

December 31, 2022

2022 CONNECTICUT TAX DEVELOPMENTS

A Shipman & Goodwin® Newsletter

SHIPMAN

This newsletter summarizes Connecticut tax legislation enacted, court decisions rendered, and administrative guidance published by the Connecticut Department of Revenue Services (DRS) during calendar year 2022. Please contact a member of our State and Local Tax Practice Group if you have any questions regarding the new tax law changes and how they may affect you and your business.

Personal Income Tax

I. Legislation

Pension and Annuity Exemption. The phase-in of the general pension and annuity exemption from Connecticut taxable income has been accelerated. Beginning with the 2022 tax year, income-eligible taxpayers may deduct 100% of their qualifying pension and annuity income from their Connecticut taxable income. Under prior law, the exemption phased-in gradually between 2019 and 2025. This phase-in does not impact the planned phase-out of the taxation of IRA distributions. Conn. Gen. Stat. §12-701, as amended by Conn. Pub. Act No. 22-118 §410 (*effective May 26, 2022*).

Personal Income Tax Credit for Property Taxes Paid. Beginning in 2022, residents that own motor vehicles or homes in Connecticut will receive a property tax credit of up to \$300, which is increased from the prior credit of \$200. Conn. Gen. Stat. §12-704c, as amended by Conn. Pub. Act No. 22-118 §408 (*effective May 26, 2022*). In addition, eligibility for the property tax credit is expanded to all adults within current income limits (\$109,500 for single filers and \$130,500 for joint filers). Previously, the property tax credit was limited to only those over the age of 65 or those with dependents. Conn. Gen. Stat. §12-704c, as amended by Conn. Pub. Act No. 22-118 §408 (*effective May 26, 2022*).

Earned Income Tax Credit. The Connecticut earned income tax credit was originally scheduled to increase from 30.5% to 41.5% for tax years beginning on or after January 1, 2023. Conn. Gen. Stat. §12-704e, as amended by Conn. Pub. Act No. 22-118 §409 (*effective July 1, 2022*). However, subsequent legislation rescinded the increase so the percentage remains at 30.5% for tax years beginning on or after January 1, 2023. Conn. Gen. Stat. §12-704e, as amended by Conn. Pub. Act No. 22-146 §31 (*effective July 1, 2022*).

Child Tax Rebate. Connecticut residents were eligible to receive a child tax rebate of up to a maximum of \$750 (\$250 per child up to three children) if the resident met certain income thresholds and applied to the Department of Revenue by July 31, 2022. Conn. Pub. Act No. 22-118 §411 (*effective May 26, 2022*).

Credit for Birth of Stillborn. Taxpayers are allowed a credit against their personal income tax in the amount of \$2,500 for the birth of a

In this issue...

Personal Income Tax	p. 1
Corporate Business Tax	p. 3
Business Tax Credits	p. 4
Sales and Use Tax	p. 6
Property Tax	p. 7
Miscellaneous Taxes	p. 14
Administrative Matters	p. 16
Tax Studies	p. 17
Administrative Publications	p. 18

stillborn child, provided such child would have been listed as a dependent on the taxpayer's federal income tax return. The credit is allowed for the taxable year for which a stillborn certificate is issued by the State of Vital Records Office of the Department of Public Health. Conn. Pub. Act No. 22-118 §412 (*effective July 1, 2022, and applicable to taxable years commencing on or after January 1, 2022*).

Nonresident Composite Income Tax Returns. Pass-through entities ("PE") may elect, on an annual basis, to remit composite income tax on behalf of their nonresident members. The pass-through entities must (1) make this election by the due date or extended due date for filing their PE tax returns and (2) file the composite returns subject to any requirement and conditions the DRS commissioner prescribes in the return form and instructions. The PE that makes this election must remit to DRS the composite income tax, plus any applicable interest and penalties, on behalf of each nonresident individual members. The composite income tax due on behalf of each nonresident individual member is (1) each member's distributive share of the PE's Connecticut source income multiplied by 6.99%, minus (2) each member's PE tax credit. If the only Connecticut source income for the nonresident member is from one or more electing PEs, the composite income tax return and payment remitted by the PE on his or her behalf satisfies his or her Connecticut income tax filing and payment requirements. Nonresident members are not excused from filing a separate Connecticut income tax return if he or she has Connecticut source income from sources other than the electing PE. Conn. Pub. Act. No. 22-117, §16 (*effective May 27, 2022*).

Responsible Party Penalty for Withholding Tax. Previously, anyone required to collect, truthfully account for, and pay Connecticut personal income tax who willfully fails to do so, or who willfully attempts to evade or defeat the tax or its payment, is liable for a penalty equal to the amount of tax evaded or not collected, accounted for, or paid. The bill additionally makes them liable for any penalty or interest attributable to these actions. The penalty amount for which a person may be personally liable will be collected according to existing state income tax collection laws. Conn. Gen. Stat. §12-736, as amended by Conn. Pub. Act. No. 22-117, §1 (*effective May 27, 2022*).

Income Tax Refunds Due to Changes Made by Another Jurisdiction. Taxpayers who claim a Connecticut income tax credit must file an amended return for any tax year in which the qualifying jurisdiction's tax officials or courts issued an assessment against the taxpayer for failing to file an income tax return with the jurisdiction. If a taxpayer files an amended return as a direct result of paying such an assessment to a qualifying jurisdiction, the taxpayer is eligible for a refund for any resulting Connecticut income tax overpayment only if the amended return is filed within five years after the original Connecticut income tax return was due. Amended returns filed more than five years after this date are ineligible for a refund. Conn. Gen. Stat. §§12-704(b)(1) and 12-732(b), as amended by Conn. Pub. Act. No. 22-117, §§2-3 (*effective May 27, 2022*).

Limitation on Claims for Refunds for Closed Audit Periods. Taxpayers must file refund claims within six months after the date the results become final by operation of law or by exhaustion of all available administrative and judicial rights of appeal, whichever is later for tax periods for which the results of any DRS civil audit, investigation, examination, or reexamination have become final. Conn. Pub. Act. No. 22-117, §5 (*effective May 27, 2022*).

Exclusion from Connecticut Taxable Income. For the 2022 tax year, Connecticut residents may subtract from Connecticut income tax amounts paid under the 2020 Earned Income Tax Credit enhancement program from funding allocated to the state through the Coronavirus Relief Fund established under the Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136, and the 2021 Earned Income Tax Credit enhancement program from funding allocated to the state pursuant to Section 9901 of Subtitle M of Title IX of the American Rescue Plan Act of 2021, P.L. 117-2. Conn. Gen. Stat. §12-701, as amended by Conn. Pub. Act No. 22-118 §410 (*effective May 26, 2022*).

II. Case Law

Taxation of Stock Options and Restricted Stock Units. In *John P. Costas et. al. v. Commissioner of Revenue Services*, 213 Conn. App. 719 (2022), the Appellate Court had to determine the proper assessment of taxes against a taxpayer with respect to certain stock options and restricted stock units granted to the taxpayer by his employer as compensation for services he performed both in Connecticut and in New York. On appeal, the taxpayer claimed that the trial court incorrectly granted summary judgment in favor of the Commissioner because the lower court misinterpreted and misapplied §§ 12-711(b)-17 and 12-711(b)-18 of the Regulations of Connecticut State Agencies (governing the tax credit available to a Connecticut taxpayer for taxes paid to another state on compensation derived from the vesting of restricted stock and the exercise of stock options, respectively, for services performed both in Connecticut and in another state). The parties agreed that under the regulations, the proper apportionment for tax credit purposes is a function of the ratio between the total compensation received during the “grant-to-exercise period” (in the case of stock options) and the “grant-to-vest period” (in the case of restricted stock) for services performed in New York (the ratio’s numerator), and the total compensation received during those periods for services performed in Connecticut, New York and anywhere else (the ratio’s denominator). The Commissioner interpreted the regulations as requiring the computation of the total compensation received during the periods, including deferred compensation that was received in those periods for services rendered prior thereto. In contrast, the taxpayer contended that the apportionment computation should include only compensation received for services *actually performed* during such periods and *not* deferred compensation earned earlier but received in those periods as a result of exercising stock options and vesting of restricted stock. The Appellate Court held that the Commissioner’s calculation was mandated by the plain language of the regulations and further, the methodology was consistent with the basic income tax principle that compensation is includable in gross income in the year received, and not in the year earned and therefore, affirmed the judgment of the trial court.

Corporate Business Tax

I. Administrative Publications

Net Operating Losses of Combined Unitary Groups. The DRS clarified the treatment of net operating losses (“NOL”) for combined unitary tax purposes after a merger of entities in the combined group. The DRS provided the following example explaining the correct treatment of the NOL: a combined group consisted of Corporation A, Corporation B, Corporation C and Corporation D, and the group generated NOLs in 2016 and 2017, which were allocated to B, C and D in both years. B and C were merged into D in 2020 under a tax-free reorganization. The business activities of surviving D are comprised of the collective business activities of former B, C and D. The DRS states that the NOL allocated to B and C survive the mergers and may be utilized by D or any other member that was included in the combined group in the year of the loss because the income against which the NOL will be applied will be generated by substantially the same businesses which incurred the losses. Therefore, where taxable members are allocated a portion of a combined unitary group’s NOLs, and one or more of the taxable members merge with another taxable member of the combined unitary group, those NOLs may continue to be shared and utilized by the surviving taxable member. *Ruling 2022-1, Corporation Business Tax Combined Unitary Group Net Operating Losses.*

Business Tax Credits

I. Legislation

JobsCT Tax Rebate Program. Employers engaged in an industry related to finance, insurance, manufacturing, clean energy, bioscience, technology, digital media or any similar industry that create jobs in the state may be allowed a tax rebate against the insurance premiums, corporate business and pass-through entity taxes for reaching certain job creation targets. The rebate is based on (1) the number of new full-time equivalent employees (“FTEs”) the business creates and maintains, (2) the FTEs’ average wage, and (3) the state income tax that would be paid on this average wage for a single filer. Generally, the business must create and maintain at least 25 new FTEs to claim a rebate. The bill establishes minimum wage requirements that the new FTEs must meet to qualify for the rebate but allows the DECD commissioner to waive these requirements for FTEs meeting other criteria (i.e., “discretionary FTEs”). Generally, the rebate equals 25% of the state income tax paid by the new FTEs (50% for FTEs in an opportunity zone or distressed municipality). The bill establishes a minimum rebate of \$1,000 per new FTE (\$750 per discretionary FTE) and a maximum of \$5,000 per new or discretionary FTE. However, it doubles the minimum amounts for rebates earned, claimed, or payable before January 1, 2024 (i.e., \$2,000 per new FTE and \$1,500 per discretionary FTE). It allows businesses to receive rebates in up to seven successive years, beginning with the second year after it is accepted into the program. The rebate is refundable if it exceeds the business’s tax liability and may exceed the existing insurance premiums and corporation business tax credit limits. The bill caps the aggregate rebate amount awarded at \$40 million per fiscal year. Conn. Pub. Act No. 22-118, §§420-421 (*effective July 1, 2022, and applicable to taxable years commencing on or after January 1, 2023*). Conn. Gen. Stat. §§12-211a & 12-271zz, as amended by Conn. Pub. Act No. 22-118, §§422-423 (*effective July 1, 2022, and applicable to taxable years commencing on or after January 1, 2023*).

Apprenticeship Tax Credit Extended to PET Tax. Effective for years commencing in and after 2022, pass-through entities are entitled to take the manufacturing apprenticeship training credit as a credit against the Connecticut pass-through entity tax liability. When determining the amount of the PET credit that the owners of the pass-through entity are entitled to use on their personal return, such credit shall be based upon the amount of PET tax due by the pass-through entity prior to the application of the new apprenticeship tax credit. Conn. Pub. Act No. 22-118, §425 (*effective July 1, 2022, and applicable to taxable years commencing on or after January 1, 2022*).

Conveyance Tax Credit. Prior law allowed taxpayers who paid conveyance tax at the 2.25% marginal rate to claim a property tax credit against their state income tax liability based on the amount they paid in conveyance tax at this rate. The bill instead allows them to claim a credit equal to the tax paid they paid in excess of 1.25% on the portion of sales price exceeding \$800,000. Taxpayers may use the conveyance tax payment as the basis for the property tax credit for three years, beginning in the third tax year after the year in which the taxpayer paid the conveyance tax. The credit in each year cannot exceed 33.3% of the eligible tax payment. Conn. Gen. Stat. §12-704c(d)(1), as amended by Conn. Pub. Act. No. 22-117, §20 (*effective May 27, 2022*).

Motor Vehicle Property Tax Credit. For assessment years commencing on or after October 1, 2023, any person claiming a property tax credit with respect to a motor vehicle may provide such documentation to the assessor no later than three years after the date upon which the tax was due and payable for the motor vehicle. Previously, the documentation was required to be provided by December 31st. Conn. Gen. Stat. §12-71c, as amended by Conn. Pub. Act No. 22-118 §505 (*effective July 1, 2022, and applicable to assessment years commencing on or after October 1, 2023*).

Tax Credit for Employers Making Student Loan Payments. A qualified employer that has gross receipts less than or equal to \$5 million for a year may receive a corporate business or insurance premiums tax credit on payments made on eligible student loans on behalf of a qualified employee. The credit, which begins January 1, 2022, equals 50% of the payment the employer makes on the outstanding principal balance of an eligible employee's student loan up to a maximum credit of \$2,625 per employee per year. A qualified employee is a Connecticut resident who (1) earned a bachelor's degree within the last five years and (2) is working full time at the eligible employer. Conn. Gen. Stat. §12-217qq, as amended by Conn. Pub. Act No. 22-118 §419 (*effective May 24, 2022, and applicable to calendar and income years commencing on or after January 1, 2022*).

II. Case Law

Federal Fuel Tax and Ethanol Credit (VEETC). Internal Revenue Code Section 4081 imposes a federal fuel tax of 18.3 cents per gallon on the removal of taxable fuel from any refinery or terminal and adds a tax of .1 cent per gallon for the Leaking Underground Storage Tank Trust Fund, such that the total tax imposed is 18.4 cents per gallon. Section 6426 allows for a credit against such tax of 5.1 cents per gallon for sales of an alcohol fuel mixture known as the "volumetric ethanol excise tax credit" or the "VEETC." In *Kennynick, LLC v. Standard Petroleum Co.*, 2021 WL 5542137 (Hart. Sup. Ct. Oct. 22, 2021), the Superior Court had to decide whether the VEETC qualified as a "tax" for purposes of interpreting a dealer supply contract between a retail gasoline dealer and a wholesale distributor, as the distributor was required to pass through "taxes, duties, fees or other charges" which the wholesaler may be required to collect or pay to the retailer. The wholesaler argued that, because the VEETC was a credit, not a tax, he was not required to pass it through to the retailer. The court disagreed, stating that there was good authority supporting that a tax credit is part of the concept of a "tax" because it reduces the tax rate. Specifically with respect to the VEETC, a Special Notice from the State Department of Revenue Services stated that while the federal excise tax rate on gasohol is 18.4¢ per gallon, the VEETC is allowed against the tax imposed equal to 5.1¢ per gallon, such that "the net federal excise tax rate on gasohol is 13.3¢ per gallon." Accordingly, the wholesaler was required to pass the VEETC to the retailer.

Fixed Capital Investment Credit. Conn. Gen. Stat. § 12-217w provides for a 5% tax credit for amounts paid by a Connecticut corporation for fixed capital investments if the corporation holds and uses such fixed capital investments in Connecticut in the ordinary course of the corporation's trade or business. In *Marmon Wire & Cable Inc. v. Commissioner of Revenue Services*, 2022 WL 2302654 (New Brit. Super. Ct. June 27, 2022), the Superior Court held that a corporation, which has not itself made new fixed capital investments, is not eligible for a fixed capital investment credit provided by Conn. Gen. Stat. § 12-217w solely based upon the new fixed capital investments of its single member subsidiary LLC, which is treated as a disregarded entity under federal law.

III. Administrative Publications

Connecticut Business Tax Credits. The DRS publishes an *Online Guide to Connecticut Business Tax Credits*. It provides an overview of Connecticut's business tax credits including summaries of the tax credits along with a link to a reference chart that lists each available tax credit, statutory authority for the tax credit, what tax types the tax credit may be applied against and other pertinent information. On March 22, 2022, the DRS updated the guide for research and development expenses tax credit and research and experimental tax credit. The DRS updated the research and experimental credit guide to state that the amount of the tax credits allowable against the corporation business tax cannot exceed 50.01% of the amount of tax due. However, for the 2022 income tax year the amount of allowable tax credit that may be used increased to 60% and up to 70% for the 2023 tax year and thereafter. Similarly, the DRS updated the carryforward and carryback limitations section of the research and development credit guide. In general,

the amount of tax credits allowable against the corporation business tax shall not exceed 50.01% of the amount of tax due. However, research and development expenses tax credit may be used increased to 60% of the tax due in income year 2022, and up to 70% of the tax due in income year 2023 and thereafter. For income years that begin prior to January 1, 2021, tax credits that are allowed but that exceed the limitation amounts may be carried forward to each successive income year until such credits are fully taken. Unused research and development tax credits that are earned during income years that begin on or after January 1, 2021 may be carried forward for up to 15 years. A link to the website where the *Online Guide to Connecticut Business Tax Credits* can be found here: <https://portal.ct.gov/DRS/Publications/Corporation-Credit-Guide/Corporation-Tax-Credit-Guide-Table-of-Contents>

Sales and Use Tax

I. Legislation

Exemption for Water Companies. Sales and the storage, use or other consumption of any personal property or any services to a water company for use in maintaining, operating, managing or controlling any pond, reservoir, stream, well or distributing plant or system employed for the purpose of supplying water to fifty or more customers is exempt from sales and use tax. Conn. Gen. Stat. §12-412, as amended by Conn. Pub. Act. No. 22-118, §430 (*effective July 1, 2022, and applicable to sales occurring on or after July 1, 2022*).

Marketplace Facilitator Carve-Out. Marketplace facilitators are exempt from collecting and remitting sales tax when facilitating passenger motor vehicle and rental truck rentals on behalf of rental companies. Rental companies remain responsible for collecting and remitting sales tax on these sales. Conn. Gen. Stat. §12-408, as amended by Conn. Pub. Act No. 22-118 §483 (*effective July 1, 2023*).

Manufacturers of Wine, Brandy, Cider or Mead Exemption. Effective July 1, 2023, a sale to a purchaser that manufactures or will manufacturer wine, cider, mead or brandies under certain manufacturer permits will qualify for sales tax exemption even if the wine, cider, mead or brandies are manufactured or will be manufactured at a facility that also makes substantial retail sales. Such manufacturers may be entitled to a refund for taxes paid between July 1, 2018 and June 30, 2023 on purchase that would have been exempt has this exemption been in effect. Taxpayers must file a refund claim with the Department of Revenue Services no later than July 1, 2016. Conn. Gen. Stat. §12-412m, as amended by Conn. Pub. Act No. 22-118 §429 (*effective July 1, 2023*).

Sales and Use Tax Deficiency Assessments. The DRS commissioner can impose more than one sales and use tax deficiency assessments for a tax period. The bill subjects these reassessments to the same requirements that apply to deficiency assessments under existing law, including interest, penalty, notice, and statute of limitations provisions. Conn. Gen. Stat. §12-416, as amended by Conn. Pub. Act. No. 22-117, §22 (*effective May 27, 2022*).

Jeopardy Tax Assessments. The DRS commissioner is authorized to impose reassessments in sales and use tax jeopardy tax collections (i.e., when the commissioner takes action to collect sales and use taxes that are assessed but not yet due when he believes that the tax will be jeopardized by delay). It subjects these reassessments to the same requirements that currently apply to jeopardy assessments. Conn. Gen. Stat. §12-417, as amended by Conn. Pub. Act. No. 22-117, §23 (*effective May 27, 2022*).

Written Protests for Sales and Use Tax Assessments. Taxpayers who received a sales and use tax assessment or jeopardy assessment may file a written protest for the assessment instead of a petition for reassessment. Conn. Gen. Stat. §12-418, as amended by Conn. Pub. Act. No. 22-117, §24 (*effective May 27, 2022*).

II. Administrative Publications

Digital Training Services. A taxpayer who offers an online learning platform that serves the educational needs of students through a virtual learning environment of on-demand digital courses asked the DRS to analyze if such services would be subject to sales and use tax. Students access the online platform and its courses from desktop computers or mobile devices and the courses are not downloadable. The taxpayer offers 6 different learning plans with each subscription to a course includes access to live online tutors as well as an automated list of questions with answers and in some cases a brief video with interactive questions to help a student to practice a lesson. The DRS ruled that the learning plans that the Company offers on its platform are not generally subject to sales and use taxes as digital goods because their true object is a nontaxable service that is related to education or training. Whether the taxpayer's learning plans are taxable as digital goods requires a determination of the true object of the transaction between the taxpayer and the students who use such plans; specifically, whether the true object of that transaction is to provide students with a digital good in the form of an electronically accessed or transferred audio-visual product, or whether the true object is to provide students the opportunity to access the learning plan's educational or training offerings. While the audio-visual works are an important component of the Company's learning plans, the true object for the students in taking the courses on the platform is the education or training they offer, and not the sale of a digital good. Because services that are related to education or training are generally not subject to sales and use taxes, the Company's learning plans are not taxable, with two exceptions. First, the learning plans may be taxable as job-related training, which is included under business management consulting services. Second, the learning plans may be taxable as computer training and software training if it is job-related training. *Ruling 2022-2, Sales and Use Tax Digital Goods Training Services.*

Property Tax

I. Legislation

Mill Rate for Motor Vehicles. For assessment years commencing October 1, 2021, and each assessment year after, the mill rate for motor vehicles cannot exceed 32.46 mills. This is a decrease to the prior cap on mill rates, which was 45 mills for assessment years commencing October 1, 2017 through October 1, 2020. Conn. Gen. Stat. §12-71e, as amended by Conn. Pub. Act No. 22-118 §413 (*effective May 26, 2022*).

Motor Vehicle Property Tax Grants. For the fiscal year ending June 30, 2023, and each fiscal year after, motor vehicle property tax grants will be made to municipalities that impose mill rates greater than 32.46 mills on real and personal property other than motor vehicles for the preceding fiscal year. The grant will equal the difference between the amount of property taxes the municipality would have levied on the motor vehicles if the mill rate was 32.46 mills and the amount of property taxes the municipality would have levied on motor vehicles if the mill rate was equal to the mill rate imposed on real and personal property for such year. This grant is an attempt to reimburse municipalities for the lost tax revenue due to the lower mill rate on motor vehicles. Conn. Gen. Stat. §4-66l, as amended by Conn. Pub. Act No. 22-118 §414 (*effective May 26, 2022*).

Exemption for Certain Vehicles. Any snowmobile, all-terrain vehicle or residential utility trailer is exempt from property taxes if the property is used exclusively for personal use. Conn. Gen. Stat. §12-81, as amended by Conn. Pub. Act No. 22-118 §507 (*effective July 1, 2022, and applicable to assessment years commencing on or after October 1, 2023*).

Expanded Property Tax Exemptions for Electric Vehicles. For assessment years beginning on or after October 1, 2022 through October 1, 2029, the following items are exempt from property tax: (1) level two electric vehicle charging stations that are located on commercial or industrial properties; (2) electric vehicle charging stations that are located on residential properties; (3) any refueling equipment for fuel cell electric vehicles; and (4) zero-emission school buses. Conn. Gen. Stat. §12-81, as amended by Conn. Pub. Act No. 22-25 §6 (*effective October 1, 2022, and applicable to assessment years commencing on or after October 1, 2022*).

Motor Vehicle Property Tax Values. Not later than October 1, 2023 and annually thereafter, the Secretary of the Office of Policy and Management and the Connecticut Association of Assessing Officers will recommend a schedule of motor vehicle plate classes to assessors of each municipality to assist them determine the classification of motor vehicles for purposes of property taxation. The value of each motor vehicle will be determined by the schedule of depreciation at set forth in the new Conn. Gen. Stat. §12-63(b)(7). Conn. Gen. Stat. §12-71d, as amended by Conn. Pub. Act No. 22-118 §499 (*effective July 1, 2022, and applicable to assessment years commencing on or after October 1, 2023*). The depreciation schedule in Conn. Gen. Stat. §12-63(b)(7) is based on the manufacturer's suggested retail price of such motor vehicles, provided no motor vehicle can be valued at an amount less than \$500. Conn. Gen. Stat. §12-63, as amended by Conn. Pub. Act No. 22-118 §500 (*effective July 1, 2022*).

Motor Vehicles Includable on the Personal Property Declaration. For assessment years commencing on or after October 1, 2023, any person required to file an annual declaration of tangible personal property must include any motor vehicle they own. Conn. Gen. Stat. §12-41, as amended by Conn. Pub. Act No. 22-118 §501 (*effective July 1, 2022, and applicable to assessment years commencing on or after October 1, 2023*). Each municipality shall list all registered motor vehicles, unregistered motor vehicles and vehicles that is not used or capable of being used that is located in a municipality and such vehicles will be valued pursuant to Conn. Gen. Stat. §12-63. Conn. Gen. Stat. §12-71, as amended by Conn. Pub. Act No. 22-118 §503 (*effective July 1, 2022, and applicable to assessment years commencing on or after October 1, 2023*). For assessment years commencing on or after October 1, 2023, if a person registers or replaces a vehicle with the DMV after October 1 but before April 1st, the person shall be liable for property tax on July 1st in such assessment year. If a person registers a vehicle after April 1st but prior to October 1 of the next year, the person shall be liable for property tax on January 1st immediately subsequent to the end of such assessment year. The person will be liable for the full amount of tax if it is registered prior to November 1st, but any registration after November 1st, the person will be subject to a pro-rated property tax. The unexpired registration transfers to the replacement vehicle. Conn. Gen. Stat. §12-71b, as amended by Conn. Pub. Act No. 22-118 §504 (*effective July 1, 2022, and applicable to assessment years commencing on or after October 1, 2023*).

Charitable Purposes Property Tax Exemptions. The General Assembly broadened the type of housing owned by federally tax-exempt, charitable organizations that is exempt from property tax to include various types of housing for vulnerable populations even if it is not temporary housing as previously required. The bill also requires assessors to record their reasons for denying property tax exemptions for tax-exempt entities under C.G.S. §12-81(7). Assessors are required to post on their website the form that organizations must file every four years to claim a property tax exemption. Conn. Gen. Stat. §§12-81(7) and 12-89, as amended by Conn. Pub. Act No. 22-73 §§1-2 (*effective October 1, 2022, and applicable to assessment years commencing on or after October 1, 2022*).

Property Tax Abatement for Child Care Centers. Any municipality may, by vote of its legislative body or, in a municipality where the legislative body is a town meeting, by vote of the board of selectmen, abate up to 100% of the property taxes due for any tax year, for not more than five tax years, for any property or portion of a property used in the operation of a child care center or group child care home licensed, or a family child care home licensed,

and owned by the person, persons, association, organization, corporation, institution or agency holding such license. Conn. Pub. Act No. 22-81 §13 (*effective October 1, 2022, and applicable to assessment years commencing on or after October 1, 2022*).

Municipal Agreements to Fix Assessments. In towns where the legislative body is a town meeting, the board of selectmen, if authorized by ordinance, is authorized to enter into certain agreements to fix assessments on real property or air space. Municipalities may fix assessments for up to 10 years on real property or air space undergoing improvements for various purposes, including office, manufacturing, or retail uses, multifamily housing, or transportation or parking facilities. Conn. Gen. Stat. §12-65b, as amended by Conn. Pub. Act No. 22-72 §1 (*effective October 1, 2022*).

Definition of Omitted Property. The definition of omitted property for purposes of property tax assessments was expanded to include the manufacturer's suggested retail price of a motor vehicle plus any applicable after-market alterations to such motor vehicles for property on or after October 1, 2023. Conn. Gen. Stat. §12-53, as amended by Conn. Pub. Act No. 22-118 §502 (*effective July 1, 2022, and applicable to assessment years commencing on or after October 1, 2023*).

Disabled Veterans' Property Tax Exemption. Beginning in fiscal year 2024, municipalities that opt to provide low-income, 100% disabled veterans with three times the base state-mandated property tax exemption must calculate income eligibility using only the veteran's federal adjusted gross income excluding (1) the veteran's disability payments and (2) any other income not included in AGI. Previously, any other income not included in the veteran's federal AGI, other than disability payments, were added back in for purposes of determining eligibility. This change will expand eligibility for this exemption. Conn. Gen. Stat. §12-81g(b), as amended by Conn. Pub. Act No. 22-74, §1 (*effective October 1, 2022, and applicable to assessment years commencing on or after October 1, 2022*).

Veterans' Exemption Portability. Most property tax exemptions for veterans are portable between municipalities. The bill adds to the list of portable tax exemptions the income-based and local option veterans' property tax exemptions granted under C.G.S. §12-81g. Veterans who have established their entitlement to an exemption remain eligible for it if, during the tax year, they move to another municipality. Conn. Gen. Stat. §12-81cc, as amended by Conn. Pub. Act No. 22-74, §2 (*effective October 1, 2022, and applicable to assessment years commencing on or after October 1, 2022*).

Tax Relief for Veterans. The Secretary of the Office of Policy and Management jointly with the Commissioner of Veterans Affairs will provide an annual written notice to municipalities and veterans' organization of property tax exemptions that a municipality may opt to approve for veterans, their relatives or spouses, or persons killed in action while performing active military duty with the armed forces. Conn. Gen. Stat. §12-2b(4), as amended by Conn. Public Act No. 22-34 §34 (*effective October 1, 2022*).

Property Tax Revaluation Zones. Beginning with the October 1, 2023 assessment year, municipalities must conduct their property tax revaluations pursuant to a new OPM-designated revaluation schedule. OPM will designate five revaluation zones for municipalities. Municipalities in each zone will conduct their revaluations in the same year as other municipalities in the zone. Municipal assessors will be required to file with the OPM secretary parcel data from each implemented revaluation. Conn. Gen. Stat. §12-62, as amended by Conn. Pub. Act No. 22-74, §7 (*effective July 1, 2022, and applicable to assessment years commencing on or after October 1, 2023*).

Assessor's Denial of Tax Exemptions. Assessors, upon denying a tax exemption application for property held by scientific, educational, literary, historical, charitable, agricultural and cemetery organizations, must mail a written

notice of the decision to the applicant's last known address and include (1) the gross assessed value of the property; (2) the amount of any exemption granted; (3) the net taxable property value; and (4) a statement that the assessor's decision is appealable. The notice must be mailed after the October 1st assessment date but no more than 10 calendar days after the grand list is signed. Conn. Gen. Stat. §12-89, as amended by Conn. Pub. Act. No. 22-74, §10 (*effective October 1, 2022, and applicable to assessment years commencing on or after October 1, 2022*).

Property Tax Appeals. On or after July 1, 2022, any person appealing the decision of the board of tax review or the board of assessment appeals for a property tax matter must submit an appraisal of the real property after making an application if the assessed value of the property is one million dollars or more and the application concerns the valuation of the property. The appraisal must be completed by an individual or company licensed to perform real estate appraisals in Connecticut and it must be filed within 90 days of filing the application, unless an extension has been granted for good cause by the court. Conn. Gen. Stat. §12-117a, as amended by Conn. Pub. Act No. 22-118 §468 (*effective July 1, 2022*).

Delinquent Property Taxes. The Commissioner of Motor Vehicles may enter into an agreement with the tax collector of any city, town, or other taxing district to collect any property taxes or any installments thereof on any motor vehicle which remains unpaid from any person against whom such tax has been assessed and who makes an application to register the motor vehicle with the DMV. The Commissioner of Motor Vehicles will not register or renew a registration on a motor vehicle that is subject to an unpaid property tax or the vehicle has not been transferred by a bona fide sale. The Commissioner will not register any other motor vehicle owned by the individual except for vehicles owned by a leasing or rental firm. Conn. Gen. Stat. §14-33, as amended by Conn. Pub. Act No. 22-118 §497 (*effective July 1, 2022, and applicable to assessment years commencing on or after October 1, 2023*).

Deferral of Property Revaluations. The municipalities of Danbury, Orange, Wilton and Stamford may defer the revaluation of real property for the October 1, 2022 assessment year until the October 1, 2023 assessment year. The municipalities of Barkhamsted, Norfolk, Norwalk, Suffield, Willington and Windsor Locks may defer the revaluation of real property for the October 1, 2023 assessment year until the October 1, 2024 assessment year. If a municipality is to take advantage of this deferral, the deferral must be approved by the legislative body of such municipality. The rate maker of any municipality that elects to make such deferral may prepare new rate bills in accordance with this legislation. Conn. Special Act No. 22-6 §1 (*effective May 17, 2022*).

Grand List Exemptions. This bill was enacted to allow certain persons in certain municipalities to receive property tax exemptions for which they would have qualified if they did not miss the filing deadline. Any person eligible for a grand list exemption as listed below, but failed to timely file for the exemption may be eligible to receive the exemption if the individual files such statement no later than June 23, 2022 and pays the late filing fee. The assessor will approve the exemption for such property upon confirmation of the receipt of such fee and verification of the exemption eligibility for such property. If taxes, interest or penalties have been paid on the property, the municipality will reimburse such person if the statement is timely filed. This relief is available in for the persons, grand list, and municipalities as follows: (1) persons eligible for 2020 grand list exemption pursuant to Conn. Gen. Stat. 12-81(76) in Danbury; (2) persons eligible for 2021 grand list exemption pursuant to Conn. Gen. Stat. 12-81(76) in Groton; (3) persons eligible for 2021 grand list exemption pursuant to Conn. Gen. Stat. 12-81(7)(A) and Conn. Gen. Stat. 12-81a in Madison; (4) persons eligible for 2021 grand list exemption pursuant to Conn. Gen. Stat. 12-81(76) in Manchester; (5) persons eligible for 2018, 2019, and 2020 grand list exemption pursuant to Conn. Gen. Stat. 12-81(7)(A) and Conn. Gen. Stat. 12-81a in Middletown; (6) persons eligible for 2020 grand list exemption pursuant to Conn. Gen. Stat. 12-81(58) in Middletown; (7) persons eligible for 2018, 2019, and 2020 grand list exemption pursuant to Conn. Gen. Stat. 12-81(74)(B) in New Haven; (8) persons eligible for 2021 grand list exemption pursuant to Conn. Gen. Stat. 12-81(76) in Watertown; (9) persons eligible for 2021 grand list exemption pursuant to Conn. Gen. Stat. 12-81(72)(b)

in West Hartford; and (10) persons eligible for 2020 and 2021 grand list exemption pursuant to Conn. Gen. Stat. 12-81(76) in Windsor Locks. Conn. Pub. Act No. 22-20 §1-10 (effective May 24, 2022).

II. Case Law

Property Tax Exemptions for Charitable Purposes. In *Capital for Change, Inc. v. Board of Assessment Appeals of the Town of Wallingford*, 215 Conn. App. 681 (2022), the Appellate Court upheld the denial of a taxpayer's application for a charitable organization real property tax exemption under Conn. Gen. Stat. § 12-81(7). The court applied a five-pronged test to determine whether the property at issue qualified for such property tax exemption. Under the test, the property must: "(1) belong to or be held in trust for a corporation organized exclusively for charitable purposes; (2) be used exclusively for carrying out such charitable purposes; (3) not be leased, rented or otherwise used for a purpose other than the furtherance of its charitable purposes; (4) not be housing subsidized by the government; and (5) not constitute low or moderate income housing." While one aspect of the plaintiff's mission was to support affordable housing, the plaintiff also provided financial services to customers that did not have any income limitation or financial need requirement. The court held that, regardless of whether the taxpayer's mission to support affordable housing was a "charitable purpose" under the statute, the undisputed evidence demonstrated that the property was not *used exclusively* for charitable purposes as required under the test and therefore, it was not eligible for the charitable property tax exemption provided under Conn. Gen. Stat. § 12-81(7).

Taxation of Motor Vehicles Owned By Nonresidents. In *Alico LLC v. Town of Somers*, 2022 WL 1448870 (New Brit. Super. Ct. May 6, 2022), the Superior Court had to determine whether a motor vehicle owned by a Massachusetts limited liability company, but used and garaged in Somers, Connecticut, was subject to personal property tax in Somers. The motor vehicle was owned by the LLC, which was owned by a resident of Somers, and the motor vehicle was garaged overnight at the owner's Connecticut residence. The tax assessor assessed personal property taxes on the LLC for the vehicle and the LLC appealed the assessment. The Superior Court held that the town of Somers could assess property tax on the vehicles pursuant to Conn. Gen. Stat. § 12-71(f)(3), which provides that a motor vehicle owned by a nonresident should be taxed in the town where such vehicle in the normal course of operation most frequently leaves from and returns to. As it was not disputed that the motor vehicles were owned by the non-resident LLC and that they were garaged each night in Somers and left from and returned to Somers, § 12-71(f)(3) allowed for the taxation of the motor vehicles by the town of Somers.

Property Tax Exemption for Fuel Cells. In *Fuel Cell Energy, Inc. v. Town of Groton*, 2021 WL 6551795 (New. Brit. Sup. Ct. Dec. 22, 2021), the town of Groton argued that fuels cells owned by the plaintiff were a "cogeneration system," not a "fuel cell" because they included a heat system recovery generator ("HSRG") and thus, were not exempt from taxation under Conn. Gen. Stat. §12-81(57) (the statute that exempts certain renewable energy source from taxation, including fuel cells). The court ruled that although the fuel cells in question met the definition of a cogeneration system, which are not categorically exempt from taxation, they also met the definition of a fuel cell and that under the principle of construction for interpreting statutes, the more specific provision prevails. Accordingly, the fuel cells with an HSRG were exempt from municipal property taxation under Conn. Gen. Stat. §12-81(57).

Open Space Property Tax Exemption. In *Park Place Improvement Association, Inc. v. Town of Glastonbury*, 2021 WL 6334998 (New. Brit. Sup. Ct. Dec. 9, 2021) the taxpayer appealed a property tax assessment, asserting that the property was exempt from taxation pursuant to Conn. Gen. §12-81(7) as "open space." The plaintiff was a Connecticut corporation that owned residential property with six homes located on the property. The court held that the property failed to qualify for exemption from taxation pursuant to Conn. Gen. Stat. §12-81(7) as open space because the plaintiff was not organized for scientific, educational, literary, historical or charitable purposes as

required by the statute. Additionally, the plaintiff did not establish that the property was restricted for use as an area of land, the use of which was restricted to a purpose that would further one of the purposes of the statute, including for example, to maintain and enhance the conservation of natural or scenic resources. Instead, the property was held and maintained for the private benefit of the six homeowners and did not benefit the public. Finally, the planning commission of the town did not designate the property as open space as required by the statute.

Former Tax Exempt Status of Real Property. In *Mooreland Hill School, Inc. v. Town of Berlin*, et. al., 2021 WL 5014382 (New. Brit. Sup. Ct. Oct. 5, 2021), Mooreland High School filed a request for a municipal property tax exemption pursuant to Conn. Gen. Stat. §12-81(7). Such statute allows for property tax exemption for property “[being] used exclusively for carrying out one or more purposes,” including scientific, educational, literary or historical purposes. The school’s request was denied by the town because it ceased to operate as an educational institution in August of 2019 and had not reopened. The school claimed that the exemption should still apply because it continued to be “maintained for an educational use.” The court disagreed, stating that the statute does not apply to intended, future educational use of the property, even if the property operated as a school in the immediate past.

Tax Exemption for Property Owned by the United States. In *United States Postal Service and 29 Valley LLP v. Town of Greenwich*, et. al., 2021 WL 1154599 (New. Brit. Sup. Ct. Oct. 5, 2021), the town assessed and taxed buildings and improvements owned by the United States Postal Service (“USPS”), the lessee of the underlying land, as well as the underlying land. Prior to the assessment, the town classified the buildings and improvements owned by the USPS as tax-exempt. The land owner challenged the assessment under Conn. Gen. Stat. § 12-117a (the general appeal provision covering valuation disputes), claiming that the valuation was excessive because it included the buildings and improvements owned by the USPS, which should be exempt from taxation. It also moved to estop the town from changing the tax exempt status of the buildings and improvements. The court determined that the buildings and improvements were exempt from taxation pursuant to Conn. Gen. Stat. §12-81(1) and the Supremacy Clause of the United States Constitution because they were owned by the USPS. Accordingly, as the assessment took into consideration the value of the building and improvements, the valuation was held to be excessive.

Valuation of Furniture Fixtures and Equipment. *Kohl’s Department Stores, Inc. v. Town of Rocky Hill*, 2022 WL 620371 (New Brit. Sup. Ct. Feb. 3, 2022) involved the valuation of furniture, fixtures and equipment (“FFE”) at a Kohl’s department store. The FFE at issue was primarily display cabinets. To determine the fair market value of the FFE, the town assessor relied on the valuation table provided in Conn. Gen. Stat. § 12-63(b)(3)(B)(6). The plaintiff appealed the valuation of the assessor, as allowed under Conn. Gen. Stat. § 12-63(b)(3)(B)(6). To determine the rate of depreciation for purposes of valuing the property, the taxpayer consulted companies that sold store display cabinets as used furniture. Each company stated that the trend of closing of retail stores was leading to an over-supply of used display cases in the market. The court agreed that the town’s valuation was excessive and needed to be adjusted. However, the court also stated that Conn. Gen. Stat. § 12-63(b)(3)(B)(6) limits the rate of depreciation and that the town’s analysis caused a more rapid depreciation than permitted. The court determined the fair market value of the FEE by applying the proper depreciation rate allowed under the statute.

Establishing Aggrievement for Property Valuation Disputes. Conn. Gen. Stat. §12-117a provides for the general appeals provision for property valuation disputes. Under the provision, the court must first determine whether the assessment was excessive, which is evident that the taxpayer was aggrieved. If the court determines that the taxpayer was aggrieved, then the court may exercise its broad discretionary powers to grant appropriate relief and correct the valuation. It is the taxpayer’s burden to show that the valuation was excessive. In *Putnam Trust Company v. Town of Greenwich*, 2022 WL 178855 (New Brit. Sup. Ct. Jan. 3, 2022), the court found that the proper value of the property at issue was actually more than the value determined by the town’s assessed value.

The court therefore found that the property owner had failed to prove that the town's valuation was excessive and accordingly, it was not aggrieved. Similarly, in *Bristol Sports Center DST. v. City of Bristol*, 2021 WL 5112613 (New Brit. Sup. Ct. Oct. 13, 2021), a property owner claimed that the town's valuation of its property was grossly excessive and therefore, it was aggrieved. The court determined that the town's valuation was not excessive, as the property owner paid more for the property than the town's current assessed value and the market for the property had not materially changed between the plaintiff's purchase and the valuation date. Accordingly, the plaintiff was not aggrieved. In contrast, in *Macy's Retail Holdings, Inc. v. City of Danbury*, 2022 WL 1073525 (New Brit. Sup. Ct. Mar. 2, 2022), the plaintiff's assessment expert determined that the full fair market value of the property was \$11,500,000, and the town's expert valued the property at \$19,000,000. The court determined that the full market value for the property was \$15,300,000. It was the court's view here that, in light of the finding of facts, the plaintiff met its burden regarding aggrievement, because the town's tax assessment was excessive. In determining whether a taxpayer suffers the requisite aggrievement under Conn. Gen. Stat. §12-117a, the court will look to the facts and evidence presented by the taxpayer and the town. For example, in *Hartford Management Solutions, LLC v. Town of Bloomfield*, 2021 WL 6334961 (New Brit. Sup. Ct. Dec. 20, 2021), the town requested a broad range of financial documents from the taxpayer during the valuation process. The taxpayer only provided federal tax returns, and the town based its assessment on such returns. The taxpayer then stated that the returns he provided were inaccurate and accordingly, brought an overvaluation claim under Conn. Gen. Stat. §12-117a. The court stated that as the taxpayer only provided these tax returns which were inaccurate, the taxpayer could not show that the valuation was excessive and therefore, could not show that it had been aggrieved.

Statute of Limitations for Valuation Disputes. *Peerless Realty, Inc. v. City of Stamford*, 211 Conn. App. 441 (2022) involved remedies available to a taxpayer for reimbursement of property taxes levied on the property following the tax assessor's incorrect recordation, dating back 25 years. When the taxpayer brought the error to the town's attention, he was told he would be permitted to be refunded only for the excess payments for the previous 3 years, as any claim for a refund resulting from a clerical error going back more than three years from the tax due date is time barred under Conn. Gen. Stat. § 12-60. The taxpayer argued that this statute should not apply because it allows for relief for "clerical errors," which was not the case here. Instead, § 12-117a should apply (which sets forth the process for those claiming a relief due to an assessment error), which provides for a statute of limitations of two months from the mailing of the notice of assessment. Alternatively, § 12-119 could apply (which sets forth the process for claiming relief where the tax was computed on an assessment that was manifestly excessive), which provides for a statute of limitations of one year from the date of which the property was last evaluated. The court held that these provisions provide sufficient procedures for excess taxes due to clerical errors, improper property valuations, and manifestly aggressive assessments. No matter how the error occurred, the provisions provide a process through which the plaintiff could have sought relief.

Property Tax Complaint Requirements. In *Alterio Tractor Pulling, LLC v. Town of Seymour Board of Assessment Appeals*, 2022 WL 620231 (New Brit. Super. Ct. Feb. 2, 2022), the town assessed penalties for personal properties as a result of the plaintiff's failure to report the properties on its personal declaration. The plaintiff's complaint presented to the Superior Court alleged that the town added personal property to its declaration, but that in fact it did not own such property. The plaintiff's complaint did not cite a statute, nor describe the property at issue. The Superior Court emphasized that Conn. Practice Book §10-3 requires that statutes relied upon in pleadings must be specified by statute number and further, that a court obtains jurisdiction over an appeal only through the statute authorizing the appeal. Accordingly, the court held in favor of the town, as the plaintiff's complaint did not specify any statute supporting the appeal and accordingly, it was uncertain under what authority the appeal was brought.

Timely Assessment of Commercial Property. *Greenwich Retail, LLC v. Town of Greenwich* 2022 WL 293339 (Stamford Super. Ct. Jan. 13, 2022) addressed compliance requirements by an assessor and a commercial property

owner, with Conn. Gen. § 12-63c (the statute allowing an assessor to request information from a property owner regarding rental-related income and expenses to determine the value of property used primarily for purposes of producing rental income). Under the statute, the assessor must request information and provide an income and expense form to the owner no later than 45 days before the taxpayer is required to submit the form to the assessor. The property owner at issue submitted the requested information to the assessor after the due date set by the assessor and the assessor imposed a 10% penalty for the late submission as allowed by Conn. Gen. §12-63c(d). The property owner claimed it did not receive the request letter from the assessor because it was mailed to an old address, despite the fact that other mail sent to the old address was forwarded to the owner's current address. The court held that because the assessor sent the letter to the old address the assessor could not establish that the form was timely provided as required by the statute and similarly, the property owner could not establish that it was not timely provided. The court emphasized that the statutory scheme for compliance with § 12-63 has definite dates for compliance for both the assessor and the commercial property owner. Here, there were genuine issues of material fact concerning the timeliness of the assessor's and the owner's compliance with the statute and accordingly, the court denied both parties' request for summary judgement.

Comparable Sales Valuation Approach. Assessors may use a "comparable sales approach" in valuing property which takes into account recent, comparable sales of like property. A court may determine the tenacity of an assessor's application of such approach. For example, in *HLO Land Ownership Associates, Ltd. v. City of Hartford*, 2021 WL 5542203 (New. Brit. Sup. Ct. Oct. 25, 2021), the taxpayer challenged the town's valuation of its parking lot, whereby the town valued the property using the comparable sales approach. The court determined that the town should not have included the sales price of a certain parking lot in its application of the comparable sales approach because the sales price of this parking lot was nearly three times the price of the fair market value of all of the other properties the town deemed comparable. Further, the city assessed this parking lot in the year of the sale significantly below the sales price. Similarly, in *Dattilo Family Holdings, LLC v. Town of Westbrook*, 2021 WL 64255569 (New Brit. Sup. Ct. Dec. 22, 2021), the court found that the taxpayer's valuation was not creditable because, importantly, while many consider location to be the key feature in determining a property's value, the taxpayer did not use any sales in close proximity to the property at issue.

Miscellaneous Taxes

I. Legislation

Estate and Gift Tax Exemption; Return filings. Connecticut reestablished the federal base exclusion amount for estate and gift tax purposes and corrected a reference to the taxable threshold for filing estate tax returns with the DRS. "Federal base exclusion amount" for the estate tax has been clarified to mean the dollar amount, published annually by the IRS, at which a decedent's estate would be required to file a federal estate tax return, or above which a donor would owe federal gift tax. For the gift tax, it is the IRS published dollar amount over which a donor would owe federal gift tax based on the value of the donor's federally taxable gifts. Conn. Gen. Stat. §§12-391, 12-392, & 12-643, as amended by Conn. Pub. Act No. 22-110, §15-17 (*effective October 1, 2022*). If a decedent's Connecticut taxable estate is lesser than or equal to the federal basic exclusion amount, the Connecticut estate tax return shall be filed with the applicable probate court. If a decedent's Connecticut taxable estate is greater than the federal basic exclusion amount, the tax return will be filed with the DRS. Conn. Gen. Stat. §12-392, as amended by Conn. Pub. Act. No. 22-117, §18 (*effective October 1, 2022*).

Additional DRS Fine on Cannabis Transfers. The bill imposes additional limitations on when cannabis may be gifted, sold or transferred to another person. In addition to existing penalties, anyone who violates these limitations

may be subject to an administrative hearing held by the Department of Revenue commissioner for failing to pay taxes, which may result in a civil penalty of up to \$1,000 per violation. Conn. Pub. Act. No. 22-103 §2 (*effective May 24, 2022*).

Refund of Gas Tax for Ambulances. Emergency medical service organizations may request a refund of motor vehicle fuels tax when the fuel is used in an ambulance owned by such organization. Conn. Gen. Stat. §12-459, as amended by Conn. Pub. Act. No. 22-118, §432 (*effective July 1, 2022*).

Suspension of Certain Gas Taxes and Sales and Use Taxes on Certain Clothing. The motor vehicle fuel tax was suspended for fuels or gasohol sold or used by a distributor in Connecticut from April 1, 2022 to June 30, 2022. From April 10, 2022 to April 16, 2022, sales and use tax did not apply to sales of any article of clothing or footwear that cost less than \$100. Conn. Pub. Act. No. 22-2 (*effective April 1, 2022 for the motor vehicle fuels tax and effective March 24, 2022 for the sales and use tax*).

Diesel Fuels Tax. Effective July 1, 2022, the motor vehicle fuels tax rate per gallon on the sale or use of diesel fuel is increased from 40.1 cents to 49.2 cents. AN 2022(2), *Motor Vehicle Fuels Tax Rate on Diesel Fuel Effective July 1, 2022*.

Motor Vehicle Fuels Tax Suspension. The motor vehicles fuels tax is suspended through November 30, 2022. SN 2022(3), *Motor Vehicle Fuels Tax Suspension Extended Through November 30, 2022 & Conn. Pub. Act No. 22-118 §431 (effective May 26, 2022)*.

Utilities Company Tax. Prior to July 1, 2022, municipalities, or a department or agency thereof, or district manufacturing, selling or distributing gas to be used for light, heat or power was subject to a quarterly tax upon gross earnings from such operations in Connecticut. Effective July 1, 2022, such municipality, department, agency or district will file quarterly returns to the DRS but are not subject to the utilities company tax imposed under Conn. Gen. Stat. §12-265. Conn. Gen. Stat. §12-264, as amended by Conn. Pub. Act. No. 22-118, §433 (*effective July 1, 2022*).

Admissions Tax. The admissions tax is repealed on any motion picture show with an admission charge of more than five dollars effective January 1, 2023. Conn. Gen. Stat. §12-541, as amended by Conn. Pub. Act. No. 22-118, §435 (*effective July 1, 2022*).

Repeal of Tax on Ambulatory Surgical Centers. Ambulatory surgical centers have been required to pay a quarterly tax of six percent on their gross receipts (subject to certain exclusions). The gross receipts tax was scheduled to sunset on July 1, 2023; however, the bill changed the sunset date to July 1, 2022. Conn. Gen. Stat. §12-263i, as amended by Conn. Pub. Act. No. 22-118, §436 (*effective May 24, 2022*).

Insurance Premium Receipts Tax. The DRS shall waive any and all penalties in connection with an insured's failure to pay non-admitted premium tax beginning on or after July 1, 2019 and ending prior to July 1, 2022 provided that the insured, no later than June 30, 2023, (1) either establish a branch captive insurance company in Connecticut or transfer the domicile of its alien or foreign captive insurance company to Connecticut and (2) pay all taxes and interest due under Conn. Gen. Stat. 38a-277 for all taxable periods ending on or after July 1, 2019 but prior to July 1, 2022. Conn. Pub. Act. No. 22-118, §438 (*effective July 1, 2022*).

Unemployment Tax Reduction. For 2023, the state's five-year benefit cost rate, which is applied to calculate the State Unemployment Insurance Tax for new employers, is reduced from 1.4% to 1.2%. The state's maximum

fund balance tax rate sufficient to maintain a balance in the Unemployment Compensation Trust Fund is reduced from 1.4% to 1.2% for calendar year 2023, and to 1% for calendar year 2024. Conn. Gen. Stat. §31-225a(d)-(f), as amended by Conn. Pub. Act. No. 22-118, §211 (*effective July 1, 2022*).

Food Donation. A supermarket that donates any canned food or perishable food to a food relief organization and receives payment from an insurer for such canned food or perishable good cannot receive a tax deduction or tax credit for the amount of the payment. Conn. Pub. Act. No. 22-28 §1 (*effective October 1, 2022*).

Tax Benefits for Certain Aerospace Companies. Eligible aerospace companies that intend to take on a qualifying helicopter production project in Connecticut may enter into an agreement with the Department of Economic and Community Development to provide the company with up to \$50 million or \$75 million in total tax benefits over its term. These tax benefits may allow the company to first offset its sales and use tax liability, and if applicable, claim a corporation business tax credit, up to specified limits, for each year from 2023 through 2032. The eligible company must (1) have a wholly owned subsidiary with its headquarters and production facilities in Connecticut, (2) operate its primary helicopter production facility for its current US government helicopters programs in Connecticut, and (3) employ at least 7,000 people in Connecticut. The qualifying project must, among other things, require the company to undertake and maintain primary production of helicopters in Connecticut under one or more future federal contracts. The commissioner must certify that the company's aerospace manufacturing project meets specific criteria, including agreeing to minimum requirements for total employment, average employee wages, supplier spend, and capital expenditures that continue through at least June 30, 2042. The bill caps the total benefit that may accrue to the company in the form of these incentives (i.e., project tax benefit) over the assistance agreement's term at (1) \$6.25 million for each compliance year (\$50 million total) or (2) \$9.375 million for each compliance year (\$75 million total), depending on whether the company enters into federal contracts for one or two helicopter programs, respectively. If the company is unable to use all of the offset for a compliance year, the company may claim the excess amount as a refundable corporation business tax credit for up to \$5 million for each compliance year and \$45 million total over the agreement's term. Conn. Pub. Act. No. 22-4 (*effective April 28, 2022*).

II. Administrative Publications

Prepaid Wireless E 9-1-1- Fee. Effective July 1, 2022, the prepaid wireless E 9-1-1 fee is increased from 66 cents to 70 cents. *SN 2022(1), Change to the Prepaid Wireless E 9-1-1 Fee.*

Fuels Conversion Factors. Effective July 1, 2022, the conversion factors used for calculating the tax on motor vehicle fuels occurring in gaseous form are as follows: (i) compressed natural gas, one gallon is equal to 123.57 cubic feet or 5.66 pounds; (ii) for liquefied petroleum gas, one gallon is equal to 1.353 gallons or 5.75 pounds; and (iii) for compressed propane, one gallon of propane equals 35.97 cubic feet of propane. *SN 2022(2), Conversion Factors for Motor Vehicles Fuels Occurring in Gaseous Form Beginning July 1, 2022.*

Administrative Matters

Interest on Tax Refunds. The amount of interest a taxpayer may receive is capped at \$5 million for interest (1) added to any tax refund issued by the DRS for a tax period and (2) that a court may award in any tax appeal in connection with a tax refund claim for a tax period. Conn. Gen. Stat. §12-39f, as amended by Conn. Pub. Act. No. 22-117, §4 (*effective May 27, 2022*).

Statute of Limitations on Collection Actions. The DRS commissioner is generally prohibited from collecting tax after 10 years (1) from the date the tax was reported on a return filed with DRS or (2) in the case of an assessment, from the date the assessment became final. Any taxes that remain unpaid after the 10-year period are deemed abated as of the first day of the eleventh year succeeding the date on which the return was filed or the assessment became final. This statute of limitations does not apply to any taxes (1) for which the commissioner has entered into a compromise or closing agreement or (2) that have been secured by recording a lien on taxpayer's real or personal property. Conn. Gen. Stat. §12-35, as amended by Conn. Pub. Act. No. 22-117, §31 (*effective May 27, 2022*).

Disclosure of Return Information in Connection with Criminal Investigations. The DRS commissioner may disclosure returns and return information to authorized members of organized local police departments upon a written request by the department's police chief. The request must (1) establish the return or return information's relevance to an authorized investigation into a state criminal law violation being conducted by the department; (2) establish that no other source of such information is available to the department; and (3) include the name of each department member who will be authorized to receive the information. The DRS commissioner may disclose the information if he deems it relevant to the investigation. Conn. Pub. Act. No. 22-117, §7 (*effective May 27, 2022*). The same legislation permits the DRS special police to disclose return information if doing so is necessary to obtain information that is not otherwise reasonably available. Conn. Gen. Stat. §29-18b, as amended by Conn. Pub. Act. No. 22-117, §6 (*effective May 27, 2022*).

DRS Special Police. The definition of "peace officer" has been expanded to include DRS special police. Previously, the DRS special police had many, but not all, of the powers and protections afforded to peace officers. By designating them as peace officers, they are allowed to, among other things: (1) use a hand-held phone while driving while performing official duties within the scope of their employment; (2) be considered peace officers under the Blue Alert system; (3) obtain a motor vehicle's event data recorder pursuant to a search warrant; and (4) be considered peace officers subjected to a substantial risk of bodily injury at the scene of first degree arson. Conn. Gen. Stat. §§53a-3, 53a-19, 53a-22, 53a-23, 53a-167a, 53-167c, as amended by Conn. Pub. Act. No. 22-117, §8-14 (*effective May 27, 2022*).

Conditions for License or Permit Issuance or Renewal. The DRS commissioner is barred from issuing or renewing certain permits or licenses if he determines that the applicant is a "related person" with outstanding returns or taxes. The related person must file any outstanding returns and pay any taxes owed, or arrange to do so, to the commissioner's satisfaction before the commissioner may issue or renew the license or permit. A "related person" is a person or entity (i.e., corporation, partnership, association, or trust) that (1) controls or is controlled by the applicant, (2) is controlled by another person or entity that controls the applicant, or (3) is a member of the same controlled group as the applicant. In the case of a corporation, "control" means directly or indirectly owning 50% or more of the combined voting power of all classes of its stock. In the case of a trust, control means directly or indirectly owning 50% or more of the beneficial interest of the trust's principal or income. Ownership is defined as in federal income tax law. Conn. Gen. Stat. §12-39o, as amended by Conn. Pub. Act. No. 22-117, §35 (*effective May 27, 2022*).

Tax Studies

Personal Income Tax Study. The DRS commissioner shall conduct a study of alternative approaches for imposing the personal income tax with respect to taxpayer residency. Conn. Pub. Act. No. 22-117, §36 (*effective May 27, 2022*).

Study for R&D Tax Credit. The General Assembly has tasked the Commissioner of Economic and Community Development, in consultation with the Commissioner of Revenue Services, with conducting a study regarding whether to extend the research and development tax credit to pass-through entities. The Commissioner shall report his findings to the joint standing committee of the General Assembly no later than January 1, 2023. Conn. Pub. Act No. 22-50 §5 (*effective May 23, 2022*).

Study for Child Care Credit. The Commissioner of Revenue Services shall conduct a study to identify options for establishing a tax credit against the personal income tax for taxpayers with dependent children enrolled in child care. Not later than January 1, 2023, the commissioner shall submit a report to the joint standing committee of the General Assembly having cognizance of matters relating to children. Such report shall include the findings of such study and any legislative recommendations. Conn. Pub. Act No. 22-81 §22 (*effective May 24, 2022*).

Study on the Application of Property Taxes on Commercial Solar Generation Projects. The Office of Policy and Management, Connecticut Conference of Municipalities, the Connecticut Council of Small Towns and industry representatives will study the application of property taxes to commercial solar generation projects with a nameplated capacity rating of 50 kilowatts or more. No later than January 1, 2023, a report will be filed with the joint standing committees of the General Assembly related to energy and technology and planning and development summarizing the current statutory framework for the application of personal and real estate property taxes on commercial solar generation projects and recommendations for changes to allow for equitable property tax treatment of commercial solar generation projects across Connecticut. Conn. Pub. Act No. 22-14 §5 (*effective May 10, 2022*).

Study on Sale of Outstanding Tax Liabilities. The DRS commissioner shall conduct a feasibility study of selling outstanding tax liabilities that are owed to the state. The study shall (1) identify the current balance of outstanding tax liabilities, (2) provide a breakdown of such liabilities by tax type, (3) include an analysis or projection of the amount of revenue the state could anticipate generating from the sale of such liabilities, and (4) include the commissioner's conclusion as to whether the state should sell its outstanding tax liabilities. If the commissioner so concludes, the commissioner shall identify any legislative changes necessary to effectuate the sale of such liabilities. The report is to be submitted by January 1, 2023. Conn. Pub. Act. No. 22-117, §32 (*effective May 27, 2022*).

Commissioner's Tax Report. The Bill expands the information that the Commissioner of the DRS must provide to the joint standing committee of the General Assembly on the overall incidence of the income tax, sales and excise tax, corporate business tax and property tax. The Commissioner must provide information for the most recent ten tax years, include incidence projections for each tax type and include income classes for the top one and top five percent of all income taxpayers. The Commissioner shall provide such report on or before December 15, 2023 and biennially subsequently. Conn. Gen. Stat. §12-7c, as amended by Conn. Pub. Act. No. 22-118, §460 (*effective July 1, 2022*).

Administrative Publications

Announcements

AN 2022(2), Motor Vehicle Fuels Tax Rate on Diesel Fuel Effective July 1, 2022

AN 2022(5), Assessments Refunded by the Connecticut Insurance Guaranty Association

AN 2022(6), 2022 Revision of Form TPM-1 and TPM-2

Informational Publications

IP 2022(1), Connecticut Employer's Tax Guide, Circular CT

IP 2022(7), Is My Connecticut Withholding Correct?

IP 2022(8), Connecticut Tax Guide For Payments of Nonpayroll Amounts

Rulings

Ruling 2022-1, Corporation Business Tax Combined Unitary Group Net Operating Losses

Ruling 2022-2, Sales and Use Tax Digital Goods Training Services

Special Notices

SN 2022(1), Change to the Prepaid Wireless E 9-1-1 Fee

SN 2022(2), Conversion Factors for Motor Vehicles Fuels Occurring in Gaseous Form Beginning July 1, 2022

SN 2022(3), Motor Vehicle Fuels Tax Suspension Extended Through November 30, 2022

Taxpayer Services Special Bulletins

Taxpayer Services Special Bulletin TSSB 2022-3, Motor Vehicle Fuels Tax Not Applicable to Gasoline and Gasohol Between April 1, 2022 and June 30, 2022

Taxpayer Services Special Bulletin TSSB 2022-3.1, Motor Vehicle Fuels Tax Not Applicable to Gasoline and Gasohol Between April 1, 2022, and June 30, 2022

Taxpayer Services Special Bulletin TSSB 2022-3.2, Motor Vehicle Fuels Tax Not Applicable to Gasoline and Gasohol Between April 1, 2022, and June 30, 2022

Taxpayer Services Special Bulletin TSSB 2022-4, Special Sales Tax-Free Week From April 10, 2022, Through April 16, 2022

Taxpayer Services Special Bulletin TSSB 2022-5, Frequently Asked Questions Concerning the Child Tax Rebate

Our State and Local Tax Practice Group:

David O. Bigger, Chair
Tax and Employee Benefits Group
(860) 251-5203
dbigger@goodwin.com

Louis B. Schatz, Chair
State and Local Tax Group
(860) 251-5838
lschatz@goodwin.com

Melissa M. Mack
(860) 251-5331
mmack@goodwin.com

Deanna L. McWeeney
(860) 251-5080
dmcweeney@goodwin.com

Moira F. Petrone
(203) 324-8182
mpetrone@goodwin.com

www.shipmangoodwin.com

The lawyers in the State and Local Taxation Practice at Shipman & Goodwin LLP ("Shipman") are regularly called upon to advise businesses, executives and individual clients on all aspects of state and local tax matters. Additionally, our tax lawyers represent clients in connection with state and local tax audits, refund requests and appeals from state or local assessments.

This newsletter is for informational purposes only. It is not intended as legal advice. How the laws and principles described here will apply in a particular matter depends on the facts of that situation.

These materials have been prepared by Shipman & Goodwin LLP for informational purposes only. They are not intended as advertising and should not be considered legal advice. This information is not intended to create, and receipt of it does not create, a lawyer-client relationship. Viewers should not act upon this information without seeking professional counsel. © 2022 Shipman & Goodwin LLP, One Constitution Plaza, Hartford, CT 06103.