RECENT CONNECTICUT TAX LAW DEVELOPMENTS[1]

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Coming off what was a relatively quiet year in 2014, the year 2015 was a tumultuous year for Connecticut tax law changes. The changes enacted during 2015 will impact virtually all taxpayers in the state (both individuals and businesses). Corporations will be facing an extension of the 20% corporate surcharge, a limit on the use of net operating losses, a further limitation on the use of tax credits and, effective in 2016, a new combined unitary reporting requirement and single-factor apportionment factor. High income individuals will face two higher marginal tax rates, middle income taxpayers may realize a reduction in, or loss of the property tax credit, and lower income individuals will suffer a delay in the planned increase in the earned income tax credit. Changes to the sales tax include the repeal of the exemption for clothing and footwear costing less than $50, a new tax on website creation and hosting services, an increase in the luxury sales tax rate and a limitation on the clothing and footwear that can be purchased tax free during the third week of August. The ability of hospitals to claim tax credits against the hospital's tax has been limited and a new gross receipts tax is imposed on ambulatory surgical centers.

The year 2015 was unique in that there were three major pieces of tax legislation. In addition to the Budget Bill and the Budget Implementation Legislation in June, in late December the Legislature adopted further measures in a December Special Session which were intended to address both additional projected deficits for the current fiscal year and concerns from the business community regarding certain provisions that were adopted earlier in the year. To address the business concerns, the General Assembly in the

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[1] This survey covers all of the significant Connecticut tax developments that occurred in 2015. In addition, some of the more important Connecticut tax developments in 2014 will also be discussed.

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December Special Session adopted a new cap on the additional tax that a combined group would have to pay under the new combined unitary reporting regime (when compared to the current separate return regime), increased flexibility in the use of certain tax credits, and an exclusion form the Connecticut personal income tax for nonresident employees who render personal services in Connecticut, but are in the state no more than 15 days during the calendar year.

I. Corporation Business Tax

A. *Legislation*[3]

Corporate Income Tax Surcharge Extended. The current 20% surcharge on the corporation business tax, that was to be applicable only to income years commencing prior to January 1, 2016, is extended for two additional years, through income years commencing prior to January 1, 2018. For the income year commencing on or after January 1, 2018 and prior to January 1, 2019, the surcharge will be 10%. As under current law, the surcharge is calculated based upon the tax liability of the corporation, excluding any credits, whether calculated based upon the corporation's net income or capital base, and is imposed on the corporation unless either (i) the tax liability of the corporation is equal to $250 (i.e., the minimum tax) or (ii) the annual gross income of the corporation is less than $100 million. The $100 million annual gross income exemption is not available to a corporation that files a combined return or a unitary return (with respect to income years commencing prior to January 1, 2016), or a combined unitary tax return (for income years commencing on or after January 1, 2016).[4]

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[3] For a Department of Revenue Services ("DRS") Summary of 2015 legislative changes to the corporate business tax, See SN 2015(9), *2015 Legislative Changes Affecting the Corporate Business Tax.*

[4] Conn. Gen. Stat. §§12-214(b) and 12-219(b), as amended by P.A. 15-244, §§83-84 (*effective June 30, 2015, and applicable to income years commencing on or after January 1, 2015*); as further amended by P.A. 15-5 (June Spec. Sess.), §139 (effective June 30, 2015), and §§140-141 (*effective January 1, 2016, and applicable to income years commencing on or after said date*).

Combined Unitary Tax Reporting Adopted. Effective for income years commencing on or after January 1, 2016, a "combined group" with a member subject to the Connecticut corporation business tax must file a combined unitary tax return. Initially, the combined unitary reporting rules were to be effective for income years commencing on or after January 1, 2015, however, shortly after passage, the effective date was deferred one year to January 1, 2016. In addition, the Legislature, in the December Special Session, in response to complaints from the business community, made several significant changes to the unitary reporting rules.[5]

The new unitary reporting rules will apply to a "combined group", which is defined as a group of companies that have "common ownership" and are engaged in a "unitary business."

"Common ownership" means that more than 50% of the voting control of each member of the combined group is directly or indirectly owned by a common owner or owners, either corporate or noncorporate, whether or not the owner or owners are members of the combined group.

A "unitary business" means a single economic enterprise that is made up either of separate parts of a single business entity or of a group of business entities under common ownership, "which enterprise is sufficiently interdependent, integrated or interrelated through its activities so as to provide mutual benefit and produce a significant sharing or exchange of value among such entities, or a significant flow of value among the separate parts."

The combined group has the option of determining its members' net income, capital base and apportionment fac-

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[5] CONN. GEN. STAT. §§12-213(a), 12-214, 12,-217, 12-217n(b), 12-217t(e), 12-217u(l), 12-217gg(c), 12-217gg(h), 12-218, 12-218b, 12-218c(c), 12,218d(d), 12-219, 12-219a, 12-221a, 12-222, 12-223a, 12-223b, 12-223c, 12-223e, 12-223f, 12-242d and 38a-88a, as amended and supplemented by P.A. 15-244, §§138-163 (*effective from passage, and applicable to income years commencing on or after January 1, 2015*), as further amended by P.A. 15-5 (June Spec. Sess.), §139 (*effective June 30, 2015*), and §§142-153 (*effective January 1, 2016, and applicable to income years commencing on or after said date*), as further amended by December Special Session (hereafter the "December Special Session"), P.A. No. 15-1 §§ 36-37 (*effective January 1, 2016, and applicable to income years commencing on or after said date*) and §§ 39 (*effective December 29, 2015*).

tors on a world-wide basis or an affiliated group basis, but an election of either reporting method is binding for the income year in which it is made and the following ten years. If the combined group does not elect to report on a world-wide basis or an affiliated group basis, it must determine the net income, capital base and the apportionment factors of each of its taxable members on a "water's-edge basis." Under the legislation, the use of the water's-edge basis may require the inclusion of the net income, capital base and apportionment factors of the nontaxable members of the combined group under certain circumstances, including if they are incorporated in a jurisdiction that is determined by the Commissioner of Revenue Services to be a "tax haven" as defined under the law (unless it is proven to the satisfaction of the Commissioner that the member is incorporated in a tax haven for a legitimate business purpose). The "tax haven" definition was modified during the December Special Session to provide that a tax haven will not include a jurisdiction that has entered into a comprehensive tax treaty with the United States and has been deemed satisfactory by the Internal Revenue Service.

Special rules are provided for the calculation of the combined group's net income or loss, capital base and apportionment factors, the use of net operating losses, and the application of tax credits. In the December Special Session, the General Assembly clarified that the consolidated return principles contained in Internal Revenue Code Section 1502 are to apply "to the extent consistent" with the Connecticut combined group membership and combined unitary reporting principles.

In addition, special rules are provided for the ability of certain publicly-traded companies to offset any increase in their members' net deferred tax liability, a decrease in their net deferred tax asset or an aggregate change from a net deferred tax asset to a net deferred tax liability resulting from the newly imposed unitary reporting requirements (any resulting net deferred liability deduction is taken over the seven-year period commencing in the 2018 income year). In order to claim such deduction, the statute provides that a

required statement must be filed with the DRS claiming the deduction by July 1, 2017. The DRS is to issue the forms and instructions on how to file such a statement. Failure to file the statement will result in a loss of the deduction.

During the December Special Session, the General Assembly amended the combined unitary reporting provisions to provide that the tax calculated for a combined group on a combined unitary basis, prior to the surtax and the application of credits, may not exceed the "nexus combined base tax" by more than 2.5 million dollars. The nexus combined base tax is the tax measured on the sum of the separate net income or loss (or the minimum tax base) of each taxable member as if it was not required to file a combined unitary tax return (with certain eliminations and adjustments).[6]

Limitation on Utilization of Net Operating Losses. Prior to 2015, a corporation that incurred a net operating loss ("NOL") for an income year (i.e., an excess of allowable deductions over gross income for the income year) would carry forward the NOL for up to 20 years and thereby reduce its tax liability in those years until the NOL is used in its entirety. Under new legislation, for income years commencing on or after January 1, 2015, the portion of the NOL for an income year (the "Loss Year") which may be deducted in any future income year is limited to the lesser of (i) 50% of the net income of such year (or 50% of the net income apportioned to Connecticut if the corporation apportions its income to multiple states) or (ii) the excess, if any, of such NOL over the NOL being carried forward from income years prior to such Loss Year.[7] During the June Special Session, the Connecticut General Assembly enacted an alternative NOL rule for combined groups with unused operating losses

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[6] On March 2, 2016, the DRS issued SN 2016(1) which contains a very extensive (thirty pages) analysis on the new Combined Unitary Legislation. For an earlier summary of the provisions and other changes to the unitary reporting method made in the December Special Session, along with a summary of other changes made in the December Special Session, see SN 2015(11), *Legislation Passed in December Special Session*.

[7] CONN. GEN. STAT. §12-217(a)(14), as amended by P.A. 15-244, §87 *(effective June 30, 2015)*.

in excess of $6 billion from income years beginning prior to January 1, 2013. If such a combined group elects to relinquish 50% of its unused NOLs from tax years prior to the tax year commencing on or after January 1, 2015, and before January 1, 2016, the combined group may use the remaining NOL carry-over to reduce the combined group's tax in any income year commencing on or after January 1, 2015, prior to the surtax and the application of credits, to $2.5 million. Such an election must be made on the tax return for the tax year which begins on or after January 1, 2015, and before January 1, 2016. NOLs generated in tax years beginning on or after January 1, 2015 are subject to the 50% of net income limit on the use of NOLs imposed by Public Act No. 15-244.[8]

Apportionment Formula. Effective for income years commencing on or after January 1, 2016, the general formula for the apportionment of the net income of a corporate taxpayer taxable in Connecticut and elsewhere has been changed from a three-factor formula (property, payroll and double-weighted gross receipts) to a single-factor formula based solely on the taxpayer's gross receipts from sales or other sources. Manufacturers which derive a minimum of 75% of their gross receipts from the direct or indirect sale of tangible personal property to the United States government may continue to elect to use the old three-factor formula. The current special apportionment formulae for manufacturers, financial service companies, broadcasters and other taxpayers remain unchanged.[9]

B. *Administrative Pronouncements*

Financial Service Income. In DRS Ruling No. 2015-1, the DRS ruled that a corporation is a "financial services company"

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[8] CONN. GEN. STAT. §12-217(a)(14), as further amended by P.A. 15-5 (June Spec. Sess.), §482 *(effective June 30, 2015)*.

[9] CONN. GEN. STAT. §12-218, as amended by P.A. 15-244, §149 (*effective December 29, 2015 and applicable to income years commencing on or after January 1, 2015*), as further amended by P.A. No. 15-5 (June Spec. Sess.), §140 (*effective July 1, 2015*), as further amended by P.A. 15-1 (December Spec. Sess.), §40 (*effective January 1, 2016, and applicable to income years commencing on or after January 1, 2016*).

under General Statutes Section 12-218b(a)(6)(J)(i) if it derives all of its income from its distributive shares of the gross income from partnerships that, in turn, derive all of their gross income from financial service activities.

Estimated Payment Relief. In DRS Special Notice 2015(9), 2015 *Legislative Changes Affecting the Corporation Business Tax*, the DRS announced a procedure by which a corporation may seek relief from an assessment of interest due to an underpayment of 2015 Connecticut corporation business estimated tax payments to the extent the underpayment of 2015 estimated tax is the direct result of the 2015 tax law changes. To obtain such relief, the corporation must file with the DRS a written explanation describing the manner in which the tax law changes resulted in the underpayment, together with all documentation supporting such explanation. The written explanation must be sent to the DRS at the address provided in the Special Notice by the due date, or extended due date, of the corporation's 2015 Connecticut corporation business tax return.

II. Personal Income Tax

A. *Legislation*[10]

Individual Marginal Tax Rates Increased. The marginal personal income tax rates have been increased for taxpayers whose taxable income is over certain thresholds. For married people filing jointly, the highest marginal tax rate is increased from 6.7% to (i) 6.9% on taxable income in excess of $500,000, and (ii) 6.99% on taxable income in excess of $1 million. For single and married filing separately taxpayers, the highest marginal tax rate is increased from 6.7% to (i) 6.9% on taxable income in excess of $250,000, and (ii) 6.99% on taxable income in excess of $500,000. For heads of household filers, the highest marginal tax rate is increased from 6.7% to (i) 6.9% on taxable income in excess of $400,000, and (ii) 6.99% on taxable income in excess of $800,000. The pro-

[10] For additional information regarding the 2015 legislative changes to the Personal Income Tax, see SN 2015(7), *2015 Legislative Changes Affecting the Income Tax*.

visions that phase out the tax benefit of the lower marginal rates, through a recapture of the tax benefit as adjusted gross income increases over certain thresholds, are adjusted to reflect the new marginal tax rates of 6.9% and 6.99%.[11] During the June Special Session, the General Assembly enacted a provision that provides relief for individuals from the statute (General Statutes Section 12-722) that requires the accrual of interest in the case of any underpayment of estimated tax to the extent that the underpayment was created by Public Act No. 15-244 (e.g., the increase in the highest marginal tax rates).[12] Since the adoption of the new tax rates, the Department of Revenue Services has published Information Publication 2015(1.1) which contains new withholding tables for employers based on these tax law changes.

Tax Rate for Trusts and Estates. The flat Connecticut income tax rate for trusts and estates is increased from 6.7% to 6.99%.[13]

Nonresident Partner/Member/Shareholder Withholding. Under current law, the required rate of withholding on the Connecticut source income of nonresident partners of a partnership, members of a limited liability company and shareholders of a Subchapter S corporation is the highest marginal income tax rate. Accordingly, the adoption of a new highest marginal tax rate of 6.99% results in the increase in the rate of withholding on Connecticut source income from 6.7% to 6.99% effective January 1, 2015.

Reduction in Property Tax Credit. The amount and the availability of the property tax credit against the personal income tax have been limited. First, effective with the 2016 tax year, the maximum credit available has been reduced from $300 to $200. Second, the adjusted gross income thresholds at which the maximum property tax credit starts

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[11] CONN. GEN. STAT. §12-700(a), as amended by P.A. 15-244, §66 (*effective June 30, 2015, and applicable to taxable years commencing on or after January 1, 2015*).

[12] P.A. 15-5 (June Spec. Sess.), §435 (*effective June 30, 2015*).

[13] CONN. GEN. STAT. §12-700(a), as amended by P.A. 15-244, §66 (*effective June 30, 2015, and applicable to taxable years commencing on or after January 1, 2015*).

to phase out are reduced: (i) for single filers from $64,500 to $47,500 in 2015, and $49,500 in 2016 and thereafter; (ii) for married taxpayers filing separately from $50,250 to $35,250 in 2015 and thereafter; (iii) for heads of household from $78,500 to $54,500 in 2015 and thereafter; and (iv) for married taxpayers filing jointly from $100,500 to $70,500 in 2015 and thereafter.[14]

Delay in Single Filer Tax Relief. The following income tax relief provisions for single filers that were to have gone into effect for the 2015 tax year will now go into effect for the 2016 tax year: (i) the increase in the maximum personal exemption from $14,500 to $15,000 (and the increase in the threshold at which the personal exemption begins to gradually phase out from $29,000 to $30,000); and (ii) the increase in income ranges that allow single filers to qualify for personal credits against their income tax (from a range of $14,500 to $62,500, to a range of $15,000 to $65,000).[15]

Nonresident Employees. In general, compensation for personal services provided in Connecticut by a nonresident employee is subject to tax in Connecticut. Effective for taxable years commencing on or after January 1, 2016, a new exclusion is adopted for nonresident income for personal services rendered in Connecticut when the nonresident employee spends no more than 15 full or partial days in Connecticut during a calendar year. If, however, the nonresident employee were to spend more than 15 days in Connecticut, then all of the compensation received by the employee for rendering the services in Connecticut shall be taxable in Connecticut. The new exclusion for personal services rendered by a nonresident employee does not apply to sources of income derived by an athlete, entertainer or performing artist, or to sources of income from a business, trade, profession or occupation carried on in Connecticut other than compensation for personal services.[16]

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[14] CONN. GEN. STAT. §12-704c, as amended by P.A. 15-244, §70 (*effective July 1, 2015, and applicable to income years commencing on or after January 1, 2015*).

[15] CONN. GEN. STAT. §§12-702(a)(2)(H) and (I), and 12-703(a)(2)(H) and (I), as amended by P.A. 15-244, §§67-68 (*effective June 30, 2015, and applicable to taxable years commencing on or after January 1, 2015*).

[16] CONN. GEN. STAT. §12-711, as amended by P.A. 15-1 (December Spec. Sess.), §26 (*effective December 29, 2015 and applicable to taxable years commencing on or after January 1, 2016*). See also PS 2015(6), "15-Day" Rule for Nonresident Employees.

Military Retirement Pay Exemption Expanded. The exemption from the Connecticut personal income tax for retirement pay for a retired member of the Armed Forces of the United States (i.e., Army, Navy, Marine Corps, Air Force and Coast Guard) or the Army or Air National Guard is increased from 50% to 100%, commencing with the 2015 tax year.[17]

Earned Income Tax Credit. The increase in the earned income tax credit from 27.5% to 30%, which was to go into effect for the 2015 tax year, has been delayed two years so that the increase will go into effect for the 2017 tax year.[18]

Innocent Spouse Relief. Revisions have been made to the statute that authorizes the Commissioner of Revenue Services to excuse a taxpayer who files a joint tax return from paying taxes, interest and penalties if his or her spouse or former spouse improperly reported or omitted items on their joint tax return. The statute currently establishes three grounds for such relief: (i) innocent spouse relief; (ii) separation of liability relief; and (iii) equitable relief; however, the taxpayer must apply for relief within two years after the Commissioner first attempts to collect the tax. This provision has been amended to: (i) eliminate the two-year deadline for taxpayers applying for equitable relief; and allow, but not require, the Commissioner to adopt regulations necessary to carry out the provision.[19]

Federal Forms W-2. Under current law, an employer required to deduct and withhold Connecticut income tax from the wages of an employee during a calendar year must file with the Commissioner copies of the employer's federal Forms W-2 by the last day of (i) February of the next succeeding year, for employers filing paper returns, and (ii) March of the next succeeding year, for employers filing elec-

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[17] CONN. GEN. STAT. §12-701(a)(20)(B)(xvii), as amended by P.A. 15-244, §65 (*effective July 1, 2015, and applicable to taxable years commencing on or after January 1, 2015*).

[18] CONN. GEN. STAT. §12-704e(e), as amended by P.A. No. 15-244, §69 (*effective June 30, 2015, and applicable to taxable years commencing on or after January 1, 2015*).

[19] CONN. GEN. STAT. §12-702a, as amended by P.A. 15-5 (June Spec. Sess.), §§124-125 (*effective June 30, 2015*).

tronic returns. Under new legislation, effective June 30, 2015 employers will be required to file such copies (and Form CT-W-3, Connecticut Annual Reconciliation of Withholding) with the Commissioner on or before January 31st of the next succeeding year.[20]

Nonresident Income from Connecticut Property. A nonresident individual must now include in the calculation of his or her Connecticut taxable income the gain or loss from the disposition of an interest in a pass-through entity (i.e., a partnership, limited liability company or S corporation) that owns real property located in Connecticut that has a fair market value that equals or exceeds 50% of all of the assets of the entity on the date of the disposition of that interest by the nonresident. The legislation provides further that: (i) when calculating the 50% test, only assets owned by the entity for at least two years prior to the disposition shall be used in the determination of the fair market value of the assets; and (ii) the gain or loss that will be deemed derived from Connecticut sources from the disposition of the entity interest will be the product of (A) the total gain or loss for federal income tax purposes from such disposition multiplied by (B) a fraction, the numerator of which is the fair market value of all real property in Connecticut owned by the entity on the date of disposition, and the denominator of which is the fair market value of all of the assets of the entity on the date of disposition.[21]

Apportionment of Business Income. New legislation modifies how the income of a nonresident individual from a trade, profession or occupation that has receipts from the sale of property shall be apportioned to Connecticut for income tax purposes. In general, if a business is carried on partly within and outside of Connecticut, the proportion of the net amount of items of income, gain, loss and deduction attributable to the business in Connecticut is determined by

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[20] CONN. GEN. STAT. §12-706(b), as amended by P.A. 15-5 (June Spec. Sess.), §126 (*effective June 30, 2015*).

[21] CONN. GEN. STAT. §12-711(b), as amended by P.A. 14-155, §18 (*effective June 11, 2014, and applicable to taxable years commencing on or after January 1, 2014*).

multiplying such net amount by the average of the percentages of property, payroll and gross income in Connecticut. The gross income percentage is to be computed by dividing the gross receipts from sales of property or services earned within Connecticut by the total gross receipts from all sales of property or services (both within and outside of the state). The legislation changes the sourcing rules for sales of property by sourcing the receipts from such sales to Connecticut if the property is delivered or shipped to a purchaser in Connecticut (regardless of the F.O.B. point or other conditions of sale). Gross receipts from sales of services continue to be sourced to Connecticut when the services are performed by an employee, agent, agency or independent contractor chiefly situated at, connected by contract or otherwise, with or sent out from, offices or branches of the business or other agencies or locations in Connecticut.[22]

Nonresident Nonqualified Deferred Compensation. The Connecticut source income of a nonresident individual includes his or her compensation from nonqualified deferred compensation plans attributable to services performed within Connecticut. New legislation provides that Connecticut source income from deferred compensation plans attributable to services performed in Connecticut shall include, but not be limited to, compensation required to be included in federal gross income under Internal Revenue Code Section 457A. The legislation largely codifies into law Section 12-711(b)-19 of the Regulations of Connecticut State Agencies.[23]

Connecticut Fiduciary Adjustment. Effective for taxable years commencing on or after January 1, 2014, new legislation amends the calculation of Connecticut adjusted gross income for purposes of the state income tax paid by trusts and estates. In particular, the Connecticut fiduciary adjustment must now include the amount of any lump sum

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[22] CONN. GEN. STAT. §12-711(c), as amended by P.A. 14-155, §18 (*effective June 11, 2014, and applicable to taxable years commencing on or after January 1, 2014*).

[23] CONN. GEN. STAT. §12-711(a), as amended by P.A. 14-155, §17 (*effective June 11, 2014*).

distribution received during the taxable year to the extent that the distribution is not includable in federal taxable income prior to deductions relating to distributions to beneficiaries.[24]

Angel Investor Tax Credit. The angel investor tax credit program, previously scheduled to sunset on June 30, 2014, is extended to June 30, 2016. The program provides credits against the personal income tax for individuals investing at least $25,000 in start-up, technology-based, Connecticut businesses approved for such credit-eligible investments by Connecticut Innovations, Incorporated ("CII"). The legislation requires CII to review annually the credit program's effectiveness and report both to the Office of Policy and Management ("OPM") and to the Commerce Committee of the General Assembly.[25]

Teacher Retirement System Income. Commencing in 2015, when calculating Connecticut adjusted gross income, an individual will be able to deduct from federal adjusted gross income a portion of the income received by the individual from the state teachers' retirement system. For 2015, the deduction was 10% of such income; for 2016, the deduction is 25% of such income; and for 2017 and each year thereafter, the deduction is 50% of such income.[26]

B. *Case Law*

Income Tax Withholding for Athletes and Entertainers. In Policy Statement 2015(5), issued November 3, 2015, the DRS provided a detailed summary of the requirements for income tax withholding from payments made to performers or performing entities on income derived from Connecticut sources. The Policy Statement provide examples illustrating how the withholding rules apply to designated withholding

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[24] CONN. GEN. STAT. §12-701(a)(10), as amended by P.A. 14-155, §16 (*effective June 11, 2014, and applicable to taxable years commencing on or after January 1, 2014*).

[25] CONN. GEN. STAT. §12-704d, as amended by P.A. 14-47, §51 (*effective May 29, 2014, and applicable to taxable years commencing on or after January 1, 2014*).

[26] CONN. GEN. STAT. §12-701(a)(20)(B), as amended by P.A. 14-47, §50 (*effective July 1, 2015, and applicable to taxable years commencing on or after January 1, 2015*).

agents, performers and performing entities.

Nonqualified Stock Options and Statutory Limitations on Refunds Claims. In *Allen v. Sullivan*,[27] the plaintiff-taxpayers sought a refund of income taxes for the taxable years of 2002, 2006 and 2007, in each case based upon the asserted erroneous reporting of income from the exercise of nonqualified stock options as Connecticut source income. The Tax Session of the Superior Court held that the refund claim for the 2002 tax year was barred by the applicable statute of limitations because it had been filed after April 15, 2006 (the three-year anniversary of the due date for the 2002 tax year). The Court also rejected the taxpayers' argument that the income from the exercise of the nonqualified stock options in 2006 and 2007 should not be considered Connecticut source income because the taxpayers were not residents of Connecticut at the time of the exercise of the options. Rather, the Court found that the options had been granted as compensation to the taxpayer when the taxpayer was employed in, and a resident of, Connecticut, and held that any compensation earned thereby is Connecticut source income even if recognized for income tax purposes later upon exercise when the taxpayer is no longer a Connecticut resident.

Net Operating Loss Treatment. In *Adams v. Sullivan*,[28] the plaintiff taxpayers sought to carryback a net operating loss ("NOL") incurred in 2008 to offset gains reported on their Connecticut personal income tax returns for prior years and obtain a refund of the Connecticut taxes paid for those years. The plaintiffs sought to employ the NOL in the prior years to the full extent of their Connecticut adjusted gross income ("AGI"). The Commissioner countered that the NOL could only be used to offset Connecticut AGI for any prior year to the extent that the NOL was used by the taxpayers to offset federal taxable income for that year. The Tax Session of the Superior Court agreed with the

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[27] HHB No. CV 11 6010197, 2015 Conn. Super. LEXIS 953 (Conn. Super. Ct. Apr. 29, 2015).

[28] HHB No. CV 116011324, HHB No. CV 116011326, HHB No. CV 116011327, 2014 Conn. Super. LEXIS 1818 (Conn. Super. Ct. July 24, 2014).

Commissioner, noting that the lack of Connecticut statutory authority for individuals to deduct NOLs arrived at under federal tax law precluded the taxpayers from deducting NOLs from Connecticut AGI rather than from federal taxable income.

III. Sales and Use Tax

A. *Legislation*[29]

Computer and Data Processing Services. Effective October 1, 2015, the sales and use tax on computer and data processing services is extended to include services rendered in connection with the creation, development hosting or maintenance of all or part of a website which is part of the graphical, hypertext portion of the Internet (i.e., the World Wide Web).[30]

Luxury Tax Rate. The special sales and use tax rate on specified "luxury" items is increased from 7% to 7.75%. The specified "luxury" items are: (i) certain motor vehicles with a sales price exceeding $50,000; (ii) jewelry with a sales price exceeding $5,000; and (iii) an article of clothing or footwear, a handbag, luggage, umbrella, wallet or watch with a sales price exceeding $1,000.[31]

Sales Tax Free Week. The scope of the sales-tax-free

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[29] For a summary of the 2014 and 2015 changes to the sales tax, see SN 2014(3), *2014 Legislative Changes to the Sales and Use Taxes, Room Occupancy Tax, Prepaid Wireless E 9-1-1 Fee and Admissions Tax*, and SN 2015(5), *2015 Legislative Changes to the Sales and Use Tax*.

[30] Conn. Gen. Stat. §12-407(a)(37)(A), as amended by P.A. 15-244, §75 (*effective July 1, 2015, and applicable to sales occurring on or after said date, and to sales of services that are billed to customers for a period that includes July 1, 2015*), as further amended by P.A. 15-5 (June Spec. Sess.), §133 (*effective July 1, 2015, and applicable to sales occurring on or after said date*), §134 (*effective October 1, 2015, and applicable to sales occurring on or after said date*), and §516, repealing P.A. 15-244, §76 (*effective June 30, 2015*). The increase in the sales and use tax rate for computer and data processing services from one percent to two percent and then to three percent, and the adoption of a new exemption for sales to 50% affiliates, were repealed during the June Special Session.

[31] Conn. Gen. Stat. §§12-408(1)(H) and 12-411(1)(H), as amended by P.A. 15-244, §§72-73 (*effective July 1, 2015, and applicable to sales occurring on or after that date*). [Ed. note. The amendment to Conn. Gen. Stat. §12-408(1) during the June Special Session raises some doubt as to the effective date of the increase in the luxury item sales tax rate, but the DRS takes the position that the effective date for the increase of both the luxury item sales tax rate and the luxury item use tax rate is July 1, 2015.]

week that occurs annually commencing with the third Sunday in August has been limited. Under prior law, the exemption was limited to the sale of any article of clothing or footwear that is intended to be worn on or about the human body, the cost of which is less than $300. Effective for 2015, the cost of the article of clothing must be less than $100, and the exemption is expressly not available for: (i) any special clothing or footwear primarily designed for athletic activity or protective use and which is not normally worn except for such an activity or use; and (ii) jewelry, handbags, luggage, wallets, watches and similar items carried on or about the human body but not worn on the body in the manner characteristic of clothing.[32]

Sales Tax Return and Remittance Deadline. Based upon legislative changes adopted in 2014, the due date for the filing of a sales and use tax return and the remittance of sales and use tax is the 20th day of the month immediately following the applicable reporting period. (The applicable reporting period is generally each calendar month or calendar quarter depending upon the amount of sales and use tax paid and collected by the taxpayer.) Effective for reporting periods ending on or after December 31, 2015, the due date will revert back to the last day of the next succeeding month after the monthly or quarterly reporting period.[33] With respect to the time for filing sales tax returns, it is noted that in 2014, legislation was adopted which gave the Commissioner the authority to require a delinquent taxpayer to remit the tax collected during a weekly period (Saturday through Friday) on a weekly basis on or before the next succeeding Wednesday. The delinquent taxpayer, who shall still be required to file monthly or quarterly returns, will be notified by the Commissioner of the requirement to remit tax on a weekly basis (including the manner and method of such requirement) and shall be required to do so for one year from the date set forth in the notice. The Commissioner

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[32] CONN. GEN. STAT. §12-407e, as amended by P.A. 15-244, §71 (*effective July 1, 2015*).

[33] CONN. GEN. STAT. §§12-414(a) and (b), as amended by P.A. 15-5 (June Spec. Sess.), §137 (*effective October 1, 2015, and applicable to periods ending on or after December 31, 2015*).

is not authorized to extend the time for a delinquent taxpayer to make a return or pay any amount.[34]

Car Wash Services. Effective July 1, 2015, car wash services, including coin-operated car washes, are subject to the Connecticut sales and use tax. Car washing services, but excluding coin-operated car washes, were previously taxable during the period from July 1, 1989 through December 31, 1993.[35]

Sales Tax Exemptions Repealed. The following exemptions from the Connecticut sales and use tax have been repealed: (i) sales of clothing and footwear costing less than $50 (which exemption was to go into effect as of July 1, 2015); (ii) sales of non-metered parking in seasonal lots with 30 or more spaces provided by the United States, the state of Connecticut or any of the political subdivisions thereof, or its or their respective agencies, a nonprofit charitable hospital, nursing home, rest home, residential care home, certain acute care for-profit hospitals, or other tax-exempt organizations; (iii) sales of goods or services purchased by a water company in maintaining, operating, managing, or controlling a pond, lake, reservoir, stream, well, or distributing plant or system to supply water to at least 50 customers; and (iv) effective January 1, 2016, the exemption for weatherization products and compact fluorescent light bulbs.[36]

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[34] CONN. GEN. STAT. §§12-414 and 12-432c, as amended by P.A. 14-155, §§14, 19 (*effective October 1, 2014*).

[35] CONN. GEN. STAT. §§12-407(a)(37)(OO), as added by P.A. 15-244, §75 (*effective July 1, 2015, and applicable to sales occurring on or after said date, and to sales of services that are billed to customers for a period that includes July 1, 2015*), as further amended by P.A. 15-5 (June Spec. Sess.), §136 (*effective July 1, 2015, and applicable to sales occurring on or after said date*). For further information, see SN 2015(4), *Sales and Use Taxes on Car Washes*.

[36] CONN. GEN. STAT. §12-412(119), as repealed by P.A. 15-244, §222 (*effective July 1, 2015*); CONN. GEN. STAT. §12-407(a)(37)(N), as amended by P.A. 15-244, §75 (*effective July 1, 2015, and applicable to sales occurring on or after said date, and to sales of services that are billed to customers for a period that includes July 1, 2015*), as further amended by P.A. 15-5 (June Spec. Sess.), §135 (*effective July 1, 2015, and applicable to sales occurring on or after said date*); CONN. GEN. STAT. §12-412(5), as amended by P.A. 15-244, §77 (*effective July 1, 2015*); CONN. GEN. STAT. §12-412(90), as repealed by P.A. 15-244, §222 (*effective July 1, 2015*); CONN. GEN. STAT. §12-412k, as repealed by P.A. 15-1 (December Spec. Sess.), §49 (*effective January 1, 2016, and applicable to sales occurring on or after said date*).

Nonprescription Drugs and Medicines. Effective for sales occurring on or after April 1, 2015, the Legislature reinstated a sales and use tax exemption for sales of certain nonprescription drugs and medicines for use in or on the body, including: vitamin or mineral concentrates; dietary supplements; natural or herbal drugs or medicines; products intended to be taken for coughs, cold, asthma or allergies, or antihistamines; laxatives; antidiarrheal medicines; astringents; anesthetics; steroidal medicines; anthelmintics; emetics and antiemetics; antacids; and any medication prepared to be used in the eyes, ears or nose. The exemption expressly does not include cosmetics, dentifrices, mouthwash, shaving and hair care products, soaps or deodorants. An identical exemption was repealed in 2011.[37]

B. *Administrative Pronouncements*

Board and Employee Search, Assessment, Compensation and Other Services. In DRS Ruling 2015-2, the DRS evaluated the application of the Connecticut sales and use tax to a wide variety of services provided by a consulting firm and ruled that: (i) executive search services and middle-management search services are subject to the sales and use tax as services by employment agencies under General Statutes Section 12-407(a)(37)(C), but not Board search services because there is no intention to create an employer-employee relationship; (ii) executive assessment services, Board effectiveness assessments, assignment study services, CEO succession services, post-merger integration services, compensation study services, cultural assessment services, organization design services and team effectiveness services are subject to the sales and use tax as business analysis or business management consulting services relating to human resource management under General Statutes Section 12-407(a)(37)(J); (iii) coaching services are subject to sales and use tax only if the coaching directly pertains to the

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[37] CONN. GEN. STAT. §12-412(120), as added by P.A. 14-47, §48 (*effective July 1, 2014, and applicable to sales occurring on or after April 1, 2015*). For further information, see SN 2015(1), *Sales and Use Tax Exemption for Nonprescription Drugs and Medications*.

employee's job skills, such as coaching to complete a specific job-required presentation, as opposed to training services that are indirectly related to an employee's job skills; and (iv) convening services, involving the facilitating and hosting of meetings for executives, are not taxable because they do not include any analysis, recommendations, advice or assistance to clients.

Cancer Treatment Product. In DRS Ruling 2015-3, the DRS considered the application of the Connecticut sales and use tax to a private company's sale of a product that uses low-intensity, alternating electric fields to treat adult patients with confirmed glioblastoma multiforme (an aggressive brain tumor). The DRS ruled that sales of the product, which is only available by prescription, are exempt from Connecticut sales and use tax under General Statutes Section 12-412(19) because it is equipment used in support of vital life functions.

Food Products; Kombucha. In DRS Ruling 2015-4, the DRS ruled that sales of Kombucha, a carbonated tea beverage that is marketed as a "functional food," are subject to sales and use tax because carbonated beverages are specifically excluded from the exemption for food products for human consumption set forth in General Statutes Section 12-412(13).

Streaming Digital Content. In DRS Ruling 2015-5, the DRS ruled that recurring fees charged for the ability to stream digital content over the Internet is a taxable sale of computer and data processing services. The DRS noted that computer and data processing services include "retrieving or providing access to information" under Conn. Agencies Regulations §12-426-27(b)(1). As such, services providing access to digital content are taxable as computer and data processing services.

Sales to Foreign Missions and Mission Personnel. In PS 2015(1.1), the DRS explains the circumstances under which sales made to foreign missions and mission personnel are exempt from Connecticut sales tax.

C. *Case Law*

Municipal Refuse Removal. In *Groton v. Commissioner*,[38] the Town of Groton appealed a sales tax assessment imposed against it based upon the fees the Town charged for refuse removal services provided to industrial, commercial and income-producing real properties. The fees charged by the Town were based upon: (i) the pass through of charges imposed on the Town by (A) a private trash hauler to collect and dispose of the refuse and (B) the regional resource recovery authority to accept disposal of the refuse at the Preston waste-to-energy facility; and (ii) an amount to reimburse the Town for its actual administrative costs. The Supreme Court sustained the appeal and invalidated the assessment, finding that the requisite consideration did not exist to sustain the imposition of the sales tax. The Court held that the Town functioned as a mere conduit between the end users and the trash haulers and regional authority, and that the Town's fee structure was simply an attempt to consolidate and fund the important governmental function of sanitation.

IV. Tax Credits

A. *Legislation*

Tax Credit Limitation. For any income year commencing on or after January 1, 2002, and prior to January 1, 2015, current law limits the amount of tax credit or credits otherwise allowable against the Connecticut corporation business tax due for an income year to not more than 70% of the amount of tax due for that income year prior to the application of such credit or credits. New legislation further limits the use of tax credits for any income year on or after January 1, 2015, such that their use may not exceed 50.01% of the tax due for the income year prior to the application of such credit or credits. During the December Special Session, the General Assembly further amended the limitation to permit a taxpayer, starting with income years on or after

[38] 317 Conn. 319, 118 A.3d 37 (2015).

January 1, 2016, to use "excess credits" to further reduce its tax due. "Excess credits" are the following tax credits to the extent they remain available after the application of the 50.01% limitation: the research and experimental expenditures tax credit; the rolling research and development tax credit; and the urban and industrial site reinvestment tax credit. The aggregate amount of tax credits and excess credits allowable shall not exceed 55% of the amount of tax due for 2016, 60% of the amount of tax due for 2017, 65% of the amount of tax due for 2018, and 70% of the amount of tax due for 2019 and each year thereafter.[39]

Insurance Premium Tax Credit Limit. As part of 2013 legislation, the Connecticut General Assembly enacted a temporary limitation on the use of tax credits to reduce a taxpayer's liability for the insurance premium tax or subscriber charge tax. The structure of the limitation is such that: (i) each of the tax credits available to a taxpayer is classified as one of three types; (ii) it specifies the order in which a taxpayer must apply the credits to offset its tax liability; and (iii) it establishes the maximum liability that a taxpayer can offset by claiming one or more of these types of credits. The "temporary" limitation, which was to be effective only for the 2013 and 2014 calendar years, is made effective additionally for the 2015 and 2016 calendar years.[40]

Film Production Tax Credit Moratorium. As part of the 2013 legislative session, the General Assembly imposed a moratorium for the state fiscal years ending on June 30, 2014 and June 30, 2015, on the issuance of any tax credit for a motion picture that was not a designated state-certified production prior to July 1, 2013. An exemption from the two-year moratorium was established for any motion picture for which 25% or more of the principal shooting days are in Connecticut at a facility that receives not less than

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[39] CONN. GEN. STAT. §12-217zz, as amended by P.A. 15-244, §88 (*effective June 30, 2015*), as further amended by P.A. 15-1 (December Spec. Sess.), §29 (*effective December 29, 2015*).

[40] CONN. GEN. STAT. §12-211a(a), as amended by P.A. 15-244, §85 (*effective June 30, 2015, and applicable to calendar years commencing on or after January 1, 2015*), as further amended by P.A. 15-1 (December Spec. Sess.).

$25 million in private investment and opens for business on or after July 1, 2013. During the 2015 legislative session, the General Assembly extended the moratorium, subject to the same exemption, for the state fiscal years ending June 30, 2016, and June 30, 2017.[41] The General Assembly also amended the film production tax credit provisions to provide that all or part of any tax credit arising from a tax credit voucher issued on or after July 1, 2015, shall be claimed for the income year in which the production expenses or costs were incurred, or in the five immediately succeeding income years. Under prior law, tax credits authorized after January 1, 2006, had to be claimed in the year in which the expenses occurred or in the three immediately succeeding income years.[42]

Hospitals Tax Credit Limitation. New legislation limits the amount of tax credit or credits otherwise allowable against the hospitals tax due for a calendar quarter commencing on or after July 1, 2015, and prior to January 1, 2015, to an amount that does not exceed 50.01% of the amount of tax due for such calendar quarter prior to the application of such credit or credits. This limitation is increased to 55% of the amount of tax due for each calendar quarter during 2016, and then increased an additional 5% each year thereafter until 2019, when the tax credit limit is set at 70% for that year and all years thereafter.[43]

Connecticut Insurance Reinvestment Fund Credit. Under current law, a non-transferrable credit is available against the insurance premiums tax for taxpayers who make cash investments in a state-approved insurance reinvestment fund that fully funds the purchase price of (i) an equity interest in the fund, or (ii) an eligible debt instrument issued by the fund for at least par value that has a

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[41] CONN. GEN. STAT. §12-217jj(a)(3)(A), as amended by P.A. No. 15-244, §86 (*effective June 30, 2015*).

[42] CONN. GEN. STAT. §12-217jj(f), as amended by P.A. 15-5 (June Spec. Sess.), §431 (*effective June 30, 2015*).

[43] CONN. GEN. STAT. §12-263b, as amended by P.A. 15-244, §89 (*effective July 1, 2015*), as further amended by P.A. 15-1 (December Spec. Sess.), §30 (*effective December 29, 2015 and applicable to calendar quarters commencing on or after January 1, 2016*).

maturity date of at least five years. The insurance reinvestment tax credit provisions are amended to change the name of insurance reinvestment funds to invest CT funds and to: (i) increase the aggregate cap on credits available under the program from $200 million to $350 million (but not to change the annual cap of $40 million); (ii) increase the amount of investments that a fund must obtain from sources other than insurers by providing that such non-insurer capital must be equal to no less than 5% of the total amount of eligible capital to be invested in the invest CT fund on or before June 30, 2015, and that such non-insurer capital must be equal to no less than 10% of the total amount of eligible capital to be invested in the invest CT fund on or after September 1, 2015; (iii) increase from 3% to 7% the amount a fund must invest in preseed businesses for funds seeking certifications or credit allocations on or after September 1, 2015 (but extending the deadline for the achievement of that goal from three to four years); (iv) expand the investment targets of funds certified on or after September 1, 2015, to include the requirements that 25% of the funds must be invested in businesses located in municipalities with over 80,000 people, and at least 3% in cybersecurity businesses; (v) with respect to investments of eligible capital made on or after September 1, 2015, delay the ability of an insurer to claim the credit from the fourth year to the sixth year; (vi) for allocation dates of September 1, 2015 or later, delay from the fourth year to the sixth year when a fund must have invested at least 60% of its credit-eligible capital in eligible businesses; (vii) for funds certified after September 1, 2015, add conditions a fund must meet before it can distribute returns; and (viii) for funds receiving credit allocations on or after September 1, 2015, extend the period when the state may decertify a fund and cause it to forfeit future unclaimed credits.[44]

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[44] CONN. GEN. STAT. §38a-88a, as amended by P.A. 15-244, §§163 and 171 (*effective July 1, 2015*), and as further amended by P.A. 15-5 (June Spec. Sess.), §153 (*effective January 1, 2016, and applicable to income years commencing on or after said date*). [Ed. note. The amendments to the credit provisions seemingly contain a number of ambiguities that need to be addressed, including the rules applicable to certain invest CT fund actions if they should occur between June 30, 2015 and September 1, 2015.]

Enterprise Zone Tax Credit. A tax credit currently is available for a "qualifying corporation" that is created in an enterprise zone and employs a required number of Workforce Investment Act (WIA)-eligible residents of the enterprise zone. The required number of WIA-eligible residents of the enterprise zone that need to be employed by a "qualifying corporation" has been lowered for a corporation that is primarily engaged in bioscience, clean technology or cybersecurity technology and that is created on or after July 1, 2015 in an enterprise zone.[45]

Manufacturing Apprenticeship Tax Credit. Effective July 1, 2015, new legislation extends the availability of the current credit against the corporation business tax for the conduct of a qualified apprenticeship training program in the manufacturing trade to S corporations, limited liability companies, limited liability partnerships and limited partnerships, and makes the credit transferable by such entities. The ability to transfer the credits is necessary for pass-through entities as the credits are only applicable against the corporation business tax. Effective for tax periods commencing on or after January 1, 2016, the manufacturing apprenticeship tax credit may be used to offset taxes additionally imposed under Chapter 212 and Chapter 227, the utility company tax and the sale of petroleum products gross earnings tax, respectively.[46]

Certified Historic Structure Rehabilitation Tax Credit. Effective January 1, 2014, a new tax credit program was adopted, which applies to the rehabilitation of any "certified historic structure" for (i) residential use of five units or more, (ii) mixed residential and non-residential use or (iii) non-residential use consistent with the historic character of such property or the district in which it is located. The

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[45] CONN. GEN. STAT. §12-217v, as amended by P.A. 15-1 (December Spec. Sess.), §35 (*effective December 29, 2015 and applicable to taxable years commencing on or after January 1, 2017*).

[46] CONN. GEN. STAT. §12-217g(a), as amended by P.A. 14-217, §251 (*effective July 1, 2015, and applicable to income years commencing on or after January 1, 2015*). CONN. GEN. STAT. §12-217g(a), as amended by P.A. 15-1, §28 (*effective January 1, 2016, and applicable to taxable and income years commencing on or after January 1, 2016*).

amount of the tax credit that a taxpayer can seek to be reserved is 25% of the projected qualified rehabilitation expenditures (or 30% if it satisfies certain affordable housing requirements). The credits may be applied against the insurance premium, corporation business, air carrier, railroad company, cable and satellite television and hospital taxes. The amount of tax credits that may be reserved in any one year is capped at $31.7 million, and the tax credits for any one project are capped at $4.5 million.[47]

Manufacturing Reinvestment Account Program. Significant changes to the Manufacturing Reinvestment Account Program have been made. In general terms, the Program extends to a select number of small manufacturers chosen by the DECD, a tax break, from both the corporation business tax and the personal income tax, for up to a maximum amount invested by such a manufacturer and withdrawn for qualifying purposes, such as capital investments and the training of employees. The changes made by the legislation include: (i) reducing the number of manufacturers that may participate in the program from 100 to 50; (ii) increasing the maximum number of employees a qualifying manufacturer may have from 50 to 150; and (iii) increasing the amount of the exemption from tax from 50% to 100% of the qualifying withdrawals made by a participating manufacturer.[48]

V. Estate and Gift Tax

A. *Legislation*

Cap on Estate and Gift Taxes. The combined Connecticut estate and gift taxes payable by decedents dying on or after January 1, 2016, and gift taxes paid with respect to gifts made on or after January 1, 2015, is now limited to $20 million. In addition, the $20 million cap is reduced by gift taxes

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[47] Conn. Gen. Stat. §§8-37lll, 10-416a and 10-416b, as amended by P.A. 14-217, §§165-168 (*effective July 1, 2014, and applicable to income years commencing on or after January 1, 2014*).

[48] Conn. Gen. Stat. §32-9zz, as amended by P.A. 14-69, §1 (*effective July 1, 2014*); Conn. Gen. Stat. §§12-213(a)(9) and 12-701(a)(20), as amended by P.A. 14-69, §2-3 (*effective July 1, 2014, and applicable to taxable years commencing on or after January 1, 2014*).

paid on post January 1, 2016 gifts made by a decedent, a decedent's estate or a decedent's spouse, with respect to gifts made by the decedent which are included in the decedent' s taxable estate.[49]

Double Taxation Relief. Effective for estates of those decedents dying after January 1, 2015, the definition of "Connecticut taxable estate" is modified to exclude property that is also included in the Connecticut taxable estate as a lifetime gift. The legislation also provides a credit for any Connecticut gift taxes paid with respect to such gifts. This legislation corrects an anomaly under prior law that essentially taxed twice certain types of assets, such as transfers with a retained life estate. The new legislation makes the correction by (i) excluding from the definition of "Connecticut taxable estate" Connecticut taxable gifts that are otherwise included in the gross estate for federal estate tax purposes, and (ii) providing a credit for Connecticut gift tax paid by the taxpayer or the taxpayer's spouse for Connecticut taxable gifts when such gift tax is otherwise included in the decedent's gross estate.[50]

B. *Case Law*

Estate Taxation of QTIP Trusts. In two cases involving different decedent's estates but similar Connecticut estate tax issues, the Tax Session of the Superior Court rejected executor arguments that the value of qualified terminable interest in property ("QTIP") marital trusts should not be included in the taxable estates of the surviving spouses for whom the trusts were created. Consequently, the Court granted the Commissioner's motion for summary judgment in both cases. Specifically, the plaintiff executors, in *Estate of Helen Brooks vs. Sullivan*,[51] argued that the value of a trust created for

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[49] CONN. GEN. STAT. §§12-391(d) and (e), as amended by P.A. 15-244, §174 (*effective from passage, and applicable to estates of decedents dying on or after January 1, 2016*); CONN. GEN. STAT. §12-642(c), as added by P.A. 15-244, §175 (*effective June 30, 2015, and applicable to gifts made during calendar years commencing on or after January 1, 2015*).

[50] CONN. GEN. STAT. §12-391(c) and (d), as amended by P.A. 14-155, §11 (*effective June 11, 2014*).

[51] HHB No. CV 136021058, 2015 Conn. Super. LEXIS 950 (Conn. Super. Ct. April 29, 2015).

the benefit of Mrs. Brooks by her late husband, for which her late husband's executor made a federal QTIP (qualified terminable interest in property) election so as to qualify the trust for the federal estate tax marital deduction, should not be included in the Connecticut taxable estate of Mrs. Brooks as she did not "own" the property at her death. The executors argued that prior to a 2013 amendment, General Statutes Section 12-391(d)(3) provided that Connecticut had the jurisdiction to tax only intangible personal property "owned by" a Connecticut resident decedent. The executors further contended that, because Mrs. Brooks did not "own" the assets of the marital trust, Connecticut did not have the jurisdiction to impose Connecticut estate tax on those assets. The Court rejected that argument, finding that the plaintiff's reliance on the 2013 statutory change which now refers to assets "included in the gross estate of the decedent" was clarifying in nature, not a substantive change in the law and, therefore, should be applied retroactively. The Court also noted that General Statutes Section 12-391(c)(1) defines the Connecticut taxable estate by reference to the federal gross estate which includes the marital trust. Similarly, in *Terrell vs. Sullivan*,[52] the Court rejected the executor's argument that the assets of a marital trust for the benefit of the surviving spouse decedent should not be included in the decedent's Connecticut taxable estate because the succession tax previously had been imposed on the value of the remainder of the trust, and the decedent surviving spouse did not "own" those assets for purposes of General Statutes Section 12-391(d)(3).

VI. Property Tax

A. *Legislation*

Motor Vehicles. Commencing with the October 1, 2015 assessment year, any municipality or district may establish a mill rate for motor vehicles that is different from the mill

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[52] HHB No. CV 136020308, 2015 Conn. Super. LEXIS 978 (Conn. Super. Ct. April 29, 2015).

rate for real property, but the mill rate for motor vehicles, regardless of whether there is a different mill rate for real property, cannot exceed (i) 32 mills for the October 1, 2015 assessment year; and (ii) 29.36 mills for each assessment year thereafter.[53] The legislation further limits the motor vehicle mill rate special taxing districts and boroughs may impose by barring them from setting a rate that, if combined with the motor vehicle mill rate of the municipality in which it is located, would exceed the foregoing mill rate caps.[54]

Health System Property. New legislation authorizes the limited municipal taxation of certain real and personal property of a "health system", as defined in General Statutes Section 19a-508c, if the health system had, for the fiscal year ended September 30, 2013, net patient revenue from facilities located within Connecticut of at least $1.5 billion. The property subject to municipal property taxation is: (i) real property that is acquired by the health system on or after October 1, 2015, that (A) at the time of acquisition was subject to municipal property taxation, and (B) is not within a "campus", as defined in General Statutes Section 19(a)-508c(a)(2); and (ii) any personal property incident to the rendering of health care services at such real property. Although a "health system" may be a hospital, the new law provides that all municipal property taxes imposed pursuant to the provision are to be "liabilities of, and paid by, the health system, and shall not be paid by a hospital or other entity affiliated with such system."[55] A second provision then validates, for property tax purposes, the acts and proceedings of a municipality's officers and officials concerning the tax treatment of health system property on the 2014 grand list and prior lists, and provides that each municipality shall continue to treat such real or personal

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[53] CONN. GEN. STAT. §12-71e, as added by P.A. 15-244, §206 (*effective October 1, 2015, and applicable to assessment years commencing on or after October 1, 2015*).

[54] CONN. GEN. STAT. §12-122a, as amended and supplemented by P.A. 15-244, §§206 and 208 (*effective October 1, 2015, and applicable to assessment years commencing on or after October 1, 2015*).

[55] CONN. GEN. STAT. §12-66a, as added by P.A. 15-5 (June Spec. Sess.), §238 (*effective June 30, 2015, and applicable to assessment years commencing on or after October 1, 2015*).

property as taxable or not taxable, as the case may be, in subsequent tax years.[56] Finally, existing law, that permits a municipality to enter into an agreement to fix the real property tax assessment attributable to improvements made to real property has been amended to include improvements for use by or on behalf of a health system.[57]

Student Housing. Notwithstanding any statute or special act which provides an exemption from taxation of real or personal property held by or on behalf of a private nonprofit institution of higher learning, a new statutory provision generally will subject to municipal property taxation, for assessment years commencing on and after October 1, 2015, "residential real property," except a "dormitory," intended for use or used as student housing. "Residential real property" is defined as any house or building, or portion thereof, which is rented, leased or hired out to be occupied as a home or resident of one or more students. A "dormitory" is defined as a building containing living or sleeping facilities consisting of 20 or more beds intended for use or used as student housing and maintained by a private nonprofit institution of higher learning as defined in General Statutes Section 12-20a. The provision continues to exempt from such municipal taxation real and personal property exempt from taxation under General Statutes Section 12-81(8) (i.e., certain property of seven educational institutions, including Connecticut College, Trinity College, Wesleyan College and Yale College).[58]

Municipal Tax Collection. The statutes governing the collection of municipal taxes have been amended in a number of ways, including: (i) requiring a municipality to follow the written instructions of a taxpayer who is liable for taxes on more than one property as to which property or properties a specific payment shall be applied; (ii) eliminating the

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[56] CONN. GEN. STAT. §12-666, as added by P.A. 15-5 (June Spec. Sess.), §239 (*effective June 30, 2015*).

[57] CONN. GEN. STAT. §12-65b, as amended by P.A. 15-5 (June Spec. Sess.), §240 (*effective June 30, 2015*).

[58] CONN. GEN. STAT. §12-66c, as added by P.A. 15-5 (June Spec. Sess.), §241 (*effective June 30, 2015, and applicable to assessment years commencing on or after October 1, 2015*).

requirement that a municipality apply payments on a priority basis to outstanding recording fees; (iii) specifying that tax payments made through a municipal electronic payment service within the time allowed by statute are timely and not subject to interest charges; (iv) authorizing a municipality or any district health department to withhold or revoke any license or permit issued by it to operate a business enterprise if any taxes or water, sewer or sanitation charges are delinquent for a period of one year or more; and (v) permitting the enforcement by levy and sale any tax warrant upon real estate for any unpaid tax.[59] In addition, the laws governing tax sales have been amended to: (i) clarify in a pre-sale tax notice that additional taxes, interest, fees and other charges "are owed in addition to", as opposed to "have been added to", the amount indicated as due and owing in the notice; (ii) require that the post-sale notice that the municipality must cause to be published in a newspaper and mailed to the owner, mortgagee, lienholder and other interested persons state that if the property is not redeemed, all parties notified will lose their respective titles, mortgage liens and other interests in it including, now, restraints on alienation; (iii) require municipalities to retain any interest that accrues on excess tax sale proceeds; (iv) specify that state and municipal tax liens against a delinquent taxpayer have precedence or priority over any claim against the taxpayer by a party who redeems a property following a tax sale; (v) extend the redemption period when a delinquent taxpayer or another interested party can redeem a property to cover the period from the tax sale notice's publication through the sale date; (vi) limit the priority of a claim by a redeeming party who paid delinquent taxes on a property against the delinquent taxpayer such that the claim will not have precedence or priority over any state or municipal tax liens (including a lien for a tax that was not yet due and payable when notice of the tax levy was first published); (vii) require that a tax collector's deed specify that the redeemer's claim is subject to other liens in favor of the

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[59] CONN. GEN. STAT. §§12-144b, 12-146, 12-146a and 12-155(b), as amended by P.A. 15-156, §§1-4 (*effective October 1, 2015*).

municipality (but not the state); and (viii) provide that a purchaser need not be a party to an action filed by a delinquent taxpayer to claim excess sales proceeds from a tax sale.[60]

Property Tax Base Revenue Sharing Program. New legislation authorizes a regional council of governments to establish a property tax base revenue sharing program under which the municipalities in the region (i) tax commercial and industrial property at a composite mill rate, and (ii) share up to 20% of the property tax revenue generated by the growth in their commercial and industrial property tax bases since 2013 (the base year).[61]

Land Value Taxation Program. New legislation amends the statute authorizing the Secretary of the Office of Policy and Management to conduct a pilot program in up to three municipalities whereby the selected municipalities can classify real estate as (i) land or land exclusive of buildings or (ii) buildings or land, and then establish a higher mill rate for land or land exclusive of buildings. The legislation (a) extended from December 31, 2014 to December 31, 2015, the deadline by when a participating municipality must submit a plan for implementation of land value taxation to the Connecticut General Assembly, and (b) prohibits any municipality that previously applied for and participated in the pilot program from again participating in the pilot program (for example, to designate additional areas to be subject to land value taxation).[62]

Class I Renewable Energy Source Exemption. Effective for assessment years commencing on and after October 1, 2015, any municipality may vote to abate up to 100% of the property taxes due for any tax year, for a period not longer than the term of the power purchase agreement, with

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[60] CONN. GEN. STAT. §§12-157, 12-158(a) and 12-159(b), as amended by P.A. 15-156, §§5-7 (*effective October 1, 2015*), as further amended by P.A. 15-5 (June Spec. Sess.), §47 (*effective October 1, 2015*).

[61] CONN. GEN. STAT. §§12-62u-12-62y, as added by P.A. 15-244, §§211-215 (*effective October 1, 2015, and applicable to assessment years commencing on or after October 1, 2015*).

[62] CONN. GEN. STAT. §12-63h, as amended by P.A. 15-184, §7 (*effective June 30, 2015*).

respect to any Class I renewable energy source.[63]

Enterprise Zone Optional Tax Relief Program. Legislation adopted during the December Special Session authorizes any of the 17 Connecticut municipalities with a state-designated enterprise zone to establish a local property tax relief program for qualifying commercial and industrial property owners. The relief program potentially would both (i) reduce the assessment of an improvement to commercial or industrial property that would otherwise result in a minimum of a $10,000 increased assessment from the October 1, 2014 assessment year, and (ii) allow for any increase in tax revenue attributable to the improvement to be allocated to reduce the assessments and total tax imposed on commercial and industrial properties located within the municipality.[64]

Machinery and Equipment Exemption. New legislation makes changes to the exemption from property tax for machinery and equipment, including machinery and equipment used in connection with biotechnology. First, the exemption statute is amended to provide that the owner of the machinery or equipment must file on or before November 1st an annual request with the local assessor on a form prescribed by the assessor.[65] Second, the statute that authorizes an assessor or board of assessors to extend the deadline to December 15th if an applicant requests the extension and pays a late fee, that is applicable for certain other machinery and equipment-related tax exemptions, is extended to the exemption for machinery and equipment.[66] Finally, the statute that permits the legislative body of a municipality to grant a property exemption to an applicant, even where the applicant failed to file a timely request or an application for an extension of time, has been extended to

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63 CONN. GEN. STAT. §§12-81(57)(F), as added by P.A. 15-5 (June Spec. Sess.), §104 (*effective June 30, 2015*).

64 P.A. 15-1 (December Spec. Sess.), §34 (*effective December 29, 2015 and applicable to assessment years commencing on or after October 1, 2015*).

65 CONN. GEN. STAT. §12-81(76), as amended by P.A. 14-183, §2 (*effective October 1, 2014, and applicable to assessment years commencing on or after said date*).

66 CONN. GEN. STAT. §12-81k, as amended by P.A. 14-183, §3 (*effective October 1, 2014*).

the exemption for machinery and equipment. The statute has also been amended to provide that, if the legislative body is a town meeting, the exemption can be granted by the board of selectmen.[67]

Farm Machinery. Under current law, municipalities are required to exempt from property tax farm machinery, other than motor vehicles, with a fair market value up to $100,000, and may expand that exemption up to an additional $100,000. New legislation increases the mandatory exemption by providing that the exemption extends to farm machinery with an assessed value (which generally is 70% of fair market value) of $100,000.[68]

B. *Case Law*

Receiver of Rents Authority. Pursuant to General Statutes Section 12-163a, a municipality may petition the Superior Court for the appointment of a receiver of rents or for use and occupancy payments for any property for which the owner is delinquent in the payment of real property taxes. In *Canton v. Cadle Properties of Connecticut, Inc.*,[69] the Connecticut Supreme Court held that a receiver of rent can be authorized to collect new and back taxes, but that General Statutes Section 12-163a cannot be the basis to authorize the receiver to evict a tenant from the property in the event of default and to lease the property to a new tenant.

Tax Appeal Service. In companion tax appeals, *Chestnut Point Realty, LLC v. East Windsor*,[70] and *Kettle Brook Realty, LLC v. East Windsor*,[71] the Connecticut Appellate Court considered what a taxpayer is required to do to timely file an appeal from a municipal property tax assessment pursuant to General Statutes Section 12-117a "within two

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[67] CONN. GEN. STAT. §12-94e, as amended by P.A. 14-183, §4 (*effective October 1, 2014*).

[68] CONN. GEN. STAT. §12-91, as amended by P.A. 14-33, §2 (*effective October 1, 2014, and applicable to assessment years commencing on or after that date*).

[69] 316 Conn. 851, 114 A.3d 1191 (2015).

[70] 158 Conn. App. 565, 119 A.3d 1229, *cert. granted*, 319 Conn. 928, 125 A.3d 203 (2015).

[71] 158 Conn. App. 576, 119 A.3d 1276, *cert. granted*, 319 Conn. 928, 125 A.3d 202 (2015).

months from the date of the mailing of notice" from a board of tax review or a board of assessment appeals. In both cases, the taxpayer had filed an application titled "Complaint" with the Superior Court within two months from the date of the notice from the Town's Board of Assessment Appeals. However, in each case, the taxpayer did not have the appeal served on the Town until after the end of such two-month period. The Appellate Court upheld the dismissal of both appeals noting that tax appeals are to be served and returned in the same manner as civil actions. The Appellate Court ruled that the Superior Court did not have jurisdiction to hear either appeal because service on the defendant municipality determines the time at which an appeal is deemed to be filed, and that service did not occur within two months of the notice of the Board of Assessment Appeals decision as required by General Statutes Section 12-117a.

Municipality vs. Tax District. In *Stratford v. Thorough*,[72] the Town of Stratford sought to foreclose on unpaid sewer use tax liens, asserting that all other recorded encumbrances on the subject property were subordinate to the Town's liens. The Oronoque Tax District filed a motion for summary judgment asserting that any liens arising from taxes levied by a Tax District were equal in priority to the tax liens filed by the Town. The Superior Court granted the motion for summary judgment holding that the Town could not foreclose out the tax liens of the Oronoque Tax District as the liens of a municipality have the same priority as those of a municipal taxing district.

Statute of Limitations. In *Cornelius v. Arnold*,[73] the taxpayer argued that the one-year statute of limitations for filing an appeal pursuant to General Statutes Section 12-119 from a property tax assessment does not commence until the assessment list for the relevant assessment year is sent by the assessor to the Secretary of the Office of Policy and

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[72] No. FBT CV 126030347S, 2015 Conn. Super. LEXIS 857 (Conn. Super. Ct. April 21, 2015).

[73] No. HHB CV 13 5015763S, 2015 Conn. Super. LEXIS 164 (Conn. Super. Ct. Jan. 30, 2015).

Management. The Superior Court disagreed and granted summary judgment in favor of the municipality finding that an appeal of an assessment for the assessment year commencing October 1, 2011 must be filed within one year of that date pursuant to Section 12-119.

Form of Appeal. In *Sweet Potatoes, LLC v. Seymour*,[74] the Superior Court considered the validity of an appeal taken to the Board of Assessment Appeals from an assessment of personal property tax where the appeal was in the form of a letter to the Board rather than on a standard or uniform appeal form. Although the letter did not contain the taxpayer's estimate of value or the date of its signature, as required by General Statutes Section 12-111, the Superior Court denied the Town's motion to dismiss the appeal, holding that there was substantial compliance with the appeal statute and that the Town was not prejudiced.

School Buses. In *Region 9 Board of Education v. Bethel*,[75] the Town of Bethel attempted to assess property tax against school buses that the Region 9 Board of Education, Easton Board of Education and Redding Board of Education asserted were owned by them and exempt as municipal property under General Statutes Section 12-81(4). The Superior Court agreed with the boards of education finding that: (i) the boards of education did own the school buses and that a lease agreement with TD Equipment Finance constituted evidence of a capital lease financing of the purchase; (ii) the use of the school buses by the boards of education for student transportation constituted a use for a public purpose; and (iii) the exemption from property tax for municipal property provided for in General Statutes Section 12-81(4) applies to the property of boards of education.

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[74] AAN No. CV 14 6016022S, 2015 Conn. Super. LEXIS 701 (Conn. Super. Ct. March 27, 2015).

[75] HHB No. CV 12 6024843S, 2015 WL 4570715 (Conn. Super. Ct. June 26, 2015).

VII. Miscellaneous Taxes

A. *Legislation*

Dry Cleaning Establishment Surcharge. Under current law, dry cleaning businesses must register with the Commissioner of Revenue Services and pay quarterly a one-percent surcharge on their dry cleaning retail gross receipts. New legislation: (i) requires each dry cleaning business to renew annually its registration with the Commissioner commencing October 1, 2015; (ii) prohibits a dry cleaning establishment from transacting business unless it is registered with the Commissioner; (iii) imposes a penalty of $1,000 for the failure to register (that is not subject to waiver); and (iv) imposes a penalty of $200 for the failure to renew a registration within 45 days after a nonrenewal notice is sent by the Commissioner (that may be waived, subject to Penalty Review Committee approval, if the failure was due to reasonable cause).[76]

Rental Surcharge Tax. Under current law, a surcharge is imposed on any business entity that is a "rental company" on the short-term rental (i.e., 30 days or less) of cars, trucks and heavy machinery (without an operator) that may be used for construction, mining or forestry. The applicable surcharge is 3% for car and truck rentals and 1.5% for machinery rentals. In general, a business entity is a "rental company" if it has five or more passenger motor vehicles, rental trucks or pieces of machinery for rent in Connecticut (excluding certain new and used car dealers and those required to be licensed for selling or repairing motor vehicles). Under new legislation, effective July 1, 2015, the statute imposing the surcharge is amended to: (i) provide that a business entity will be deemed to be a "rental company" only if it has total rental income, excluding retail or wholesale sales of rental equipment, that is 51% or more of the

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[76] Conn. Gen. Stat. §12-263m(b), as amended by P.A. 15-5 (June Spec. Sess.), §154 (*effective July 1, 2015*). For a DRS summary of the new provisions applicable to dry cleaners and dry cleaning drop stores See AN 2015(5), *Obligation of Dry Cleaners and Dry Cleaning Drop Stores for the Dry Cleaning Establishment Surcharge and Business Use Tax.*

total revenue of the business entity in a given taxable year; and (ii) expand the application of the surcharge on machinery to all rental equipment (not just heavy machinery) owned by the rental company and for rentals of 364 days or less or under an open-ended contract for an undefined period of time. By law, the surcharge reimburses the rental company for Connecticut property taxes and Department of Motor Vehicles (DMV) licensing and titling fees. The rental company must annually report to the DRS on (i) the aggregate amount of personal property taxes paid to towns and registration and titling fees paid to the DMV, and (ii) the aggregate amount of rental surcharges collected in the previous year on rentals. The new legislation now requires this report to be filed on a consolidated basis.[77]

Ambulatory Surgical Center Tax. For each calendar quarter commencing on or after October 1, 2015, a new tax is imposed on each ambulatory surgical center in Connecticut at the rate of 6% of the gross receipts of the center. For purposes of the tax, an "ambulatory surgical center" is defined as an entity included within the definition of "ambulatory surgical center" that is set forth in 42 CFR 416.2 and that is licensed by the Department of Public Health as an outpatient surgical facility, and any other ambulatory surgical center that is Medicare certified. The return for the tax must be filed electronically on or before the last day of the first month after each calendar quarter. The audit, refund, penalty, appeal and other miscellaneous rules applicable to the Admissions and Dues Tax are made applicable to this tax.[78] During the June Special Session, the legislation was amended to provide that: (i) the ambulatory surgical center tax shall not be imposed on the first $1 million of gross receipts of the center in the applicable fiscal year; (ii) the ambulatory surgical center tax shall not be imposed on any amount of gross receipts that would be sub-

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[77] CONN. GEN. STAT. §12-692, as amended by P.A. 15-244, §107 (*effective from July 1, 2015*). For guidance on emerging issues created by the changes to the Motor Vehicle and Machinery Rental Surcharge, See Office of Chief Counsel (OCG)-1, issued October 10, 2015.

[78] CONN. GEN. STAT. §§12-263i, as added by P.A. 15-244, §172 (*effective October 1, 2015*).

ject to the hospitals tax; and (iii) an ambulatory surgical center could seek remuneration for the tax.[79] During the December Special Session, the General Assembly further amended the legislation to allow an ambulatory surgical center to offset the new tax with tax credits in the same manner, and subject to the same limitation, as a hospital subject to the Connecticut hospitals tax.[80]

Cigarette Taxes. The cigarette tax is increased in two steps, from (i) $3.40 to $3.65 per pack on October 1, 2015, and (ii) $3.65 to $3.90 per pack on July 1, 2016. Similar to prior tax rate increases, a "floor tax" of 25 cents is imposed on each pack of cigarettes that a dealer or distributor has in inventory at the earlier of close of business or 11:59 p.m. on each of September 30, 2015 and June 30, 2016.[81]

Petroleum Products Gross Earnings Tax. The exemption from the petroleum products gross earnings tax for propane used exclusively for heating purposes is expanded to cover propane used primarily for heating purposes.[82] Also, new exemption from such tax is enacted for bunker fuel oil, intermediate fuel, marine diesel oil and marine gas oil to be used in any vessel primarily engaged in interstate commerce.[83]

Public Service Company Recovery. As part of legislation enacted during the June Special Session, the General Assembly granted permission to any public service company to defer for recovery in its next general rate case any increase in tax expense, resulting from Public Act No. 15-

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[79] P.A. 15-5 (June Spec. Sess.), §130 (*effective October 1, 2015*).

[80] CONN. GEN. STAT. §12-263b(c), as amended by P.A. 15-1 (December Spec. Sess.), §30 (*effective December 29, 2015 and applicable to calendar quarters commencing on or after January 1, 2016*). See also SN 2015(6), *2015 Legislation Imposing the Gross Receipts Tax on Ambulatory Surgical Centers*.

[81] CONN. GEN. STAT. §§12-296 and 12-316, as amended by P.A. 15-244, §§176-177 (*effective October 1, 2015, and applicable to sales occurring on or after said date*), 178 (*effective June 30, 2015*) and 179-180 (*effective July 1, 2016, and applicable to sales occurring on or after said date*). See also SN 2015(8), *2015 Legislature Changes Affecting Cigarette Taxes*.

[82] CONN. GEN. STAT. §12-587(b)(2), as amended by P.A. 15-1 (December Spec. Sess.), §27 (*effective December 29, 2015 and applicable to first sales made on or after December 1, 2015*).

[83] CONN. GEN. STAT. §12-587(b)(2), as amended by P.A. 14-222, §9 (*effective June 13, 2014*).

244 (i.e., the state biennial budget), which is not currently authorized in such company's rates.[84]

Admissions Tax. An exemption from the admissions tax was enacted with respect to any admission charge, from July 1, 2015 to June 30, 2017, to any athletic event presented by a member team of the Atlantic League of Professional Baseball at the Ballpark at Harbor Yard in Bridgeport.[85]

Power of Attorney. Effective July 1, 2016, the Connecticut Uniform Power of Attorney Act has been adopted. The Act provides that a power of attorney grants, unless expressly stated to the contrary, general authority with respect to taxes, including authority for the agent to: (i) prepare, sign and file tax returns, refund claims, extensions for time, waivers, offers, consents, petitions and other tax documents; (ii) pay taxes due, collect refunds, receive confidential information and contest delinquencies; (iii) exercise any tax election; and (iv) act for the principal in all tax matters before a taxing authority.[86]

Vessel Fuel Tax Exemptions. A new exemption from the motor vehicle fuels tax is enacted for fuel sold for use in any vessel (i) having a displacement exceeding 4,000 dead weight tons, or (ii) primarily engaged in interstate commerce.[87]

B. *Case Law*

Conveyance Tax and Federal Exemption. In *Bridgeport v. Federal National Mortgage Assn.*,[88] the City of Bridgeport sought to maintain a class action on behalf of itself and other Connecticut municipalities asserting that the defendants Federal National Mortgage Association ("Fannie Mae"), Federal Home Loan Mortgage Company ("Freddie Mac") and Federal Housing Finance Agency ("FHFA"), as

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84 P.A. 15-5 (June Spec. Sess.), §468 (*effective July 1, 2015*).

85 CONN. GEN. STAT. §12-541, as amended by P.A. 15-244, §216 (*effective July 1, 2015*). A similar exemption was enacted as part of P.A. 15-184, §11 (*effective July 1, 2015*).

86 P.A. 15-240, §39 (*effective July 1, 2016*).

87 CONN. GEN. STAT. §12-458(a)(3), as amended by P.A. 14-222, §10 (*effective June 13, 2014*).

88 No. 3:12-CV 1218 (CSH), 2014 U.S. Dist. LEXIS 55509 (D. Conn. 2014).

conservator for Fannie Mae and Freddie Mac, are liable for the Connecticut conveyance tax on deeds recorded in this state. Citing to numerous decisions issued by courts in other jurisdictions, including the United States Court of Appeals for the Third, Fourth, Sixth, Seventh and Eighth Circuits, the District Court dismissed the lawsuit. Quoting specifically the exemption statute applicable to Fannie Mae, the District Court noted that federal legislation exempts each of the three defendants "from all taxation now or hereafter imposed by any State, . . . or by any county, . . . except that any real property of the corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent as other real property is taxed." The District Court held that the exception to the exemption was not applicable to conveyance or transfer taxes, so the defendants were not subject to the Connecticut conveyance tax.

Satellite Television. In *Dish Network LLC v. Sullivan*,[89] the Court held that the gross earnings tax on satellite television providers does not apply to the earnings of the satellite television provider from equipment, installation and maintenance, as well as from Dish Magazine, as these amounts are not "from" video transmission. The Court ruled further, however, that payment-related fees (such as late charges, reconnection charges and returned check charges) and DVR service fees are subject to the gross earnings tax.

D. Administrative Pronouncements

Requests for Waiver of Civil Penalties. In Policy Statement 2015(4), October 5, 2015, the DRS provided taxpayers with guidance regarding requests for waiver of civil penalties and the standard to be applied by the Commissioner in determining whether to waive a penalty.

Designated Private Delivery Services. In Policy Statement 2015(2), October 27, 2015, the DRS published a list of private delivery services authorized to deliver returns, claims, statements, or other documents or payments for purposes of the "timely mailing as timely filing" provisions in General Statutes Section 12-39aa.

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[89] HHB No. CV 12 6013696, 57 Conn. L. Rptr. 1817 (Conn. Super. Ct. 2013).