

Connecticut enacts additional tax law changes

Overview

On December 29, 2015, Connecticut Governor Dannel Malloy signed Senate Bill 1601 (SB 1601),¹ which includes changes to Connecticut tax law in addition to those adopted earlier in the year.² This Tax Alert summarizes the amendments contained in SB 1601—which have various effective dates as specified in the discussion that follows—and provides some taxpayer considerations.

Changes to the Connecticut corporation business tax laws regarding mandatory unitary taxation

Effective for income years beginning on or after January 1, 2016, SB 1601 makes the following changes to the corporation business tax mandatory unitary taxation laws:³

- Provides that distributive share income received by a limited partner from an investment partnership is not considered to be from a unitary business unless the limited partner and the general partner have common ownership. If the limited partner is not otherwise doing business in Connecticut, the distributive share income is not subject to Connecticut tax. If the limited partner is doing business in Connecticut, the distributive share income is included in the Connecticut unitary group's income, and the Connecticut unitary group's apportionment fraction includes a proportionate part of the partner's apportionment factors. This provision reinstates the former treatment of investment partnerships.
- Provides that the principles in the regulations promulgated under Internal Revenue Code §1502 apply for Connecticut unitary group membership and reporting purposes unless inconsistent with Connecticut law.
- Provides that if a financial services company is a member of a Connecticut unitary group, each taxable member of the group can apportion its income within and without Connecticut.
- Eliminates—from the Connecticut unitary group capital base calculation—assets and liabilities attributable to transactions with another member of the Connecticut unitary group, including but not limited to a financial services company.
- Provides that a financial services company with nexus in Connecticut is subject to a capital base tax equal to \$250.
- Provides that the tax calculated for the Connecticut unitary group on a combined unitary basis, prior to surtax and the application of tax credits, cannot exceed the tax due under a nexus combined base tax calculation method by more than \$2.5 million. The nexus combined base tax calculation method adopts many of the rules and concepts from the nexus combined return methods that existed prior to the 2015 reforms.
- Eliminates the inclusion in the Connecticut unitary group of foreign entities earning more than 20 percent of gross income from intangible property or providing services to members of the group.
- Eliminates the requirement that the Commissioner, Connecticut Department of Revenue Services, publish a list of tax havens, and provides that a tax haven does not include a jurisdiction that has entered into a comprehensive income tax treaty with the United States.
- Modifies the alternate elective operating loss carryforward rule available for combined groups with unused operating losses in excess of \$6 billion dollars from years beginning prior to January 1, 2013.
- Provides that the statutory language that limits a foreign corporation's gross income to its United States effectively connected income does not apply to a foreign corporation that is included in a Connecticut unitary group.

¹ 2015 Conn. Pub Acts. 1, SB 1601, Dec. Spec. Sess. (Conn., Dec. 29, 2015); [signed by the Governor on Dec. 29, 2015](#). A copy of the adopted law is accessible [here](#).

² For a summary of the earlier tax law changes adopted in the 2015 Regular Session and in the 2015 Special Session, see our Tax Alert accessible [here](#).

³ 2015 Conn. Pub Acts. 1, SB 1601, §36-39.

Changes to the Connecticut corporation business tax laws regarding apportionment

Effective for income years beginning on or after January 1, 2016, SB 1601 makes the following changes to the corporation business tax apportionment laws:

- Eliminates the property and payroll factors from the general apportionment calculation, resulting in a default single-receipts factor apportionment methodology.⁴
- Eliminates the single-receipts factor for taxpayers who derive income from business other than the manufacture, sale, or use of tangible property or real property.⁵ This change is unlikely to have a significant impact because this statutory provision has historically been interpreted in Connecticut case law as having very limited application.⁶
- Preserves the election for a manufacturer that derives 75 percent or more of its gross receipts from sales to the United States government to elect to calculate apportionment based on a three-factor, double-weighted receipts methodology.⁷

Changes to Connecticut tax credits

SB 1601 makes the following changes to tax credit laws that have various effective dates specified as follows:

- Allows the apprenticeship training credit to be transferred to another taxpayer and then claimed against the utility companies tax and the petroleum products gross earnings tax for income years beginning on or after January 1, 2016.⁸
- Increases the maximum amount of research and development tax credits, research and experimental tax credits, and urban and industrial site reinvestment tax credits that may be utilized against the corporation business tax from 50.01 percent of tax due for income years beginning on or after January 1, 2015, to 70 percent of tax due for income tax years beginning on or after January 1, 2019, phased in as follows:⁹

| 2015 | 2016 | 2017 | 2018 | 2019 |
|---------------|------------|------------|------------|------------|
| 50.01 percent | 55 percent | 60 percent | 65 percent | 70 percent |

- Phases in a similar increase in the maximum amount of tax credits that may be utilized against the hospitals tax from 50.01 percent of tax due for calendar quarters beginning on or after January 1, 2016, to 70 percent of tax due for calendar quarters beginning on or after January 1, 2019.¹⁰
- Eases the requirements for the enterprise zone tax credit, applicable for taxable years beginning on or after January 1, 2017, for bioscience, clean technology, and cybersecurity technology companies that are created in an enterprise zone on or after July 1, 2015, and that employ certain amounts of residents from the enterprise zone or from the municipality where the enterprise zone is located.¹¹

Changes to the Connecticut personal income tax

SB 1601 makes the following changes to the personal income tax that have various effective dates specified as follows:¹²

- Clarifies that business from a trade, profession, or occupation carried on in Connecticut includes compensation paid to a nonresident natural person rendering personal services as an employee in Connecticut. This change is effective both retroactively and prospectively from passage.
- Provides that, effective for taxable years beginning on or after January 1, 2016, compensation to a nonresident employee rendering personal services in Connecticut—other than an athlete, entertainer, or performing artist—does not constitute income from sources in Connecticut if the nonresident employee is present in Connecticut for not more than 15 days during a taxable year.

⁴ 2015 Conn. Pub Acts. 1, SB 1601, §40.

⁵ *Id.*

⁶ See *Schlumberger Technology Corporation v. Dubno*, 202 Conn. 412 (Mar. 3, 1987); and *Millward Brown, Inc. v. Commissioner of Revenue Services*, 73 Conn. App. 757 (Nov. 26, 2002).

⁷ 2015 Conn. Pub Acts. 1, SB 1601, §40.

⁸ 2015 Conn. Pub Acts. 1, SB 1601, §28.

⁹ 2015 Conn. Pub Acts. 1, SB 1601, §29.

¹⁰ 2015 Conn. Pub Acts. 1, SB 1601, §30.

¹¹ 2015 Conn. Pub Acts. 1, SB 1601, §35.

¹² 2015 Conn. Pub Acts. 1, SB 1601, §26.

Changes to the Connecticut sales and use tax

Effective for sales occurring on or after January 1, 2016, SB 1601 eliminates the sales and use tax exemption for compact fluorescent light bulbs and residential weatherization products.¹³

ASC 740 treatment

Pursuant to ASC 740, "Income Taxes," companies are required to account for the effect of a change in income tax law in the period that includes the enactment date of that law change. The income tax law changes discussed in this Tax Alert were enacted on December 29, 2015. Accordingly, any impact of these law changes should be treated as a fourth-quarter event for financial statement purposes for calendar year taxpayers.

Considerations

- For purposes of calculating the new default single-receipts apportionment fraction, sales of services are sourced consistent with prior law. Most notably, receipts from sales of services are sourced to the location where the services are performed.
- Taxpayers that had planned to take the deduction for the decrease in net deferred tax assets or the increase in net deferred tax liabilities due to the implementation of mandatory unitary combination should consider the various changes to the mandatory unitary taxation provisions when calculating that deduction.
- Taxpayers that are currently filing under the elective nexus combined group method and paying Connecticut preference tax should note the absence of a preference tax in the alternate nexus combined calculation method when evaluating whether the tax calculated for the Connecticut unitary group on a combined unitary basis exceeds the tax due under the alternate nexus combined calculation method by more than \$2.5 million.

Contacts

If you have questions regarding SB 1601 or other Connecticut tax matters, please contact any of the following Deloitte Tax professionals:

[Jack Lutz](#)

Director
Deloitte Tax LLP, Hartford
+1 860 725 3150

[Craig Aronson](#)

Director
Deloitte Tax LLP, Hartford
+1 860 725 3127

[Brian Powers](#)

Manager
Deloitte Tax LLP, Hartford
+1 860 725 3129

[Kim Sweeney](#)

Director
Deloitte Tax LLP, Stamford
+1 203 708 4476

[Al Mercier](#)

Director
Deloitte Tax LLP, Hartford
+1 860 725 3134

For further information, visit our website at www.deloitte.com

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¹³ 2015 Conn. Pub Acts. 1, SB 1601, §49.