



STATE OF CONNECTICUT
DEPARTMENT OF REVENUE SERVICES

25 Sigourney Street Ste 2
Hartford CT 06106-5032

SN 2009(11)

SPECIAL NOTICE

2009 Legislative Changes Affecting the Corporation Business Tax

Purpose: This Special Notice describes changes made to the corporation business tax during the 2009 session of the Connecticut General Assembly.

Effective Date: The effective dates of the legislative changes are noted in this publication.

Statutory Authority: 2009 Conn. Pub. Acts 3, §90 (June 19 Spec. Sess.); Conn. Gen. Stat. §12-214(b)(6), as amended by 2009 Conn. Pub. Acts 3, §94 (June Spec. Sess.); Conn. Gen. Stat. §12-217, as amended by 2009 Conn. Pub. Acts 2, §4 (June Spec. Sess.) and 2009 Conn. Pub. Acts 3, §95 (June Spec. Sess.); Conn. Gen. Stat. §12-219(b)(6), as amended by 2009 Conn. Pub. Acts 3, §102 (June Spec. Sess.); Conn. Gen. Stat. §12-223f, as amended by 2009 Conn. Pub. Acts 3, §103 (June Spec. Sess.) and 2009 Conn. Pub. Acts 8, §39 (Sept. Spec. Sess.); Conn. Gen. Stat. §12-242d, as amended by 2009 Conn. Pub. Acts 8, §6 (Sept. Spec. Sess.); Conn. Gen. Stat. §12-217dd, as amended by 2009 Conn. Pub. Acts 3, §102 (June Spec. Sess.); Conn. Gen. Stat. §12-217jj, as amended by 2009 Conn. Pub. Acts 3, §97 (June Spec. Sess.) and 2009 Conn. Pub. Acts 8, §§1-3 (Sept. Spec. Sess.); Conn. Gen. Stat. §12-217kk, as amended by 2009 Conn. Pub. Acts 3, §98 (June Spec. Sess.); Conn. Gen. Stat. §12-217ll, as amended by 2009 Conn. Pub. Acts 3, §99 (June Spec. Sess.) and 2009 Conn. Pub. Acts 8, §§4 and 5 (Sept. Spec. Sess.); and 2009 Conn. Pub. Acts 8, §7 (Sept. Spec. Sess.).

Economic Nexus

Effective upon passage and applicable to income years beginning on or after January 1, 2010, any company that derives income from sources in Connecticut or that has a substantial economic presence in Connecticut, evidenced by a purposeful direction of business toward Connecticut, examined in light of the frequency, quantity and systematic nature of a company's economic contacts with Connecticut, without regard to physical presence, will be subject to the Connecticut corporation

business tax to the extent permitted by the U.S. Constitution.

Surtax

Effective upon passage and applicable to income years beginning on or after January 1, 2009, Conn. Gen. Stat. §12-214(b) was amended to provide that a surtax of 10% of the tax on net income will apply for income years beginning on or after January 1, 2009, and prior to January 1, 2012. The surtax does not apply to any company whose tax is equal to \$250. Any company whose gross income is less than \$100 million is exempt from this surtax unless it files as part of a Connecticut combined corporation business tax return or as part of a Connecticut unitary return. The surtax is calculated without regard to any credit that may be applied against the corporation business tax.

Effective upon passage and applicable to income years beginning on or after January 1, 2009, Conn. Gen. Stat. §12-219(b) was amended to provide that a surtax of 10% of the tax on capital will apply for income years beginning on or after January 1, 2009, and prior to January 1, 2012. The surtax does not apply to any company whose tax is equal to \$250. A company whose gross income is less than \$100 million is exempt from this surtax unless it files as part of a Connecticut combined corporation business tax return or as part of a Connecticut unitary return. The surtax is calculated without regard to any credit that may be applied against the corporation business tax.

Deferral of Cancellation of Debt Income

Effective upon passage and applicable to income years beginning on or after January 1, 2009, Conn. Gen. Stat. §12-217 was amended to provide that, in determining net income for purposes of the Connecticut corporation business tax, the deferral of cancellation of debt income (CODI) that arises when taxpayers repurchase their own debt as authorized under section 108(i) of the Internal Revenue Code (I.R.C.) will not be allowed. Therefore,

in calculating its Connecticut corporation business tax, a corporation is required to add back any income deferred under I.R.C. §108(i). If any income is deferred from federal gross income under I.R.C. §108(i) but such deferral is disallowed in computing Connecticut net income for a taxable year, then such income shall be deductible in computing Connecticut net income in the taxable years in which it is included in federal gross income. The federal deferral of CODI was created by the American Recovery and Reinvestment Act of 2009 (ARRA) in 2009. Visit the Internal Revenue Services website at www.irs.gov for more information on the American Recovery and Reinvestment Act.

Qualified Domestic Production Activities Deduction Under I.R.C. §199

Effective upon passage and applicable to income years beginning on or after January 1, 2009, Conn. Gen. Stat. §12-217(a)(1) was amended to provide that in arriving at Connecticut net income, no deduction shall be allowed for qualified domestic production activities as provided under I.R.C. §199. Therefore, in calculating its Connecticut corporation business tax, a corporation is required to add back any amounts deducted under I.R.C. §199.

Preference Tax Increase

Effective upon passage and applicable to income years beginning on or after January 1, 2009, Conn. Gen. Stat. §12-223f was amended to increase the maximum preference tax from \$250,000 to \$500,000.

Estimated Tax

Any taxpayer required to make estimated corporation business tax installment payments is required to make any installment payments due on or after October 5, 2009, in an amount which is adjusted for any change in the amount of tax due for the income year beginning on or after January 1, 2009, but prior to January 1, 2010. Legislative changes made during the 2009 legislative session that may impact a taxpayer's estimated installment payments include: decoupling the corporation business tax from the federal deferral of cancellation of indebtedness income under I.R.C. §108(i); decoupling the corporation business tax from the deduction allowed for qualified domestic production activities under I.R.C. §199; the increase in the maximum preference tax from \$250,000 to \$500,000; and the imposition of a 10% surtax on the tax on net income and the tax on capital. For additional

information regarding estimated tax payments, see **Informational Publication 2009(34)**, *Q&A on Estimated Corporation Business Tax and Worksheet CT-1120AE*.

Tax Credit for Donation of Open Space Land

Effective upon passage and applicable to income years beginning on or after January 1, 2009, Conn. Gen. Stat. §12-217dd was amended to increase the carryforward allowed for the tax credit for the donation of open space land from 15 years to 25 years.

Film Production Tax Credit

Effective upon passage and applicable to income years beginning on or after January 1, 2010 (unless otherwise noted), the tax credit that is available for film production under Conn. Gen. Stat. §12-217jj was amended to:

- Place administration of the tax credit with the Department of Economic and Community Development (DECD) rather than Connecticut Commission on Culture and Tourism (CCT);
- Provide that there shall be an aggregate cap of \$20 million per production for star talent;
- Provide that any expenses or costs pertaining to an independent certification of production expenses or costs set forth by an eligible production company in its application for a production tax credit shall not be considered "production expenses or costs" for purposes of the tax credit;
- Remove infomercials from the definition of "qualified production";
- Change the applicable tax credit percentage to provide a:
 - 10% tax credit for production expenses or costs from \$100,000 up to \$500,000;
 - 15% tax credit for production expenses or costs of more than \$500,000 up to \$1 million; and
 - 30% credit for production expenses and costs over \$1 million;
- Require that in order to be eligible for the tax credit, 50% of principal photography days or 50% of post production costs must be incurred in Connecticut;
- Provide that for income years beginning between January 1, 2009, and prior to January 1, 2010, only 50% of production expenses or costs incurred outside Connecticut and used inside Connecticut will be counted towards the credit, however for

income years beginning on or after January 1, 2010, no production expenses or costs incurred outside Connecticut and used inside Connecticut will qualify for the tax credit;

- Allow all or any part of the tax credit to be claimed in the year the production expenses or costs were incurred or in any of the three succeeding years after the year the production expenses or costs were incurred. As a result, a taxpayer no longer needs to amend its tax return to claim the tax credits in the year the expenses were incurred. This change was effective upon passage;
- Require the production companies to choose an independent auditor from a list of professionals approved by DECD;
- Allow a reasonable administrative fee sufficient to cover DECD's costs to analyze applications for the tax credit; **and**
- Allow post-certification remedies to be taken against any entity that commits fraud or misrepresentation in obtaining the tax credits.

Film Production Infrastructure Tax Credit

Effective upon passage and applicable to income years beginning on or after January 1, 2010 (unless otherwise noted), the tax credit for infrastructure projects in the entertainment industry provided under Conn. Gen Stat. §12-217kk was amended to:

- Place administration of the film production infrastructure tax credit with DECD rather than CCT;
- Provide that there shall be allowed a 20% credit to any taxpayer that invests \$3 million or more in a state-certified project;
- Allow a reasonable administrative fee sufficient to cover DECD's costs to analyze applications for the tax credit; **and**
- Allow post-certification remedies against any entity that commits fraud or misrepresentation in obtaining the tax credits.

Digital Animation Tax Credit

Effective upon passage and applicable to income years beginning on or after January 1, 2010 (unless otherwise noted), the tax credit available to digital animation production companies under Conn. Gen. Stat. §12-217ll was amended to:

- Place administration of the credit with DECD rather than CCT;
- Provide that there shall be an aggregate cap of \$20 million per production for star talent;
- Provide that any expenses or costs pertaining to an independent certification of production expenses or costs set forth by an eligible production company in its application for a production tax credit shall not be considered "production expenses or costs" for purposes of the tax credit;
- Change the applicable tax credit percentage to provide a:
 - 10% tax credit for production expenses or costs from \$100,000 up to \$500,000;
 - 15% tax credit for production expenses or costs of more than \$500,000 up to \$1 million; and
 - 30% credit for production expenses and costs over \$1 million;
- Allow all or any part of the tax credit to be claimed in the year the production expenses or costs were incurred or in any of the three succeeding years after the year the production expenses or costs were incurred. As a result, a taxpayer no longer needs to amend its tax return to claim the tax credits in the year the expenses were incurred. This change was effective upon passage;
- Require the production companies to choose an independent auditor from a list of professionals approved by DECD; **and**
- Allow post-certification remedies against any entity that commits fraud or misrepresentation.

Green Building Credit

A new *Green Building* tax credit will be available for income years beginning on or after January 1, 2012. The credit is available for the construction or renovation of an eligible project that meets or exceeds specified energy usage. The amount of the tax credit available will vary depending upon: the LEED Green Building Rating System certification level and the use and location of the building. An initial credit voucher, which serves to reserve the tax credit for the taxpayer, is issued by the Secretary of the Office of Policy and Management. Certification of eligibility for the tax credit will be determined by the Commissioner of Environmental Protection. The tax credit is assignable and may be transferred to a pass-through partner in return for a lump sum cash payment.

Effect on Other Documents: None.

Effect of This Document: A Special Notice announces a new policy or practice in response to changes in state or federal laws or regulations or to judicial decisions. A Special Notice indicates an informal interpretation of Connecticut tax law by the Department of Revenue Services (DRS).

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.

Forms and Publications: Visit the DRS website at www.ct.gov/DRS to download and print Connecticut tax forms and publications.

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

Business and individual taxpayers can use the **Taxpayer Service Center (TSC)** at www.ct.gov/TSC to file a variety of tax returns, update account information, and make payments online.

File Electronically: You can choose first-time filer information and filing assistance or log directly into the **TSC** to file returns and pay taxes.

Pay Electronically: You can pay taxes for tax returns that cannot be filed through the **TSC**. Log in and select the *Make Payment Only* option. Designate a payment date up to the due date of the tax and mail a paper return to complete the filing process.

DRS E-Alerts Service: Get connected to the latest news from DRS. Receive notification by email of changes to legislation, policies, and procedures. **DRS E-Alerts** provide information for employer's withholding tax, News – Press Releases, and Top 100 Delinquency List. Visit the DRS website at www.ct.gov/DRS and select *e-alerts* from the left navigation bar.
