investment trust under section 856 of the Internal Revenue Code prior to April 1, 1998. Applicable to income years beginning on or after January 1, 1997. (1997 Conn. Pub. Acts 119, §1)

Disallowance of a refund claim

A taxpayer whose claim for refund is disallowed may request an administrative hearing with the Department before filing an appeal with the Superior Court. Previously, a denial of a refund claim was immediately appealed to the Superior Court without an opportunity for an administrative hearing. Applicable to claims for refund filed on or after July 1, 1997. (1997 Conn. Pub. Acts 243, §§52, 53)

Limited liability companies

The definition of "limited liability company" has been changed from an organization having two or more members to an organization having one or more members. (1997 Conn. Pub. Acts 70, §2) (See Special Notice 98(3), *Effect of Recent Federal Tax Law Changes on the Taxation of Limited Liability Companies and S Corporations and Their Shareholders*).

Home-grown cattle

Conn. Gen. Stat. §12-213 (Definitions) was amended to eliminate the exclusion from gross income for any gain from the sale or exchange of home-grown cattle. Applicable to income years beginning on or after January 1, 1998. (1997 Conn. Pub. Acts 295, §3)

EFFECT ON OTHER DOCUMENTS: None affected.

EFFECT OF THIS DOCUMENT: A Special Notice (SN) is a document that, in response to newly enacted or amended Connecticut or federal laws or in response to newly released judicial decisions, announces a new Department position, policy or practice affecting the tax liability of taxpayers.

FOR FURTHER INFORMATION: Please call the Department of Revenue Services during business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday:

- **1-800-382-9463** (in-state), or
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