TAXES ON CONNECTICUT BUSINESS & INDUSTRY

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INCORPORATION AND ORGANIZATION FEES AND ANNUAL REPORTS

I. CONNECTICUT CORPORATIONS

A franchise tax is levied on domestic corporations, payable to the Secretary of the State (1) upon incorporation (based upon the total number of authorized shares), (2) upon an increase in the number of authorized shares (based upon the increase only), (3) upon a merger or consolidation (if, and to the extent that, there is an increase in the total number of authorized shares of the surviving or new corporation over the aggregate number of authorized shares of the merging and consolidating domestic corporations), and (4) upon the filing of a certificate of correction which increases the number of authorized shares that the corporation has authority to issue (C.G.S. §33618(a)).

The franchise tax is imposed upon corporations at a decreasing rate depending upon the number of authorized shares. The rate is $.01 per share up to and including the first 10,000 shares, $.005 for each authorized share in excess of 10,000 shares up to and including 100,000 shares, $.0025 per share for each authorized share in excess of 100,000 shares up to and including 1,000,000 shares, and $.002 per share for each authorized share in excess of 1,000,000 shares (C.G.S. §33-618(b)). In any case, there is a minimum initial franchise tax payment of $150 (C.G.S. §33-618(c)).

There is an additional fee of $100 for filing a certificate of incorporation, and a $60 fee for filing a certificate of merger or consolidation (C.G.S. §§33-617(a)(3) and (8)) on domestic stock corporations.

All stock corporations are required to file an annual report with the Secretary of the State (C.G.S. §33-953) at a cost of $150 (C.G.S. §33-617(a)(13)). The annual report must disclose all of the corporation's officers and directors (with their residence and business addresses), and provide an email address for electronic notices to the corporation. The Organization and First Report of a corporation must be filed within 30 days after its organizational meeting. Subsequent annual reports must be filed by the end of the month of the anniversary of its incorporation. The annual report must be filed electronically on the website of the Secretary of the State, and the filing fee must be paid by credit card or by withdrawal of funds from a debit account previously established with the Secretary of the State's office. Failure to file an annual report when it comes due could trigger the administrative dissolution of the corporation by the Secretary of the State (C.G.S. §33890).

II. FOREIGN CORPORATIONS

A corporation organized under the laws of another state may qualify to do business in Connecticut by filing an application for a certificate of authority with the Secretary of the State (C.G.S. §33-922). The filing fee is $100 (C.G.S. §33-617(a)(14)).

Although a foreign corporation is not required to pay the franchise tax levied on domestic corporations, its application for a certificate of authority to transact business in Connecticut must be accompanied by a license fee of $285 and a certificate of legal existence (or a certificate of good standing) from its state of incorporation. The $285 license fee also must be paid annually thereafter in conjunction with the electronic filing of the corporation's annual report (C.G.S. §33-617(d)).

A foreign corporation is required to electronically file an annual report with the Secretary of the State (C.G.S. §33-953) by the end of the month of the anniversary of its certificate of authority, disclosing all of its officers and directors (with their residence and business addresses) and providing an email address for electronic notices to the foreign corporation. The $150 annual report fee is assessed in conjunction with the annual $285 license fee (for a total of $435), and must be paid by credit card or by withdrawal of funds from a debit account previously established with the Secretary of the State's office. If a foreign corporation fails to file an annual report when it comes due, the Secretary of the State may revoke its certificate of authority to transact business (C.G.S. §§33-935, 33936).

A foreign corporation that fails to obtain a certificate of authority from the Secretary of the State within 90 days of commencing business in the state, or that transacts business in Connecticut without a valid certificate of authority, is liable to the state for: (i) all fees and taxes that would have been imposed upon the corporation had it obtained a certificate of authority to transact business in a timely manner; (ii) all interest and penalties imposed by law for failure to pay such fees and taxes; and (iii) an additional penalty of $300 per month for each month or part thereof during which the foreign corporation has transacted business in the state without a valid certificate of authority (C.G.S. §33-921(d)).

III. CONNECTICUT LIMITED LIABILITY COMPANIES

There is a fee of $120 for filing the articles of organization of a new limited liability company (or to file an amendment thereto), and a $60 fee for filing articles of merger or consolidation with respect to a limited liability company (C.G.S. §§34-112(a)(3), (6) and (8)).

A limited liability company must file an annual report with the Secretary of the State, with a fee of $20 (C.G.S. §34-106; C.G.S. §34-112(a)(16)), disclosing the business and residential addresses of a manager or a member of the limited liability company, and providing an email address for electronic notices to the limited liability company. The annual report is due upon the anniversary of the filing of a limited liability company's articles of organization. The annual report must be filed electronically on the website of the Secretary of the State, and the filing fee must be paid by credit card or by withdrawal of funds from a debit account previously established with the Secretary of the State's office. If a limited liability company fails to file an annual report when it comes due, the Secretary of the State may effect the dissolution of the limited liability company by forfeiture (C.G.S. §34-215). [Ed. note. Connecticut adopted the Connecticut Uniform Limited Liability Company Act effective July 1, 2017, as part of Connecticut Public Act No. 16-97.]

IV. FOREIGN LIMITED LIABILITY COMPANIES

Before engaging in business in Connecticut, a limited liability company organized in another jurisdiction must submit an application for registration with the Secretary of the State (C.G.S. §34-223). The filing fee is $120 (C.G.S. §34-112(a)(13)).

A foreign limited liability company must file an annual report on the anniversary of the company's registration (C.G.S. §34-229(a)) disclosing the business and residential addresses of a manager or a member of the foreign limited liability company, and providing an email address for electronic notices to the foreign limited liability company. The annual report must be filed electronically on the website of the Secretary of the State, and the filing fee of $20 (C.G.S. §34-112(a)(16)) must be paid by credit card or by withdrawal of funds from a debit account previously established with the Secretary of the State's office. If a foreign limited liability company fails to file an annual report when it comes due, the Secretary of the State may revoke its certificate of registration to transact business (C.G.S. §34-232).

A foreign limited liability company that fails to obtain a certificate of registration from the Secretary of the State within 90 days of commencing business in the state, or that transacts business in Connecticut without a valid certificate of registration, is liable to the state for: (i) all fees and taxes which would have been imposed upon the limited liability company had it obtained a certificate of registration to transact business in a timely manner; (ii) all interest and penalties imposed by law for failure to pay such fees and taxes; and (iii) an additional penalty of $300 per month for each month or part thereof during which the foreign limited liability company has transacted business in the state without a valid certificate of registration (C.G.S. §34-233(d)).

V. BUSINESS ENTITY TAX

The State of Connecticut imposes a biennial business entity tax on certain unincorporated businesses (C.G.S. §12-284b). The business entity tax is imposed on the following entities if they are formed under Connecticut law or are required to register with the Secretary of State before transacting business in Connecticut: S corporations, limited liability partnerships, limited partnerships, and limited liability companies (if for federal tax purposes they are either treated as partnerships and have two or more members, or are disregarded as an entity separate from its owner and have a single member).

A *Business Entity Tax Return* (Form OP-424, or Form TSC-BUS if filing electronically) and the business entity tax is due on or before the fifteenth day of the fourth month following the close of every other taxable year. "Taxable year" means the taxable year for federal income tax purposes. In practical terms, an unincorporated business with a calendar taxable year that is subject to the business entity tax will be required to file a return and pay $250 by April 15, 2017 for the 2015 and 2016 tax years, $250 by April 15, 2019 for the 2017 and 2018 tax years, etc. Foreign unincorporated businesses that obtain a certificate of authority or a certificate of registration to transact business in Connecticut from the Secretary of State are also subject to the business entity tax (C.G.S. §12-284b). For further information on the business entity tax, see DRS Informational Publication 2015(11), *Q&A on the Business Entity Tax.*

CORPORATION BUSINESS TAX

I. NEXUS

Subject to specifically enumerated exemptions, the corporation business tax is imposed on all domestic and out-of-state corporations "carrying on, or having the right to carry on," business in Connecticut (C.G.S. §12-214).

The concept of "carrying on business" is extremely broad and encompassing. It is statutorily defined to mean "every act, power or privilege exercised or enjoyed" in the state (C.G.S. §12-213(a)(20)), and includes the owning or leasing of property, maintaining an office in the state, selling tangible personal property, or performing services in the state.

Nexus, for Connecticut corporate tax purposes, can be based either on the traditional "physical presence" tests or on "economic nexus". Specifically, an out-of-state Subchapter C corporation shall be subject to income taxation in Connecticut if the out-of-state corporation directly, or indirectly as an owner of a limited liability company or a partnership, derives income from sources within Connecticut and has a "substantial economic presence" within Connecticut, as evidenced by a "purposeful direction of business toward this state." The "purposeful direction of business" is to be determined based upon the frequency, quantity and systematic nature of the contacts with Connecticut, without regard to physical presence (C.G.S. §12-216a).

Accordingly, a corporation having no place of business or assets in Connecticut and not actually or technically conducting business in the state may nevertheless be subject to the corporation business tax law if it has "substantial economic presence" within Connecticut and derives income from Connecticut sources. Economic nexus for a taxable year will not be found to exist if the aggregate receipts from Connecticut sources during the taxable year are less than $500,000. (See Information Publication 2010(29.1), *Q&A on Economic Nexus,* which also discusses passive investments, the licensing of tangible property, transactions with related entities and the application of the law to foreign (non-US) corporations.)

The economic nexus rules are not applicable to any corporation that is treated as a foreign corporation under the Internal Revenue Code and has no income effectively connected with a United States trade or business. If the foreign corporation does have income effectively connected with a United States trade or business, its gross income shall be such effectively connected income and for net income tax apportionment purposes, only property used in, payroll attributable to, and receipts effectively connected with the foreign corporation's United States trade or business shall be considered for purposes of calculating the corporation's apportionment fraction.

Connecticut's right to impose its net income tax on corporations that are incorporated outside of Connecticut is restricted by federal constitutional and statutory law (see, e.g., Public Law 86-272). This restriction means that a corporation with no place of business, or tangible assets in Connecticut, and no net income from Connecticut sources would pay no corporate business tax on sales of tangible personal property, except for the minimum tax of $250 per year, payable by all domestic corporations and by all foreign corporations registered to do business in Connecticut. Such corporations are taxed, not because they are carrying on business in Connecticut, but because by virtue of their registration, they have the right to do so. A tax credit allowed against the corporation business tax cannot reduce a company's tax to an amount less than the minimum tax of $250 (C.G.S. §12-219(3)).

Participation in a trade show or shows at the Connecticut Convention Center in Hartford will not trigger nexus if: (i) the corporation's activity at such trade shows is limited to the displaying of goods or the promoting of services; (ii) no sales are made; (iii) any orders received are sent outside of Connecticut for acceptance or rejection and are filled from outside of Connecticut; and (iv) such participation is not more than 14 days, or part thereof, in the aggregate during the corporation's federal income tax year (C.G.S. §12213(a)(20)(C)).

A corporation is deemed to be carrying on or doing business in Connecticut if it is a general partner in a partnership that does business, owns or leases property or maintains an office in Connecticut. A corporation is also deemed to be carrying on or doing business in Connecticut if it is a limited partner of a limited partnership, other than an "investment partnership," that does business, owns or leases property or maintains an office in Connecticut. A corporation that is not otherwise carrying on or doing business in Connecticut, will not be deemed to be carrying on or doing business in Connecticut solely by virtue of being a limited partner in one or more "investment partnerships" (C.G.S. §12-214(a)(3)).

II. THE NET INCOME TAX

The tax on net income is computed as follows:

First, the corporation's entire net income is determined; if another state does not have jurisdiction to subject the corporation to tax (regardless of whether it, in fact, imposes such a tax), the Connecticut tax is imposed on the corporation's entire net income.

Second, if a corporation is taxable both within and outside Connecticut, the corporation must apportion its net income that is attributable to Connecticut (C.G.S. §12-218). If a corporation is subject to the taxing jurisdiction of another state for either a net income tax, franchise tax or corporate stock tax, then, whether or not the other state taxes that income, it may not be attributable to Connecticut, and therefore, may not become part of Connecticut's apportioned net income base (C.G.S. §12-218(a)).

The following corporations are exempt from the corporate business tax: insurance companies (C.G.S. §12-214(a)(2)(A)), companies exempt for federal income tax purposes, and a passive investment company created by a qualifying financial services company (C.G.S. §12-213).

III. DETERMINING NET INCOME FOR PURPOSES OF THE TAX

The starting point for determining Connecticut taxable income is federal net income (C.G.S. §12-213). The Connecticut tax return basically uses the same form and item numbers as the federal return. The federal return should be used to complete the state return.

Except for a limited number of specific items, Connecticut law generally conforms with the federal law as to which items must be included in gross income and which may be deducted in determining net income (C.G.S. §§12-213, 12-217).

To determine the net income for Connecticut's corporation business tax, corporations must add back recoveries of bad debts deducted in previous years to federal gross income. (Bad debt recoveries are not included in federal gross income because their previous deduction did not result in a tax benefit.) Corporations must also add back otherwise deductible intangible property costs (i.e., royalties) and interest costs incurred in intangible property-related transactions with related corporations (C.G.S. §12-218c).

Corporations additionally are required, when determining their Connecticut taxable income, to disregard or otherwise add back any federal income tax deduction taken under Section 199 of the Internal Revenue Code for income from qualified domestic production activities (e.g., manufacturing, construction, engineering, energy production, computer software, films and videotape, etc.) (C.G.S. §12-217(a)(1)).

Under C.G.S. §12-218d, a corporation must also add back otherwise deductible interest paid, accrued, or incurred to a related "member" in determining Connecticut net income, unless one of the following three exceptions applies:

(i) The corporation establishes by clear and convincing evidence that:

- A principal purpose of the transaction giving rise to the payment of interest was not to avoid the payment of the corporation business tax; and
- The interest is paid pursuant to a contract that reflects an arm's length rate of interest and terms; and
- Either (a) the related member was subject to tax on its net income in Connecticut, in another state or possession of the United States, or in a foreign nation; the interest received from the taxpayer was included in the measure of the tax; and the rate of tax applied to the interest received by the related member is not less than the Connecticut statutory rate of tax (not including the surcharge) minus three percentage points; or (b) the related member is subject to Connecticut's insurance premiums tax or a comparable tax in another state.

(ii) The related member is located in a foreign nation that has in force a comprehensive income tax treaty with the United States among the included corporations.

(iii) The corporation establishes by clear and convincing evidence that the adjustments are unreasonable, or the corporation and the Commissioner agree in writing to the application or use of an alternative apportionment method, or the corporation elects to calculate its tax on a unitary basis if there are not substantial inter-corporate business transactions.

For these purposes, interest expenses and costs mean amounts directly or indirectly allowed as deductions under I.R.C. §163. A related member is defined as a person that is:

(1) a related entity (which is defined broadly to include those individuals or entities that own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the value of the taxpayer's outstanding stock); (2) a component member as defined in I.R.C. §1563(b); (3) a person to or from whom there is attribution of stock ownership in accordance with I.R.C. §1563(e); or (4) a person that, notwithstanding its form of organization, bears the same relationship to the taxpayer as a person described above in (1) through (3).

The amount added back to pre-apportioned income is not included in the gross income or receipts factor of the related member that received the interest. The add-back provisions do not limit or negate the Commissioner's discretionary authority to make adjustments. (DRS Special Notice 2003(22)).

Corporations may deduct from federal gross income "all items deductible under the Internal Revenue Code" (C.G.S. §12-217(a)(1)(A)). There are several modifications to this general rule. Corporations cannot deduct from Connecticut corporate income: state income or franchise taxes; federal taxes; I.R.C. Section 165 losses; interest from federal, state or local government obligations; or expenses relating to any dividends allowed as a deduction or credit under federal corporate net income law (C.G.S. §12-217(a)).

There are special rules relating to the deductibility of expenses and income for regulated investment companies and real estate investment trusts ("REITs"). A "captive REIT" must compute its net income for Connecticut corporation business tax purposes based upon its federal corporation net income without the benefit of the deduction for dividends paid that is provided by federal Internal Revenue Code Section 857(b)(2) (and recipients of dividends from a captive REIT will no longer be required to take into income those dividends for purposes of the Connecticut corporation business tax). A "captive REIT" for these purposes is a real estate investment trust: (i) that is not regularly traded on an established securities market, (ii) that is not a "qualified real estate investment trust" as defined in Conn Gen Stat Sec 12-217(a)(3), and (iii) in which more than 50% of the REIT's voting power, beneficial interests or shares are owned or controlled directly or constructively by a Subchapter C corporation. There are several exclusions to the definition of "captive REIT".

Net operating losses and net capital losses cannot be carried back and deducted from Connecticut returns as they can be on the federal return. However, a corporation is allowed a 20-year carry forward for net operating losses incurred in income years beginning on or after January 1, 2000 (C.G.S. §12-217(a)(4)). For income years commencing on or after January 1, 2015, the portion of the net operating loss 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 net operating loss over the net operating loss being carried forward from income years prior to such Loss Year. In addition, a special rule applies to combined groups with unused operating losses 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 licensed net operating losses 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 net operating loss carryover to reduce the combined group's tax in any income year commencing on or after January 1, 2015, prior to the surtax and after the application of credits, to $2.5 million. Such an election must be made on the tax return for the tax year commencing on or after January 1, 2015, and before January 1, 2016. Net operating losses generated in tax years beginning on or after January 1, 2015 are then subject to the general 50% of net income limit on the use of NOLs. Special rules apply to the application of net operating losses of a combined unitary group. See Part VI, Section 5 below.

For purposes of computing depreciation, C.G.S. §12217(b) provides that the deduction allowed for accelerated depreciation in I.R.C. §168(k) shall not apply (DRS Special Notice 2002(10); DRS Announcement 2008(7)). Accordingly, corporate taxpayers are not entitled to any additional stimulus depreciation allowed under federal tax law.

Certain items that are not deductible on the federal return may be deducted on the Connecticut return. A corporation may deduct from gross income any capital gain realized from the sale of land to the state, or to any town, nonprofit land conservation organization or water company where the land is to be preserved as open space (C.G.S. §12-217(a)(1)(E)).

A limited deduction is also allowed for dividends not otherwise deductible from federal gross income. However, taxpayers who own less than 20% of the total voting power and value of the stock of the domestic corporation paying the dividend can deduct only 70% of the dividends received from that corporation, less any related expenses (C.G.S. §12217(a)).

Under Internal Revenue Code Section 108(i), a taxpayer had the option of delaying the recognition of cancellation of indebtedness income ("CODI") realized from qualifying re-acquisitions of its own debt instruments in 2009 and 2010. The deferral under federal tax law was until 2014, at which point the taxpayer had to recognize the income for federal tax purposes in equal annual installments over the succeeding five years. Corporate taxpayers in Connecticut are not entitled to utilize the federal CODI deferral provision when calculating their Connecticut taxable income (but they will be permitted to deduct the deferred income when it is recognized for federal income tax purposes in later years) (C.G.S. §12-217b).

Certain manufacturing corporations are eligible to form "Manufacturing Reinvestment Accounts" which could result in reduced Connecticut taxes for such corporations. Under this program, the Department of Economic and Community Development is authorized to select not more than 50 manufacturers, each of which must have not more than 150 employees, to participate in a program where they may be able to reduce their liability for Connecticut tax. A qualifying manufacturer will be entitled to establish an interest-bearing manufacturing reinvestment account with a Connecticut bank and contribute annually to that account an amount not to exceed the lesser of (i) $100,000 or (ii) the manufacturer's gross receipts. Such contributions will be deductible for purposes of the corporation business tax. The manufacturer may use distributions from the account to purchase machinery or equipment for use in Connecticut, or manufacturing facilities, or for workforce training, development or expansion in Connecticut. Any money remaining in the account at the end of five years after such account's creation or organization and any interest earned are to be returned to the taxpayer. In general, if a distribution from the account is used for a permitted purchase, the manufacturer need not include the distribution in gross income for corporation business tax purposes. Other distributions are taxed in full.

Except for the differences noted above, the Connecticut law allows both "gross income" (C.G.S. §12-213) and "deductions" (C.G.S. §12-217) to be determined by the federal corporation income tax law "in force on the last day of the income year." Thus, changes in federal law based on the definition of gross income and allowable deductions are automatically reflected in the Connecticut tax law without any need to revise the state statute.

IV. S CORPORATIONS

Federal tax law generally does not impose a tax on an S corporation at the corporate level. Rather, the income is taxed in the same manner as partnership income is taxed: income and loss flow through the corporation and are taxed to the shareholders on their personal returns. Connecticut treats S corporations in the same manner.

In addition, only the portion of an S corporation's income that is attributable to Connecticut is taxed to the shareholders on their Connecticut returns. Historically, apportionment has been calculated using a three-factor apportionment formula that is based upon the average of the percentages of property, payroll and gross income in Connecticut. However, effective for income years commencing on or after January 1, 2017, apportionment generally must be calculated using a single-factor apportionment formula that is based upon gross receipts using market-based sourcing.

The nonresident owners of an out-of-state Subchapter S corporation are subject to income taxation in Connecticut on their allocable share of Connecticut source income if the out-of-state S corporation has a "substantial economic presence" within Connecticut, as evidenced by a "purposeful direction of business toward this state." The "purposeful direction of business" is to be determined based upon the frequency, quantity and systematic nature of the contacts with Connecticut, without regard to physical presence (C.G.S. §12-726). In DRS Informational Publication 2010(29.1), the DRS provided guidance as to how "substantial economic presence" will be determined. The release includes a bright line test that provides that economic nexus for a taxable year will not be found to exist if the aggregate receipts from Connecticut sources during the taxable year are less than $500,000. The guidance also discusses passive investments, the licensing of tangible property, transactions with related entities and the application of the law to foreign (non-US) corporations.

S corporations are required to file a Connecticut composite income tax return (CT1065/CT-1120SI) with the Department of Revenue Services if they are required to file a federal Form 1120S and they have any income, gain, loss or deduction derived from or connected with Connecticut sources. S corporation shareholders pay tax at the individual level. The S corporation, itself, is subject to the $250 business entity tax every other year. In practical terms, an S corporation with a calendar taxable year will be required to pay: $250 by April 15, 2015 for the 2013 and 2014 tax years, $250 by April 15, 2017 for the 2015 and 2016 tax years, etc. The tax is paid with the filing of Form OP-424, which is due on or before the fifteenth day of the fourth month following the close of the year in which the tax is imposed.

S corporations having Connecticut source income with nonresident shareholders are subject to special withholding and tax payment requirements (DRS Informational Publication 2006(22)). See the last section of this booklet on "Employer and Pass-Through Entity Income Tax Withholding Requirements."

V. APPORTIONMENT OF NET INCOME

Once a corporation's net income is determined, the next step is to apportion it if the corporation engages in a multi-state business. Only that portion of net income attributable to Connecticut is subject to the Connecticut corporation business tax. Historically, a corporation apportioning net income used either a single-factor or three-factor formula depending upon the primary nature of its business activity. However, commencing with income years beginning on or after January 1, 2016, a corporation generally must apportion its net income based upon a single gross receipts factor.

1. Income Years Commencing Prior to January 1, 2016

a. Single Factor Apportionment

Single factor apportionment is available for companies whose net income is derived from a business other than the manufacture, sale or use of tangible personal or real property. In addition, for financial services companies, manufacturers and broadcasters, the single-factor formula, based on gross receipts or sales, is used. These corporations should check corporate records to determine gross receipts derived from business in Connecticut. These receipts are divided by gross receipts from business carried on in every jurisdiction. This fraction is then multiplied by the unapportioned net income to get the Connecticut portion of net income (C.G.S. §12-218(b)).

For example, a qualified financial service company is allowed to apportion its net income to Connecticut using a single-factor gross receipts formula in which the income is sourced based on the billing address of the financial service company's customers (C.G.S. §12-218(b)). In 2015, the Department of Revenue Service ruled that a corporation is a financial service company 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 (DRS Ruling No. 2015-1). Also, certain qualified institutions may apportion income derived from credit card activities in Connecticut using a single-factor apportionment formula that attributes receipts to the location of the cardholder (C.G.S. §12-218).

b. Three Factor Formula

In the case of most other corporations, net income attributable to business in Connecticut is typically determined by an apportionment fraction equal to the sum of the property factor, the payroll factor and twice the receipts factor, divided by four (C.G.S. §12-218(c)).

To determine the property apportionment factor, the average monthly net book value (cost less depreciation) of all tangible property in Connecticut (excluding leasehold improvements) plus eight times all gross rent payments required to be made during the taxable year under the terms of a lease for any rented tangible property, real or personal, located in Connecticut, is divided by the average monthly value of all such property owned and rented everywhere. The resulting percentage is the portion of such property attributable to Connecticut. Amortization of leasehold improvements is capitalized the same as rent.

To determine the payroll factor, the corporation's total wages, salaries and other compensation is attributed to Connecticut. To determine whether an employee's compensation is attributed to Connecticut in making the above computations, the law states that an employee's compensation is paid in Connecticut if:

(a) the employee's service is performed entirely within the state; or

(b) the service is performed both within and outside the state, but the out-of-state work is incidental to the individual's service within the state; or

(c) only some of the service is performed in the state; and

- (i) the base of operations or the place in which the service is directed or controlled is in the state; or

(ii) the base of operations or the place in which the service is directed or controlled is not in any state where some part of the service is performed, but the employee is a resident of Connecticut (C.G.S. §12-218(c)).

The third factor represents the portion of the taxpayer's gross receipts from sales or other sources which are assignable to Connecticut. In determining the portion of gross receipts from sales of tangible property, all sales must be considered Connecticut sales "if the property is delivered or shipped to a purchaser within the state, regardless of the free-on-board point or other conditions of the sale" (C.G.S. §12-218). Receipts also include receipts from services performed and rentals and royalties from properties situated within this state. Connecticut is now on a straight sales destination basis.

Connecticut does not impose the so-called "throwback provision" on sales shipped to jurisdictions where the taxpayer is not taxable.

To determine a taxpayer's Connecticut tax liability, receipts are included twice in the apportionment calculation, then all factors are added together, and the entire amount is divided by four to get the percentage of appropriate income attributable to Connecticut. If Connecticut's share of any factor is zero, a zero percentage may be used for the factor. However, when the denominator of any of the three factors is zero, the total is divided by the number of factors having a denominator greater than zero, rather than being divided by four. For example, if only two factors have a denominator greater than zero, the total number of factors is divided by two.

2. Income Tax Years Commencing On Or After January 1, 2016

As noted above, commencing with income years beginning on or after January 1, 2016, a corporation generally must apportion its net income using a single-factor formula based upon its gross receipts. New law requires the application of market-based sourcing rules to source gross receipts for this purpose. Gross receipts from the following are assignable to Connecticut: (i) sales of tangible property if the property is delivered or shipped to a purchaser within the state (other than a DISC); (ii) services to the extent the services are used at a location in this state; (iii) the rental, lease or license of real or tangible personal property to the extent such property is situated within the state; (iv) the rental, lease or license of intangible property to the extent it is used within the state; and (v) interest managed or controlled within the state. Gross receipts from the sale or other disposition of real, tangible or intangible property are excluded from the calculation of the apportionment fraction if the property is not held primarily for sale to customers in the ordinary course of the taxpayer's trade or business. Gross receipts other than those described above are assignable to this state to the extent the taxpayer's market for the sales is in Connecticut.

The apportionment formula for qualified financial services has not substantially changed as a result of recent market-based sourcing legislation. Thus, a qualified financial service company continues to be allowed to apportion its net income to Connecticut using a single-factor gross receipts formula in which the income is sourced based on the billing address of the financial service company's customers (C.G.S. §12-218(b)). In 2015, the Department of Revenue Service ruled that a corporation is a financial service company 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 (DRS Ruling No. 2015-1). Also, certain qualified institutions may apportion income derived from credit card activities in Connecticut using a single-factor apportionment formula that attributes receipts to the location of the cardholder (C.G.S. §12-218).

If a corporation (that is otherwise not doing business in Connecticut) invests in an "investment partnership," it is not subject to the Connecticut corporation business tax on income received from the "investment partnership" or any of its other income. If a corporation (that is not otherwise doing business in Connecticut) invests as a limited partner in a partnership, it will be subject only to the corporation business tax on its share of the Connecticut source income of the partnership. The corporation will ordinarily not be taxed on any of its other income (C.G.S. §12-218(g)).

VI. CALCULATION OF THE TAX

1. Income-Based Calculation

As a general rule, corporations doing business in Connecticut are subject to a tax rate of 7½% on the Connecticut portion of their net income.

For income years commencing prior to January 1, 2016, a corporation doing business in Connecticut that is included in a federal consolidated income tax return with one or more other corporations generally may: (i) file a separate Connecticut corporation business tax return; (ii) elect to file a Connecticut combined return with one or more of the other corporations included in the federal consolidated income tax return and compute its tax on a combined basis with such other corporations; or (iii) file a petition with the Commissioner of Revenue Services to file a unitary tax return with the members of a proposed unitary group of corporations. Corporations that are eligible for, and elect to file, a Connecticut combined return for a group of affiliated corporations must add the excess of the total tax that would have been due had the corporations filed separate returns over the total tax due under the combined method. The cap on this additional tax, termed a "preference tax," is $500,000 (C.G.S. §12-223f).

However, for income years commencing on or after January 1, 2016, groups of companies with common ownership that are engaged in a unitary business, where at least one member of the group is subject to the Connecticut corporation business tax, must calculate their tax liability on a combined unitary basis. In addition, a corporation may be required to file a separate Connecticut corporation business tax return with respect to the portion, if any, of its operations that are not part of a combined unitary group reported on a Connecticut combined unitary return. See Part VI, Section 5 below.

2. Alternative Capital-Based Calculation

If a corporation has low net income for a particular year, yet maintains substantial capital in the state, it may be subject to an additional tax based on these assets. This additional tax is levied only when the tax based on capital exceeds the tax based on income. The additional tax is the amount by which the tax based on assets exceeds the tax based on net income and is added to the income-based tax (C.G.S. §12-219(a)). As a practical matter, both taxes are calculated on the return, and the higher of the two taxes is paid. For income years commencing on or after January 1, 2016, the alterative capital-base tax will apply to a combined group of corporations engaged in a unitary business under Connecticut's new combined unitary calculation and reporting rules, discussed below.

The calculation of the additional tax is complex. A brief description of the four major steps used to calculate the tax is described below:

First, calculate the average value of the corporation's issued and outstanding capital stock, using the beginning and the end-of-year balances, fractional shares, surplus and undivided profits, and surplus reserves. Capital stock includes treasury stock, fractional shares, script certificates convertible into shares of capital stock, and amounts received on subscriptions to capital stock (C.G.S. §12-219(a)(1)(A)).

Second, from this figure, subtract the average value of any deficit carried on the balance sheet and amount of any stock holdings of private corporations, including treasury stock (C.G.S. §12-219(a)(1)(B)).

Third, apportion the amount calculated from steps (1) and (2) between Connecticut and non-Connecticut sources (C.G.S. §12-219(a)(1)(C)). This is done by a ratio calculated as follows:

(a) The average monthly value of all investments (other than stock or private corporations, cash, credits and other intangibles) is divided between:

  (i) Those located within Connecticut for tax purposes, and

  (ii) Those located outside of Connecticut for tax purposes (C.G.S. §12-219a).

(b) The average monthly net book value of the tangible property held and owned by the corporation during the year is divided between:

  (i) Those held within the state, and

  (ii) Those held outside the state (C.G.S. §12-219(a)).

(c) The sum of (a)(i) and (b)(i) is divided by the total of (a) and (b) to get a percentage (C.G.S. §12-219a). The percentage is multiplied by the result of step (1) and (2) above. This final figure is the Connecticut portion (C.G.S. §12-219a). On the return, the company is asked to calculate the percentages for Connecticut property versus all property of the company. The return does not ask for property located outside of Connecticut to be specifically listed.

(d) The combined return preference tax is added when the excess of the total tax that would have been due had the corporations filed separate returns exceeds the total combined tax. The preference tax cannot exceed $500,000.

Fourth, a tax of 3.1 mills per dollar is applied to the Connecticut portion. The tax cannot be less than $250, nor more than $1,000,000 (C.G.S. §12-219(a)).

If the tax based on capital is larger than the tax based on income, the difference between the two is the additional tax owed. Under the general rule, this additional tax is added to any tax owed. The total amount is the corporation business tax owed.

In general, insurance companies, real estate investment trusts, regulated investment companies and financial services companies are exempt from the tax on a corporation's capital base, but financial service companies are subject to the requirement annually to pay the greater of the net income tax due for an income year or $250.

3. Temporary Tax Surcharge

A "temporary" tax surcharge that applied to tax years commencing in 2012 through 2015 was extended to tax years commencing in 2016 through 2018. For tax years commencing in 2012 through 2017 the tax surcharge is 20%. For the tax year commencing on or after January 1, 2018 and prior to January 1, 2019, the surcharge is 10%. The tax surcharge is on the corporation business tax liability of a corporation, regardless of whether the tax is based upon the corporation's net income or capital base, unless either (i) the tax is equal to $250 (i.e. the minimum tax) or (ii) the gross income of the corporation is less than $100 million. The $100 million gross income exemption from the surcharge is not available to a corporation that files a combined or unitary return. The surcharge is calculated based upon the tax liability of the corporation excluding any credits (C.G.S. §§12-214(b)(6) and (7), 12-219(b)(6) and (7)).

4. The Minimum Tax

If, based upon the calculations under the income or capital base, no tax is owed, a minimum tax of $250 is due. This tax is not based on the business conducted in Connecticut, but on the right to conduct business in the state.

5. Mandatory Combined Unitary Reporting Commencing in 2016

In 2015, the Connecticut General Assembly enacted and Governor Malloy signed into law new mandatory combined unitary reporting rules that apply to a "combined group" of companies. Mandatory combined unitary reporting is effective for income years commencing on or after January 1, 2016.

A "combined group" is 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. . 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 can elect to determine its members' net income, capital base and apportionment factors on a world-wide basis or an affiliated group basis. The election 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 its members' net income, capital base and the apportionment factors on a "water's-edge basis." The use of the water's-edge basis may require the inclusion of the net income, capital base and apportionment factors of 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.

Subject to the modifications discussed below, a combined group's net income is the aggregate net income or loss of each taxable member and nontaxable member derived from a unitary business. A taxable member is a member that is subject to the Connecticut corporation business tax. A nontaxable member is a member that is not a taxable member. Nontaxable members include corporations that are exempt from the corporation business tax, such as insurance companies and charitable organizations.

Each member calculates its net income derived from a unitary business as if it were filing on a standalone basis. Dividends paid from one member to another are eliminated from the income of the recipient. Principles set forth in the federal consolidated return regulations generally apply. Special rules apply to the calculation of the charitable contribution limitation. In addition, gains and losses from the sale or exchange of capital assets are removed from the separate member's net income and aggregated at the group level. The net gain or loss is apportioned to the taxable members in accordance with the net income apportionment provisions. Apportioned net losses are carried forward by each taxable member separately.

If any member of the combined group carries on or does business outside of Connecticut, the group is entitled to apportion its net income. Apportionment is based upon a single sales factor.

The net operating losses ("NOLs") of a combined group are, after apportionment, deducted from each taxable member's portion of the combined group's net income as follows: (i) NOLs incurred by a taxable member in a year when it filed a separate corporation business tax return may be used only to reduce its apportioned amount of the combined group's net income; (ii) NOLs incurred by a group that filed a Form CT-1120CR, *Combined Corporation Business Tax Return,* or a Form CT-1120U, *Unitary Corporation Business Tax Return,* in an income year prior to 2016 may be used to reduce the apportioned amount of the combined group's net income of any taxable member that was included in the Form CT-1120CR or Form CT-1120U in the loss year (note, only the combined NOLs from a Form CT-1120CR, and not separate company NOLs from such a return that were available for preference tax purposes, may be utilized); and (iii) NOLs incurred by a taxable member in a year in which it filed a combined unitary tax return after unitary reporting became mandatory may be used by the taxable member and/or may be shared with other members that were included in the combined group in the year of the loss (regardless of whether the member was a taxable member or nontaxable member in the loss year).

The tax calculated for a combined group on a combined unitary basis, prior to the temporary tax surcharge (see Section VI.3 above) and the application of credits, may not exceed by more than $2.5 million the "nexus combined basis tax". The "nexus combined basis tax" is the tax measured on the sum of 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).

Combined groups are subject to tax on the greater of their net income base and capital base taxes. To calculate the combined group's capital base, the members of the combined group (including both taxable and nontaxable members, but excluding any financial service company) aggregate each of their separate capital bases. Inter-corporate stock holdings in the combined group are eliminated and no deduction is allowed for such holdings. Assets and liabilities attributable to transactions between members are also eliminated. If any member of the combined group carries on or does business outside of Connecticut, the group is entitled to apportion its capital base. The minimum capital base tax for each taxable member in the combined groups is $250.00. The maximum aggregate capital base tax of any combined group is $1 million prior to the application of the temporary surcharge.

VII. TAX CREDITS

After the total tax is calculated, the tax owed can be reduced by certain tax credits. The amount of tax credits allowable for any income year is capped by a maximum percentage of the tax due prior to the application of the credits. For any income year commencing on or after January 1, 2002, and prior to January 1, 2015, the amount of tax credits otherwise allowable against the Connecticut corporation business tax due for any income year was limited to 70% of the tax due for that income prior to the application of such credit or credits. For any income year on or after January 1, 2015, the use of tax credits may not exceed 50.01% of the tax due prior to the application of the credit or credits. For income years beginning on or after January 1, 2016, taxpayers are permitted to use certain "excess credits" to further reduce their tax due above the 50.01% limitation. "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 (C.G.S. §12-217zz).

For the 2013 through 2016 calendar years, however, the cap applicable to the insurance premium/subscriber charge tax is reduced generally to 30%, but a 55% cap applies in the case of each of the film production tax credit, entertainment industry infrastructure tax credit, and the digital animation production companies tax credit, and a 70% cap is allowed for purposes of the Connecticut insurance reinvestment fund tax credit provided in C.G.S. §38a-88a (C.G.S. §12-211a).

A similar limitation of 50.01% on the use of the credits has been adopted for purposes of the hospitals tax. 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 (C.G.S. §12-263b).

The DRS maintains on its website an Online *Guide to Connecticut Business Tax Credits* at http://www.ct.gov/drs/cwp/view.asp?a=3807&q=521288.

Each taxable member of a combined group filing a combined unitary tax return is individually subject to the limitations imposed by C.G.S. § 12-217zz (generally providing that credits may offset no more than 50.01% of each taxable member's tax). Subject to this limit, credits may be utilized by other members of the unitary group.

No tax credit allowed against the corporation business tax shall reduce a corporation's tax to an amount less than $250 (C.G.S. §12-219(a)(3)). In addition, each corporation included in a combined return (or combined unitary return) shall pay the minimum tax and no tax credit allowed against the corporation business tax shall reduce an included corporation's tax liability to an amount less than $250 (C.G.S. §12-223c).

Corporations that file on a combined or unitary basis report the credits that qualify on an affiliate basis. Most credits may be carried over to subsequent tax years.

The Commissioner may disallow any credit otherwise allowable against the corporation business tax if the corporation has any outstanding taxes (including interest, penalties or fees) due and unpaid to the state following a thirty-day late period. A tax is outstanding after all assessments, appeals and court actions are final (C.G.S. §12-235a).

- **First Five Plus Program.** Legislation adopted in 2011, and later amended, established the First Five Plus Program, whereby the Connecticut Department of Economic and Community Development (the "DECD") may provide "substantial financial assistance" to up to ten business development projects for the 2012 fiscal year and an additional five during the 2013 fiscal year. The Program was subsequently extended until June 30, 2019 and the maximum number of business development projects that can be funded under the program was increased from fifteen to twenty. First Five Plus Program awardees must commit either (i) to creating at least 200 new jobs within 24 months from the date their application is approved, or (ii) to investing at least $25 million and creating at least 200 new jobs in the five-year period from the date their application is approved. DECD certification must be approved by the Governor. Under the program, the DECD may give preference to projects involving the relocation of an out-of-state or international manufacturer or corporate headquarters. 2016 legislation expands those businesses that are to be given preference to those that are: (i) located in one of the state's distressed municipalities (as defined in C.G.S. § 32-9p) or (ii) part of an industry that the state's strategic plan targets for assistance. (Ed. note. The state's 2015 strategic plan targets for priority investment health care, bioscience, insurance and financial services, advanced manufacturing, digital media, tourism and green technology industries) (C.G.S. §32-4*l*).
- **Angel Investor Tax Credit.** Current law allows certain taxpayers a non-refundable, non-transferrable credit of 25% (up to a maximum of $250,000) of investments of at least $25,000 (prior to October 27, 2011, the minimum eligible investment was $100,000) made in the "qualified securities" of a "qualified Connecticut business." In order to be eligible for the credit, the investor must not control 50% or more of the target business, and may not be a venture capital company, or a bank, insurance company or comparable business entity. The recipient business must be engaged in bioscience, advanced materials, photonic, information technology, green technology or any other emerging technology, as determined by the Commissioner of the DECD. A target business also must meet certain requirements pertaining to ownership, gross revenues, employees and total investments eligible for the credit. In order to reserve a tax credit, investors must first apply to Connecticut Innovations, Incorporated ("CII"). CII shall not reserve any tax credits for investments made after June 30, 2019. Total credits are capped at $6 million for each of the 2011 and 2012 fiscal years, and may not exceed $3 million in any subsequent year. CII annually must review the credit program's effectiveness and report to the Commerce Committee of the General Assembly. Credits are available to individuals and credits earned by an entity classified for federal income tax purposes as a partnership or an

S corporation may be claimed by the individual owners thereof. Unused credits may be carried forward for up to five taxable years (C.G.S. §12-704d).

- **Human-Capital Investment Credit.** A corporation may take a credit of 5% of the amount spent on human-capital investment. Human-capital investment means the amount paid or incurred by a corporation for:

  (1) job training that occurs in this state for persons who are employed in this state;

  (2) work-education programs in this state including, but not limited to, programs in public high schools and work-education diversified-occupations programs in this state;

  (3) worker training and education provided by institutions of higher education in this state for persons who are employed in this state;

  (4) donations or capital contributions to institutions of higher education in this state for improvements or advancements of technology, including physical plant improvements;

  (5) planning, site preparation, construction, renovation or acquisition of facilities in this state for the purpose of establishing a day care facility in this state to be used primarily by the children of employees who are employed in this state;

  (6) subsidies to employees who are employed in this state for child care to be provided in this state; or

  (7) contributions made to the Individual Development Account Reserve Fund, as defined in C.G.S. §31-51ww.

A corporation claiming this credit may not claim any other credits with respect to the same expenditures. Unused credits may be carried forward up to five years. No carryback of the credit is allowed (C.G.S. §12-217x).

- **Apprenticeship Training Credit.** A tax credit is available for expenses incurred in connection with apprenticeship training in manufacturing, plastics, and construction trades. A corporation may be allowed a tax credit for increases in apprenticeship training expenses incurred under a qualified apprenticeship training program certified by the Labor Commissioner. For the manufacturing and plastics trades, the credit is equal to the lesser of: (i) the product of $4 ($6 for income years commencing on or after January 1, 2015) multiplied by the total number of hours worked during the income year by apprentices in the first half of a two-year term of apprenticeship and the first three-quarters of a four-year term of apprenticeship; (ii) 50% of actual wages paid to apprentices for each such period of apprenticeship; or (iii) $4,800 ($7,500 for income years commencing on or after January 1, 2015). For the construction trades, the tax credit allowed is equal to the lesser of: (i) the product of the total number of apprentice work hours multiplied by $2; (ii) 50% of the actual amount of wages paid for each apprenticeship; or (iii) $4,000. Effective July 1, 2015, the credit against the corporation business tax for the conduct of a qualified apprenticeship program in the manufacturing trade is extended to S corporations, limited liability companies, limited liability partnerships, and limited partnerships. Since these pass-through entities generally are not subject to the corporation business tax, they will need to transfer the credit in order to realize any benefit from this change in the law. (C.G.S. §12-217g).

- **Tax Credit for Expenditures for Fixed-Capital Investments.** A corporation may take a tax credit for 5% of the amount paid or incurred by the corporation for any fixed-capital investments made during the income year in which such fixed capital investment is acquired. Fixed-capital investments means tangible personal property which:

  (1) has a class life of more than four years as described in I.R.C. §168(e);

  (2) is acquired by purchase from a person other than a related person;

  (3) is not acquired to be leased, and is not leased, to another person or persons during the 12 full months following acquisition; and

  (4) will be held and used in Connecticut by a corporation in the ordinary course of business in this state for not less than five full years following its acquisition.

A corporation claiming this credit may not claim any other credits with respect to the same acquisition. Unused credits may be carried forward up to five years. If the fixed capital asset claimed as a credit is not held and used in this state in the ordinary course of business for three full years following acquisition, 100% of the amount of this credit is required to be recaptured on the corporation's tax return required to be filed for the immediately succeeding income year. If the fixed capital asset claimed as a credit is not held and used in this state in the ordinary course of business for five full years following acquisition, 50% of the amount of this credit is to be recaptured on the corporation's tax return required to be filed for the immediately succeeding income year (C.G.S. §12-217w).

- **Tax Credit for Qualifying Corporations in Enterprise Zones.** A qualifying corporation located in an enterprise zone can obtain a credit of 100% of its tax liability for the first three years of the corporation's existence and 50% of the tax liability with respect to the next seven years of existence. For purposes of the credit, a "qualifying corporation" is defined as one created on or after January 1, 1997, located in an area designated for enterprise zone level benefits and which has either: (1) at least 375 employees, at least 40% of whom (a) are residents of the municipality in which the enterprise zone is located, and (b) qualify under the federal Workforce Investment Act (formerly the Job Training Partnership Act); or (2) fewer than 375 employees at least 150 of whom (a) are residents of the municipality in which the enterprise zone is located, and (b) qualify under the federal Workforce Investment Act. For taxable years commencing on or after January 1, 2017, a "qualifying corporation" also includes a corporation created on or after July 1, 2015, located in an area designated for enterprise zone level benefits, and which is primarily engaged in "bioscience," "clean technology" or "cybersecurity technology" (as each term is defined by new § 12-217v) and which has either: (1) at least 180 employees, at least 40% of whom (a) are residents of the municipality in which the enterprise zone is located, and (b) qualify under the federal Workforce Investment Act; or (2) fewer than 180 employees at least 75 of whom (a) are residents of the municipality in which the enterprise zone is located, and (b) qualify under the federal Workforce Investment Act. (C.G.S. §12-217v). No carryback or carryforward is allowed.

- **Tax Credit for Certain Manufacturing Facilities.** A 50% credit is available to a manufacturing facility that is located within an area designated as an enterprise zone or with enterprise zone level benefits when (i) the facility employs either 150 or more full time employees who are residents of the enterprise zone, or (ii) 30% of its full-time positions are held by employees who are residents of the enterprise zone or if the employees are residents of the municipality and eligible for training under the federal Workforce Investment Act.

A manufacturing facility that cannot meet the employment criteria listed above for the 50% credit, may take a 25% credit on any facility located in an enterprise zone (C.G.S. §12217e) or in an approved entertainment district.

Taxpayers may not claim both a fixed capital credit and either the 50% or the 25% credit under this section with respect to the same investment, employee, or facility. The credit may be claimed on the tax return for the company's income year that begins during the calendar year next succeeding the calendar year in which the taxpayer was issued an eligibility certificate and may be claimed for the next nine years thereafter.

Legislation introduced in 2010 created a new Bradley Airport Development Zone ("BADZ") in parts of Windsor Locks, Suffield, East Granby and Windsor. For income years commencing on or after January 1, 2012, certain businesses that develop or acquire property in the BADZ are eligible to be treated as a "manufacturing facility" for purposes of the tax credits available to manufacturing facilities.

- **Neighborhood Assistance Program Credit.** Contributions to approved community programs may qualify for a tax credit against the corporation business tax, the insurance premium tax, the air carriers tax, the railroad company tax, the CATV and satellite transmission gross earnings tax, the utility companies tax, and the business entity tax. The contributions must be at least $250 although, effective October 27, 2011, the firm's total charitable expenditures during the income year no longer must equal or exceed its total charitable expenditures during the preceding year. The allowable credits are 60% of the cash invested by a business firm during the taxable year in certain approved activities, including community-based alcoholism prevention or treatment programs, crime-prevention activities, donations of money to an open space acquisition fund, or the planning, site preparation, construction, renovation or acquisition of facilities for the purpose of establishing a day care facility to be used primarily by the children of such business firm's employees. For a business firm's investment in energy conservation projects in low income housing developments or properties owned or occupied by charitable organizations the tax credit is 100%. The maximum annual credit allowed to any taxpayer is $150,000 ($75,000 prior to October 27, 2011), and the maximum aggregate annual amount of credits allowed to all taxpayers applying under the program is $5,000,000 in any one fiscal year (effective July 1, 2017, the cap is set to increase to $10,000,000 in any one fiscal year). No carryforward is allowed. Any tax credit that is not taken in the income year in which the investment was made may be carried back to the two immediately preceding income years. To request an application, companies should call the Department of Social Services at 860-424-5852. Applications are accepted between September 15 through October 1 of each year (C.G.S. §12-630aa, *et seq.*). See DRS Informational Publication 2013(9), *The Connecticut Neighborhood Assistance Act Tax Credit Program.*

- **Research & Development Credit.** Credits are allowed for qualified research and development expenses (C.G.S. §12-217n(a)). An additional credit is allowed for increases in research and development expenses over the previous year's expenses (C.G.S. §12-217j). The additional credit is equal to 20% of the amount of research and development expenditures that exceeded the amounts from the previous year. For purposes of this credit, qualifying expenses are research and experimental expenditures deductible under I.R.C. §174, plus basic research payments defined by I.R.C. §41. If research and development expenditures during an income year are $50 million or less, the credit allowed is 1% (6% for qualified small businesses with gross income of less than $100 million); if expenditures are over $50 million but not over $100 million, the credit is $500,000 plus 2% of the excess over $50 million; if expenditures are over $100 million but not over $200 million, the credit is $1.5 million plus 4% of the excess over $100 million, and if expenditures are over $200 million, the credit is $5.5 million plus 6% of the excess over $200 million. No more than one-third of the credit allowed for an income year may be taken in that year. In addition, the total credit that may be taken for any income year may not exceed the greater of (1) 50% of tax liability, or (2) the lesser of (a) 200% of the research and development credits otherwise allowed for the income year, or (b) 90% of the tax liability for the income year. Unused credits may be carried forward to succeeding tax years until fully taken. Applicable to taxable years beginning on or after January 1, 2000, qualified small businesses with gross incomes for the previous income year of less than $70 million may elect to carry credits forward or to exchange credits with the state for a cash payment equal to 65% of the value of the credit (C.G.S. §§12-217n, 12-217ee).

- **Traffic Reductions Programs Credit.** Companies employing at least 100 employees are eligible to claim a credit equal to 50% of the direct costs of transportation-management programs established to comply with Connecticut's traffic management policies and the federal Clean Air Act mandates. The credit is limited to $250 for each employee participating in alternative commuting. Total credits available to all companies may not exceed $1,500,000 per year. The Department of Transportation ("DOT") determines a corporation's eligible credit by November 1 of each year. Applications must be submitted to DOT by July 1 (C.G.S. §12-217s).

- **Credit for the Amount of Personal Property Tax Paid on Electronic Data Equipment.** A credit is allowed for 100% of the amount of any property taxes owed and paid on EDP equipment defined as computers, printers, peripherals, and bundled software (C.G.S. §12-217t).

- **Insurance Reinvestment Fund Credit (Old).** A credit is available for investments in an insurance reinvestment fund made through a fund manager who is registered by the Commissioner of Economic and Community Development. For tax years beginning in the fourth year and continuing through the seventh year after the investment is made, the credit amount is 10% of the corporation's investment. The credit amount is 20% of the investment for the eighth through the tenth year after the investment is made. This credit is currently being phased out, such that required certificates of eligibility ceased being issued on June 30, 2010, and such certificates will be revoked and insurance businesses holding them will not be issued credits unless $1 million or more is invested by July 1, 2011. Any credit previously allowed but not claimed prior to January 1, 2010 may continue to be carried forward. Finally, recent legislation provides that new jobs created under the program must be held by Connecticut residents (C.G.S. §38a-88a).

- **Connecticut Insurance Reinvestment Fund Credit (New).** A non-transferrable credit is available against the insurance premiums tax for taxpayers who make cash investments in a state-approved insurance reinvestment fund (now called an invest CT fund) that 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 maturity date of at least five years. The credit only may be claimed where the insurance reinvestment fund invests in a business that (i) employs fewer than 250 people when the investment is made and the fund netted no more than $10 million in net income in the previous year, and (ii) pays at least 80% of its payroll to Connecticut residents and whose employees consist of at least 80% Connecticut residents. For a fund certified on or after September 1, 2015, the investment targets of the fund must now provide that 25% of the fund will be invested in businesses located in municipalities with over 80,000 people, and at least 3% of the fund will be invested in cybersecurity businesses. A fund generally may not invest more than 15% of its credit-eligible funds in one business without prior approval of the Commissioner of the DECD. The credit may be transferred to an affiliate of the taxpayer who has earned it.

The credit is equal to 10% of the investment in the sixth year through seventh year after the investment is made (no credits are allowed in years 1 through 5) and up to 20% of the investment in the eighth through tenth years (for investments in eligible capital made before September 1, 2015, the credit is available starting in the fourth year rather than the sixth year). Unused credits may be carried forward for up to five years. Up to $40 million of tax credits are allowed each year (exclusive of credit carryforwards) and total credits are capped at $350 million in the aggregate. The credit requires prospective investors to file an application with the DECD for an allocation of credits. Applicants must commit to invest at least 25% of the fund's eligible capital in green technology and, by the fourth anniversary of its credit allocation date Credits are allocated, commit to invest at least 7% of its eligible capital in pre-seed investments identified by Connecticut Innovations, Inc. (for funds seeking certifications or credit allocations on or after September 1, 2015; the prior cap was 3% to be invested by the third anniversary of its credit allocation). Funds must file annual reports with the DECD to demonstrate ongoing compliance with its investment schedule or risk decertification and the forfeiture of credits. The rules also prescribe when a fund can make a distribution to investors and when a percentage of a distribution must be made when the fund fails to satisfy the job creation goals set in its application (C.G.S. §38a-88a).

- **Tax Credit for Expenditures on Machinery and Equipment.** A credit is allowed for expenditures incurred for machinery and equipment that is installed in a Connecticut facility equal to: (i) 5% of the incremental increase in expenditures paid or incurred during the income year for machinery and equipment, over such expenditures paid or incurred during the preceding income year, by companies having more than 250 but no more than 800 full-time permanent employees in Connecticut, at all times during the income year; and (ii) 10% of the incremental increase in expenditures paid or incurred during the income year for machinery and equipment, over such expenditures paid or incurred during the preceding income year, for companies with, at all times during the income year, fewer than 250 full-time, permanent employees in Connecticut (C.G.S. §12-217o).

- **Credit for Small Business Guaranty Fees.** For income years beginning prior to January 1, 2014, a credit is available to a corporation qualifying as a small business under 13 CFR Part 121 that has gross receipts of $5 million or less for the income year in which the credit is first allowed. The credit is equal to the amount paid during the income year by such small business to the federal Small Business Administration as a guaranty fee to obtain a loan (C.G.S. §12-217cc).

- **Credit for Donations of Land.** A credit is available for land conveyed without consideration or at below fair market value to the state, a political subdivision of the state, a water company or a nonprofit land conservation organization, that is to be (i) preserved as open space, or (ii) used as a public water source. The amount of the credit is 50% of the fair market value of the land donated (or that portion of the land deemed to be donated on account of a sale reflecting a discount from such fair market value). For income years commencing after January 1, 2009, the credit may be carried forward for up to 25 years (C.G.S. §12-217dd). For years commencing prior to January 1, 2009, the carry-forward period is limited to 15 years. A similar credit also exists for donations of land to a municipality or political subdivision of the state for educational use. For income tax years commencing on or after January 1, 2013, the credit for donations of land for educational uses was expanded to include donations to a school district or regional school district. In addition, for income tax years commencing on or after January 1, 2013, the maximum carryforward period with respect to land donations for open space, water source, or educational uses was extended to 25 years.

- **Urban and Industrial Site Reinvestment Plan.** A credit is available for businesses that redevelop contaminated or potentially contaminated property, or invest in projects in designated towns (C.G.S. §32-9t). The Commissioner of the DECD must approve the credits, which currently may not exceed $950 million. The urban investment credit may be claimed for investments in new facilities, in enterprise zones or in "distressed" municipalities that create jobs and generate economic benefits. The direct minimum investment required to obtain the credit is $5 million (or $2 million in the case of an investment in an eligible project for historic preservation and mixed use development), and the minimum investment requirement can be satisfied in conjunction with other taxpayer investments in an eligible project. (An investment also may be made through a fund managed by a registered fund manager or through certain qualifying community development entities, or "CDEs" which have entered into an allocation agreement with the Community Development Financial Institutions Fund for a share of new markets tax credits provided that the respective CDE's service areas in the allocation agreement include Connecticut). Legislation enacted in 2011 allows a taxpayer to claim both the state credit and the federal new markets tax credit for the same investment. The credit may be assigned to multiple taxpayers. The credit is equal to 10% of the qualifying expenditures in the third through the sixth years following the qualifying investment, and 20% in years seven through ten, and the credit is subject to recapture on a declining basis if the DECD revokes the certificate of eligibility for the project. Unused credits may be carried forward for up to five years.

- **Green Buildings Credit.** Commencing with income years beginning on or after January 1, 2012, the Office of Policy and Management ("OPM") may establish a corporation business tax credit for taxpayers who construct or renovate buildings that meet certain energy and environmental standards, provided that the aggregate amount of tax credits in initial tax credit vouchers issued by OPM does not exceed $25 million. To be eligible, the project would be required to: (i) have energy use of no more than (A) 70% of the energy use permitted by the State Building Code for new construction, or (B) 80% of the energy use permitted by the State Energy Code for renovation or rehabilitation of a building; and (ii) use equipment and appliances that meet Energy Star standards, if applicable. In the case of a newly-constructed building, a certificate of occupancy cannot have been issued earlier than January 1, 2010. The legislation caps the allowable costs (e.g., construction, commissioning, professional fees and site costs, but not purchase or remediation costs) at $250 per square foot for new construction and $150 per square foot for renovation or rehabilitation. (C.G.S. §12-217mm).

- **Employment Expansion Project Tax Credits.** C.G.S. §12-217gg provides for a special tax credit for employment expansion projects that may be passed through to the corporation owners of a pass-through entity. Thus, if a pass-through entity, such as a an entity classified for federal income tax purposes as a partnership, sponsors a qualifying "employment expansion project," the entity now may pass-through to its corporate owners corporation business tax credits for which it would qualify if it were a corporation. An "employment expansion project" is one that: (i) will create at least 400 permanent, full-time jobs new to Connecticut over a maximum of five full income years after the issuance of an eligibility certificate by the DECD (with job number targets for each of those five years); (ii) needs the pass-through of the tax credits to attract the project to Connecticut; (iii) "will be economically viable and will generate direct and indirect economic benefits to the state"; and (iv) in the judgment of the DECD, is consistent with the strategic economic development priorities of the state and the municipality or municipalities in which the new jobs are to be created. A pass-through entity sponsor must apply to the DECD for approval of an employment expansion project. If the entity sponsor qualifies, its corporate owners are entitled to share the tax credits attributable to its activities based upon their respective distributive shares of the profit or loss of the sponsor. The credits can be used by corporations in a combined return (or constituent corporations joining in a combined unitary return). In addition, the credits to be assigned to another corporate owner of the same sponsor, but only with respect to the year for which the credit could have been claimed by the assignor, and no further assignment may be made (C.G.S. §12-217gg).

- **Tax Credits for Movie and Digital Media Production.** A nonrefundable production tax credit is available in an amount up to 30% of certain "production expenses or costs" if (subject to a minimum $1 million Connecticut post-production expenditure) more than $100,000 of such expenses or costs is incurred in Connecticut for a "qualified production" or, pursuant to legislation effective October 27, 2011, a "relocated television production." The amount of the credit depends upon the amount of eligible production expenses incurred, as follows: (i) a credit of 10% for projects having eligible production expenses of more than $100,000, but less than $500,000; (ii) a credit of 15% for projects having eligible production expenses of $500,000 but less than $1 million; and (iii) a credit of 30% for projects having eligible production expenses of $1 million or more. "Production expenses" do not include (i) (after January 1, 2010), base compensation for star talent in excess of $20 million in the aggregate (including compensation paid to entities representing individuals), and (ii) (after January 1, 2010), productions in which less than 50% (25% prior to January 1, 2011) of the principal photography days, 50% of the post-production expenses, or $1 million of postproduction expenses are incurred within the state. (Legislation adopted in 2011 increased from 25% to 50% the minimum share of principal photography days that a production company must spend in Connecticut in order to qualify for the credit). For income years commencing on or after January 1, 2010, out-of-state expenses do not constitute qualified expenses.

A "qualified production" is defined as the process of producing any type of entertainment content, including motion pictures, documentation, videos and music videos, video games, sound recordings, commercials (other than "infomercials"), certain television programming and digital media content. The production tax credit may be claimed for the income year in which the final certification for the state certified qualified production is made by the Connecticut Department of Economic and Community Development, and, for credits arising from a voucher issued on or after July 1, 2015, may be carried forward and used to offset tax in the immediately succeeding five years (for vouchers issued prior to July 1, 2015 and after January 1, 2006, tax credits had to be claimed within three years). The credit is generally transferable up to three times, but if the transferor taxpayer is neither subject to the corporation business tax nor to the insurance premium, and does not own, directly or indirectly, at least 50% of a business entity subject to the Connecticut business entity tax, the taxpayer is prevented from transferring (i) more than 50% of its credits in any one year in the case of credits allowed for the 2011 income year, and (ii) more than 25% of its credits in any one year in the case of a credit allowed for the 2012 or any subsequent income year. This restriction on the transfer of credits will not apply to credits issued for any qualified production that is created in whole or in significant part, as determined by the DECD, at a "qualified production facility." For the state fiscal years ending June 30, 2014, June 30, 2015, June 30, 2016 and June 30, 2017, a qualified production does not include a motion picture that was not designated a state-certified production prior to July 1, 2013; provided, however, for the state fiscal year ending June 30, 2015, a qualified production will include a motion picture for which at least 25% of the principal photography shooting days are in Connecticut at a facility that receives not less than twenty-five million dollars in private investment and opens for business on or after July 1, 2013.

A "qualified production facility" means a facility: (i) located in Connecticut; (ii) intended for film, television or digital media production; and (iii) that has a minimum investment of $3 million (or less if approved by the DECD).

For purposes of the statute, a "relocated television production" is defined as an eligible production company's ongoing television program that (i) has filmed all of its prior seasons outside of Connecticut, (ii) may include current event shows (other than a general news program, sporting event, or game broadcast), and (iii) is created at a Connecticut qualified production facility at which, on or after January 1, 2012, the eligible production company makes a minimum investment of $25 million and creates at least 200 jobs.

The aggregate credits allowed cannot be used to reduce any taxpayer's liability to less than zero (C.G.S. §12-217jj; Conn. Agencies Reg. §§12-217jj-1, *et seq.*).

- **Film Production Infrastructure Investment Tax Credit.** A transferable, nonrefundable tax credit of 20% is available against the corporation business tax and the insurance premium tax for investments in excess of $3 million in state-certified capital projects to provide basic buildings, facilities or installations needed for the functioning of the digital media and motion picture industry in Connecticut. Unused credits may be carried forward for up to three years. Eligible expenditures include: expenses incurred for leased (capital leases only) or purchased buildings, facilities or installations, and the equipment necessary for a film, video, television, digital production facility or digital animation production facility; project development costs; development (including design and consulting fees), preproduction, production, post-production and distribution equipment and system access; and fixtures and other equipment. A taxpayer must apply to the DECD for an eligibility certificate not later than 90 days after the first expenses or costs are incurred. The taxpayer may thereafter apply for a tax credit voucher, based upon the tax credit certification letter, but no tax credit voucher may be issued until it is established that the project is 100% complete. The voucher may be transferred up to three times. Notice of any credit transfer must be provided to the DECD by the transferor and the transferee. Once a tax credit voucher is issued, limitations are imposed upon the ability of the Commissioner and the DECD to audit and recapture the credit similar to those now applicable to the film production tax credit (C.G.S. §12-217kk; Conn. Agencies Reg. §§12-217kk-1, *et seq*).

- **Digital Animation Production Credit.** A separate, transferable, nonrefundable tax credit is available against the corporation business tax and the insurance premium tax for digital animation production companies undertaking digital animation production activity in Connecticut of up to 30% of production expenses or costs over $100,000. The amount of the credit depends upon the production expenses, as follows: (i) a credit of 10% for projects having eligible production expenses of more than $100,000, but less than $500,000; (ii) a credit of 15% for projects having eligible production expenses of $500,000 but less than $1 million; and (iii) a credit of 30% for projects having eligible production expenses of $1 million or more. To qualify for the credit, a company must be qualified by the Secretary of the State to engage in business in Connecticut and must (i) be exclusively engaged in production activity, (ii) maintain a studio in Connecticut, (iii) employ at least 200 full-time employees, and (iv) be certified by the DECD and comply with its regulations. The aggregate tax credits that the DECD may reserve are limited to $15 million, and a company that receives a digital animation credit is not eligible to apply for or receive a film production tax credit. The credit generally has the same application, transfer, post-certification remedy and other requirements as the film production credit, with the following exceptions: (i) intellectual property purchase expenses are eligible for the credit if they are less than 35% of the company's expenses or costs in any income year; (ii) expenses for the following additional types of costs are explicitly eligible: actors, voice talent (provided that expenses for star talent are not eligible for the credit to the extent they exceed $15 million paid to any individual or, on or after January 1, 2010, $20 million in the aggregate paid to any individual (each cap inclusive of amounts paid to entities representing individuals), rent, utilities, insurance, administrative and systems support, and short film production and distribution; and (iii) a digital animation company cannot apply to the DECD for credit vouchers more than twice during the company's income year (C.G.S. §12-217*ll*; Conn. Agencies Reg. §§12-217*ll*-1, *et seq.*)
- **Historic Homes Rehabilitation Tax Credit.** A credit against the insurance premium, corporation business, air carriers, railroad companies, CATV and satellite television businesses and utility companies' taxes is available for owners rehabilitating an historic home or taxpayers making contributions to qualified rehabilitation expenditures exceeding $25,000 with respect to income years commencing before January 1, 2015 and $15,000 with respect to income years commencing on or after January 1, 2015. In order to qualify for the credit, the expenses must be incurred in connection with the rehabilitation of a structure that (i) has one to four residential units, and (ii) is individually listed on National or State register of historic places, or within a National or State historic district. In addition, with respect to tax years commencing before January 1, 2015, the structure must be located in a targeted area (determined with respect to the income of the residents). The credit is administered by the DECD. Applying for the credit is a two-step process: (i) an owner must first request that the DECD reserve credits on the owner's behalf and must submit specific construction plans and specifications and an estimate

of qualified rehabilitation expenses for DECD approval; and (ii) the owner must later request a credit voucher after demonstrating that the rehabilitation is complete and that the owner incurred the qualified expenses. The amount of the credit is equal to the lesser of (i) the amount pre-approved by the DECD for the project, (ii) 30% of the actual qualifying construction costs associated with the rehabilitation, or (iii) $30,000 per dwelling unit (for income years commencing on or after January 1, 2015, the maximum amount allowed per dwelling unit is $50,000 if the owner is a nonprofit corporation). In order to claim the credit, the owner must verify that he will occupy the home as his primary residence for at least five years, or will convey the home to a new owner who will occupy the home for at least five years. The credit holder can carry forward any unused portion of the credit for up to four years after the voucher was issued. The aggregate annual credits authorized cannot exceed $3 million. Additionally, effective July 1, 2015, 70% of the tax credits reserved must be for the rehabilitation of historic homes that are located in one of the 24 municipalities designated as "regional centers" in the state's current five-year plan of conservation and development. (C.G.S. §10416).

- **Historic Structure Rehabilitation Tax Credit.** A tax credit is available for 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 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 tax credits for any one project is capped at $4.5 million (C.G.S. §10416c).
- **Housing Program Contribution Tax Credit.** A credit against the insurance premium, corporation business, air carriers, railroad companies, CATV and satellite television businesses and utility companies' taxes is available to business firms that make cash contributions to housing programs that benefit low and moderate income individuals. The housing programs must be sponsored, developed or managed by non-profit corporations. The program is administered by the Connecticut Housing Finance Authority ("CHFA"). Upon verification that the contribution was made, CHFA will issue a tax credit voucher in an amount equal to 10% of the cash contribution made. To the extent that the contributing firm does not use the voucher in the year the contribution is made, the credit may be carried forward or back for the five immediately succeeding or preceding years until the full credit is taken. Pursuant to legislation enacted in 2010, credits remaining unused after the deadline for set asides may be used for any other eligible housing program (C.G.S. §8395).
- **Service Facility Tax Credit.** A tax credit of between 15% and 50% may be applied against the portion of a taxpayer's corporation business tax allocable to a service facility located outside of an enterprise zone in a targeted investment community. For purposes of the credit, a "service facility" is defined to include any plant, building, or other real property improvement that is constructed, renovated, expanded or acquired and that is used for depository institutions or non-depository credit institutions, finance and insurance, business services, health care and social assistance, professional, scientific and technical services and a host of comparable services. The percentage of the credit varies in accordance with the number of employees working at the facility, as follows: for facilities with 300-599 employees, the credit percentage is 15%; for facilities with 600-899 employees, the credit percentage is 20%; for facilities with 900-1,199 employees, the credit percentage is 25%; for facilities with 1,200-1,499 employees, the credit percentage is 30%; for facilities with 1,500-1,999 employees, the credit percentage is 40%; and for facilities with 2,000 or more employees, the credit percentage is 50%. The tax credit is computed by using the arithmetical mean of taxpayer's property and wages attributable to the service facility. The program is administered by the DECD, and the credit period is ten years, beginning with the first full income year following the issuance by the DECD of an eligibility certificate. If the facility ceases to qualify as a service facility or the taxpayer ceases to occupy the property, the entitlement to the credit ceases. Taxpayers may not carry the tax credit back to prior income years or forward to subsequent income years (C.G.S. §12-217e).

VIII. ADMINISTRATION

1. Return and Payment of Estimated Tax

A corporation business tax return must be filed (C.G.S. §12-222(b)), and the tax reported to be due on such return must be paid (C.G.S. §12-222(e)), before the first day of the fourth month following the end of the fiscal year. For calendar-year corporations, this date is April 1. When it is impractical to file a completed return by the due date, a corporation may file a tentative return no later than the first day of the fourth month after the end of the taxable year with an estimated tax payment and a request for an extension for filing the final return. The Commissioner of Revenue Services has the authority to grant or refuse such a request (C.G.S. §12-222(c)).

For tax periods that begin on or after January 1, 2014, all taxpayers registered for the corporation business tax must file and pay that tax electronically. (DRS Informational Publication 2013(15), *Paying Connecticut Taxes by Electronic Funds Transfer,* as modified and superseded by DRS Informational Publication 2014(15), *Filing and Paying Connecticut Taxes Electronically*).

Please note: The Commissioner of Revenue Services has been authorized to use his or her statutory authority to collect taxes owed by a Connecticut taxpayer to another state or the District of Columbia if such other state or the District of Columbia has adopted a similar, reciprocal collection statute. If the claimant state provides written certification that such taxes are owed to Connecticut's Commissioner, the Commissioner must provide written notice of the claim to the taxpayer and afford sixty (60) days to file a written protest with the Commissioner. Failure to timely protest will permit the Connecticut Commissioner to collect the tax and remit it to the claimant state (C.G.S. §12-34e).

2. Declaration and Payment of Estimated Tax

A corporation (including each taxable member of a combined group filing a combined unitary return) whose estimated current-year tax will exceed $1,000 after applying corporation business tax credits must make estimated tax payments during the tax year, or be subject to interest on the underpayment of estimated tax (C.G.S. §12-242d(h); DRS Informational Publication 2016(11), *Q & A on Estimated Corporation Business Tax and Worksheet CT-1120AE*). Beginning with the 2014 income year, all corporations (excluding taxpayers filing a combined or unitary return) must file and pay their estimated taxes electronically. Corporations filing on a combined or unitary basis can pay taxes electronically for tax returns that may not be filed electronically. Calendar year filers must make estimated payments on or before March 15, June 15, September 15, and December 15. Fiscal year taxpayers must make estimated payments on or before the 15th day of the third, sixth, ninth or twelfth month of the tax year (C.G.S. §12-242d(a)).

Every company making estimated tax payments must calculate the amount of installment payments using either the amount of the prior year's taxes or the amount of the current year's taxes, as follows: (see Form CT-1120 ESA, ESB, ESC and ESD, *Estimated Corporation Business Tax*):

(1) 30% of prior year's tax or 27% of current year's tax;

(2) 70% of prior year's tax or 63% of current year's tax;

(3) 80% of prior year's tax or 72% of current year's tax;

(4) 100% of prior year's tax or 90% of current year's tax (C.G.S. §12-242d).

In addition to the foregoing, a corporation is allowed to make quarterly estimated tax payments using an annualized method. The worksheet for calculating annualized estimated payments is Worksheet CT-1120AE. *See* DRS Informational Publication 2016(11), *Q&A on Estimated Corporation Business Tax and Worksheet CT-1120AE.* Beginning with 2011 overpayments to be applied to 2012 estimated tax payments, a corporation is permitted to apply an overpayment from a prior year to the estimated tax for the current year provided the 2011 return is timely filed or a timely request for extension is filed.

3. Petition for Alternate Method of Apportionment

If a corporation believes that the prescribed method of apportionment for either the tax based on income or the tax based on capital will attribute to Connecticut an undue proportion of the corporation's net income or minimum tax base, the corporation may petition for an alternate method of apportionment by filing with its return a statement of its objections and of such other proposed method of apportionment that the corporation believes is proper and equitable. The Commissioner of Revenue Services must notify the corporation whether the proposed method is accepted within a reasonable period of time. If accepted, the Commissioner shall adjust the return and tax accordingly (C.G.S. §12-221a(a)).

If, on the other hand, the Commissioner decides that the statutory formula subjects a corporation to taxation on a lesser portion of its net income or minimum tax base than is equitably attributable to Connecticut, the Commissioner is authorized to adopt a different method that the Commissioner determines will more equitably attribute to Connecticut its proper share of net income or minimum tax base (C.G.S. §12-221a(b)).

According to Conn. Agencies Reg. §12-221a-1, the Commissioner is to exercise the discretion granted under C.G.S. §12-221a and depart from the statutory apportionment formula only in limited and specific cases (which ordinarily will be unique and nonrecurring) where the statutory apportionment formula produces incongruous results.

4. Combined Returns

a. Tax Years Commencing Prior to January 1, 2016

Connecticut uses the term "combined return" for what is usually referred to as a consolidated return. The combined return is a single return for a group of affiliated corporations in which the net income and capital of each member of the group is separately determined, subject to the elimination of certain intercorporate transactions and dividends, and apportioned and then combined (C.G.S. §12-223a). See DRS Policy Statement 92(1), *Filing of Combined Corporation Business Tax Returns.* Separate returns must still be filed and all corporations other than the combined entity must pay the $250 minimum tax (C.G.S. §12-223c). In addition, the corporations that elect to file a combined return must add the excess of the total tax that would have been due had the corporations filed separate returns over the total tax due under the combined method. The cap on this additional tax, termed a "preference tax," is $500,000 (C.G.S §12-223f). If the statutory method for determining the combined measure of tax unfairly attributes an undue proportion of the combined corporations' total income or minimum tax base to Connecticut, the corporations may submit a petition to the Commissioner of Revenue Services for approval of an alternate method of determining the combined measure of their tax not later than sixty days prior to the due date of the combined return. When a taxpayer files a consolidated return for federal income tax purposes on behalf of an affiliated group of corporations of which the taxpayer is a member, the taxpayer may elect to file a combined return for Connecticut. If a consolidated federal return has not been filed, permission to file a state combined return and/or to cease to file a combined return must be obtained from the Commissioner of Revenue Services (C.G.S. §12-223a). The election to file a combined corporation business tax return may be revoked but not before the fifth year following the initial election. The election to then file separate returns shall be irrevocable and applicable for five successive income years (C.G.S. §12-223a(d)).

If a combined return is revised, the Commissioner has the power to readjust the taxes of each taxpayer included in the return (C.G.S. §12-223e).

b. Tax Years Commencing On or After January 1, 2016

For tax years commencing on or after January 1, 2016, a combined group with a member subject to Connecticut corporation business tax must file a combined unitary return (C.G.S. §12-222(g)). As described in greater detail in Section VI.5 above, a "combined group" is a group of companies that have "common ownership" and are engaged in a "unitary business," each as defined above. A combined group's net income is the aggregate net income or loss of each taxable member and nontaxable member derived from a unitary business. Each member calculates its net income derived from a unitary business as if it were filing on a standalone basis. Dividends paid from one member of a combined group to another are eliminated from the income of the recipient. Principles set forth in the federal consolidated return regulations generally apply. Special rules apply to the calculation of the charitable contribution limitation. In addition, gains and losses from the sale or exchange of capital assets are removed from the separate member's net income and aggregated at the group level. The net gain or loss is apportioned to the taxable members in accordance with the net income apportionment provisions. Apportioned net losses are carried forward by each taxable member separately.

If any member of the combined group carries on or does business outside of Connecticut, the group is entitled to apportion its net income. Apportionment is based upon a single sales factor.

As further described above in Section VI.5, combined groups are subject to tax on the greater of their net income base and capital base taxes. To calculate the combined group's capital base, the members of the combined group aggregate each of their separate capital bases. If any member of the combined group carries on or does business outside of Connecticut, the group is entitled to apportion its capital base. The minimum capital base tax for each taxable member in the combined group is $250.00. The maximum aggregate capital base tax of any combined group is $1 million.

In DRS Special Notice 2016(1), *Combined Unitary Legislation - Corporation Business Tax,* the DRS provides extensive administrative guidance with respect to new combined unitary reporting requirements, including: (i) the determination of a combined group; (ii) the calculation of a combined group's net income; (iii) the apportionment of a combined group's net income; (iv) the application of net operating losses; (v) the capital base tax; (vi) the application of credits; (vii) the net deferred tax liability deduction; and (viii) the maximum tax calculation. DRS Special Notice 2016(1) is available at http://www.ct.gov/drs/lib/drs/publications/pubssn/2016/sn_2016(1).pdf

5. Adjustments by Commissioner

The Commissioner has the authority to adjust items of income, deductions and capital, and to eliminate assets in computing any allocation percentage, when the Commissioner believes that any agreement, understanding or arrangement exists between a taxpayer and one or more third parties whereby the activity, business, income or capital of the taxpayer in Connecticut is improperly or inaccurately reflected (C.G.S. §12-226a).

Statutory examples of improper arrangements include those at more or less than a fair price or which are entered into to create an improper loss or to reflect inaccurate net income. Conn. Agencies Reg. §12-226a-1 provides that the Commissioner may disregard arrangements with little or no business purpose or transfers to avoid the corporation business tax where property is transferred between a corporation and a related person in anticipation of a sale to an unrelated person.

6. Supplemental Returns

When a corporation files an incorrect return, it must submit a supplemental return within three years from the due date of the return. If more tax is due, it must be paid, with interest, within 30 days after the supplemental return is filed. In the case of a claim for a refund of overpaid taxes, the Commissioner must either refund the amount overpaid or notify the corporation that the claim has been denied (in whole or in part) within 180 days after receiving the amended return (C.G.S. §12-225). If a refund claim is denied, a corporation may file a written protest against the proposed disallowance within 60 days of the denial. If the Commissioner denies the protest, an appeal may be taken within 30 days to the Tax Session of the Superior Court for the Judicial District of New Britain in accordance with C.G.S. §12237.

7. Changes in Federal Tax

When a corporation's net income is changed, adjusted or corrected by any official of the U. S. government in a manner that affects its Connecticut corporation business tax liability, the corporation must submit to the Commissioner of Revenue Services an amended Connecticut return reflecting such changes, readjustments or corrections within 90 days after the final determination of such change, adjustment or correction (C.G.S. §12-226(a)). For income years commencing prior to January 1, 2010, any corporation that files an amended return with the Internal Revenue Service must file an amended state tax return with the Commissioner of Revenue Services within 90 days of the filing of the amended federal return; however, for income years commencing on or after January 1, 2010, the corporation has until 90 days after the Internal Revenue Service makes its final determination with respect to the amended return (C.G.S. §12-226(b)).

The Commissioner may require supporting data to be submitted in connection with an amended return. Based on the amended return and other supporting documents that may be required, the Commissioner will re-compute the amount of the state tax and advise the corporation of the amount of additional tax due, if any. Interest on the additional tax accrues at the rate of 1% per month from the original due date of the return (C.G.S. §12-226).

If after examining the amended return, the Commissioner finds that the taxpayer has overpaid the tax and has not been allowed a credit by the federal government because of such overpayment, the Commissioner is to refund the overpaid amount to the corporation (C.G.S. §12-226).

8. Penalties for Late Filing or for Late Payment

The penalties listed below apply to both the annual return and the declarations of estimated tax, along with any payment due with the return or declaration. If a corporation fails to file a tax return or to pay the tax due by the due date of any extension granted by the Commissioner, a penalty of $50 or 10% of the amount of the tax due, whichever is greater, is imposed (C.G.S. §12229), and interest is charged on the tax at the rate of 1% per month from the due date of the corporation business tax return (C.G.S. §12-229).

The willful failure to file a return, pay a tax or keep required records may result in a fine of up to $1,000, imprisonment for up to one year, or both. The willful filing of a fraudulent return or other document can subject a person to a fine of up to $5,000, imprisonment up to five years, or both. No person can be punished under both the willful penalty provision and the fraudulent penalty provision for the same tax period (C.G.S. §12-231).

A corporation's failure to file returns for two consecutive fiscal years may result in the revocation of its corporate charter, in addition to other penalties (C.G.S. §12-230).

If any part of the deficiency for which a deficiency assessment is made is due to the taxpayer's failure to disclose on such taxpayer's federal tax return a listed transaction, as defined in I.R.C. §6707A, the Commissioner is to impose a penalty equal to 75% of the amount of such deficiency statement (C.G.S. §12-233(b)(1)).

9. Audits, Hearings and Appeals

In general, the statute of limitations for the making of a deficiency assessment with respect to a Connecticut corporation business tax return on which no operating loss is reported is three years from the later of the due date for the filing of the return or the date such return is received by the Commissioner. In the case of returns on which an operating loss is reported, the assessment period expires three years after the later of the due date, or the date of receipt by the Commissioner, of the return on which a carryover of such loss is fully utilized or deemed fully utilized (because such loss is not available for deduction in any subsequent year). In addition, the time limit for deficiency assessments is extended to six years after the date the return is filed in the case of any return (i) on which the taxpayer understated its gross income by more than 25% of the amount of gross income stated on the return (not including any portion of an understatement to the extent it is disclosed adequately in the return or a statement attached to the return); or (ii) on which a taxpayer fails to disclose a listed transaction, as defined in I.R.C. §6707A. The limitations period is extended indefinitely for a notice of deficiency assessment in the case of either (i) a failure to file a return (or an amended return if required after an adjustment or correction attributable to a federal audits as required under C.G.S. §12-226); or (ii) a deficiency due to fraud or intent to evade taxes. Finally, if, within 60 days of the end of the limitations period for an income year, the Commissioner receives a written document signed by the taxpayer showing that such taxpayer owes an additional amount of tax for such income year, the Commissioner shall have up to 60 days after the day such written document is received in which to mail a notice deficiency (C.G.S. §12-233).

During an audit, the tax examiner usually discusses with the taxpayer any exceptions the auditor has with the return. When there is a disagreement regarding an assessment the examiner proposes to make, the taxpayer may request an informal conference with the examiner and the examiner's supervisor before the assessment is made. If the Audit Division officials conclude that additional tax is due, a billing notice setting forth the proposed assessment is sent to the taxpayer.

If the taxpayer desires to protest the proposed assessment, the taxpayer should submit in writing to the Commissioner a request for a hearing setting forth the reasons why the proposed assessment should be reduced. The request for a hearing must be made within 60 days after the date of the billing notice or the assessment will become final. The Commissioner may grant or refuse a hearing at the Commissioner's discretion (C.G.S. §12-236). Like the pre-assessment conference, these hearings are informal. The Commissioner's decision on the application to grant a hearing or reduce an assessment may be appealed to the Tax Session of the Superior Court for the Judicial District of New Britain within one month from the date of the notice of the Commissioner's decision (C.G.S. §12-237).

10. Cash Bond Provision

Taxpayers objecting to the assessment of tax due may post a cash bond with a Form APL-004, *Deposit in the Nature of a Cash Bond,* at any time before the expiration of the later of: (i) the time period for contesting the tax; or (ii) the entry of an order by the Superior Court upholding the assessment. The cash bond will toll the accrual of interest on all or a portion of the tax due. The filing of a cash bond is not a concession, and does not affect the taxpayer's right to contest any issue.

If the taxpayer requests that the cash bond be returned before the case is resolved, the taxpayer will be treated as if the bond had never been paid. See DRS Informational Publication 2000(18), *Deposits in the Nature of a Cash Bond.*

SALES AND USE TAXES

I. OVERVIEW

1. General

Generally, the Connecticut sales and use tax is imposed on the sale of tangible personal property, the rental/lease of tangible personal property, and the sale of certain enumerated services. The tax applies when the title to the goods sold is transferred to the buyer, or when the buyer takes actual possession of or uses or consumes the goods in Connecticut.

The general rule is that the sale of tangible personal property in Connecticut is taxable unless a specific exemption applies. There are over 100 specific exemptions from the sales and use tax. By way of contrast, the sale of a service is generally not taxable unless the service is specifically enumerated in the tax law as a taxable service. There are over 30 enumerated taxable services.

Sales made by a Connecticut business are not subject to the Connecticut sales and use tax if the purchaser merely places an order by mail, over the Internet or by telephone, and the personal property is delivered to an out-of-state address. In addition, an out-of-state business will not be deemed to be "engaged in business" in Connecticut for sales tax purposes by virtue of its participation in a trade show at the Connecticut Convention Center in Hartford if: (i) the business's activity at such trade show(s) is limited to displaying goods or promoting services; (ii) no sales are made; (iii) any orders received are sent outside of Connecticut for acceptance or rejection and are filled from outside of Connecticut; and (iv) such participation is not more than 14 days, or part thereof, in the aggregate during the business's federal income tax year.

However, a retailer that does not have a physical presence in Connecticut will be presumed to be soliciting business in Connecticut and, thus, will be required to collect and remit sales tax on its taxable sales to Connecticut if the retailer annually sells more than $2,000 worth of taxable items or services in Connecticut through an independent contractor or other representative who is a resident of Connecticut, if the retailer enters into an agreement with the resident under which the resident, for a commission or other consideration, directly or indirectly refers potential customers, whether by a link on an Internet website or otherwise, to the retailer (C.G.S. §12-407(a)(12)). Such a retailer will be presumed to be soliciting business through such contractor or representative, which presumption may be rebutted by proof that the resident with whom the retailer has an agreement did not engage in any solicitation in Connecticut on behalf of the retailer that would satisfy the nexus requirement of the United States Constitution.

The seller of taxable goods and services is responsible for collecting sales tax at the time of the sale (C.G.S. §12-408). The buyer is responsible for paying use tax directly to the State of Connecticut if the seller fails to charge sales tax (C.G.S. §12-411). Connecticut's Personal Income Tax forms contain a use tax table to assist individuals calculate and report Connecticut use tax. Retailers, lessors of personal property and providers of taxable services selling in Connecticut are required to register with the Connecticut Department of Revenue Services (DRS) to obtain a sales tax permit for each business location where sales are made. A sales tax permit costs $100 and must be renewed every five years (C.G.S. §12-409). A daily penalty is imposed on a retailer who fails to secure or renew a sales tax permit. The daily penalty is $250 for the first day a person engages in or transacts business without a permit and $100 for each subsequent day (C.G.S. §12-409(h).

A seller of taxable goods or services generally is required to file sales tax returns on a monthly or quarterly basis depending upon the amount of the seller's tax liability. See Section V(1) below. Effective October 1, 2014, the Commissioner of Revenue Services may require a delinquent taxpayer to remit the sales tax collected during 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 file on a weekly basis and shall be required to do so for one year from the date set forth in the notice. In addition, a seller with taxable sales in more than one Connecticut town must file an annual report that provides a town-by-town breakdown of its taxable sales for each quarter (C.G.S. §12-408d) (DRS Informational Publication 2007(23), *Disaggregated Sales Tax Report*).

Only taxpayers actively engaging in or conducting business as a seller may hold a sales tax permit. A taxpayer not so engaged must surrender the permit. In addition, if a seller files returns for four successive monthly or quarterly periods, or for two successive annual periods, as the case may be, showing no sales, the seller's sales tax permit can be revoked (C.G.S. §12-409(g)).

The use tax is applied in conjunction with the sales tax. It applies to the same goods and services as does the sales tax. The same exemptions apply. The use tax applies to two main categories of transactions. First, it applies to goods or services purchased from a vendor in another state that are shipped into Connecticut for use in Connecticut. Second, it applies to goods or services purchased in Connecticut, for use in Connecticut, in a taxable transaction for which the vendor did not collect sales tax.

2. Tax Rates

The general sales and use tax rate currently is 6.35% (C.G.S. §12-408). Other rates apply to specific transactions. For example, (i) the rate generally applicable to hotel room charges is 15%, (ii) the rate generally applicable to sales of computer and data processing services is 1%, (iii) the rate generally applicable to the rental or lease of a passenger motor vehicle for a period of 30 days or less is 9.35%, and (iv) the rate generally applicable to sales of the following "luxury" items is 7.75%: (A) a motor vehicle with a sales price exceeding $50,000 (excluding motor vehicles purchased by nonresident members of the armed forces, motor vehicles having a gross vehicle weight rating over 12,500 pounds or having a gross vehicle weight rating of 12,500 pounds or less that is not used for private passenger purposes, but is designed or used to transport merchandise, freight or persons in connection with any business enterprise and issued a commercial registration or more specific type of registration by the Department of Motor Vehicles); (B) jewelry with a sales price exceeding $5,000; and (C) an article of clothing or footwear, a handbag, an article of luggage, umbrella, wallet or watch for a sales price exceeding $1,000. Each year, for one week beginning on the third Sunday of August, there is a sales-tax-free week for articles of clothing under $100, excluding (i) special clothing or footwear primarily designed for athletic activity or protective use and (ii) jewelry, handbags, wallets, watches and similar items carried on or about the human body.

As mentioned above, certain transactions are exempt from sales and use taxation. In most cases, no tax is due on an exempt transaction. However, in some cases, such as the sale of certain items used in manufacturing, only a portion of the transaction is exempt from taxation. These items are discussed below.

3. Sales Price

Generally, the tax charged is based on the gross receipts from a transaction. Gross receipts may be measured by the retail sales price, the total amount received from taxable services, or periodic payments received from leasing or renting tangible personal property. The retail sales price includes charges by the retailer to the purchaser for shipping and delivery, charges for services that are part of the sale, and the amount of credit extended to the purchaser by the seller (C.G.S. §12-407(8)). The retail sales price may not include separately-stated charges for installation labor (C.G.S. §12407(8)). Special rules apply to sales of cigarettes. For example, cigarette wholesalers are required to collect sales tax on sales of cigarettes to licensed dealers. Notwithstanding the collection of sales tax by cigarette wholesalers, licensed dealers subsequently are to collect and remit sales tax on sales to retail customers, but are entitled to take a credit on their returns for the sales tax paid on their wholesale purchase of those cigarettes (C.G.S. §12-430(8).

Some specific anomalies to consider when applying the sales tax: With respect to taxable services, amounts paid to a service provider as reimbursement for expenses incurred by the service provider in providing the services are taxable. With respect to sales of goods, delivery charges are also subject to tax. However, the taxable amount of a sale is reduced by cash discounts, the face value of coupons taken by the retailer (including digital converter box coupons from the federal TV Converter Box Program), price reductions arising from discount or electronic price reduction cards, the value of trade-ins of like-kind items, and time-limited discounts. For example, if a retailer that normally sells an item for $100 offers the buyer a 2% discount if the bill is paid within 10 days ($98 due), tax is due only on the $98 if the bill is paid within that 10-day period. If the bill is paid after the 10-day period, tax is due on the entire $100. See DRS Policy Statement 2007(5), *Sales Tax Treatment of Coupons, Scan Cards, Cash Equivalents, Promotional Items, and Rebates.*

In addition, the value of a trade-in of any like-kind items reduces the gross receipts considered in determining the tax on a sale of the new item. In the case of exchanges, a registered retailer which, pursuant to a warranty policy or customer satisfactory policy, exchanges or replaces taxable merchandise with identical or similar merchandise for no additional consideration (an "even exchange"), and keeps adequate records of the exchange or replacement, need not collect additional sales tax regardless of whether (i) the customer is able to produce the original sales receipt or other sales verification and/or (ii) the exchange or replacement takes place more than 90 days after the original sale. If, however, the retailer were to permit an "uneven exchange" (i.e., an exchange for a less expensive taxable item plus a cash refund or credit, or an exchange plus cash for a more expensive taxable item), the sales tax paid on the original sale may only be credited or refunded if: (i) the customer produces the original receipt or other sales verification; and (ii) the return is made within 90 days of the date of the original sale. See DRS Informational Publication 2011(17), *Sales and Use Taxes on Returned Goods, Even Exchanges, and Trade-Ins.*

II. EXEMPTIONS

There are more than 100 exemptions from the sales and use tax. A list of current exemptions is provided for you. The most comprehensive exemptions available to Connecticut businesses are the manufacturing exemptions. These exemptions consist of (a) a full 100% exemption, and (b) a 50% partial exemption. These exemptions, however, do not apply to services purchased by a manufacturer.

1. Manufacturer's Exemptions

The proper application of the manufacturer's exemptions is important to both purchasers and sellers. Both seller and purchaser escape sales and/or use tax if the transaction falls within one of these exemptions. The seller can immunize itself from sales tax liability by obtaining a properly executed exemption certificate. The DRS has issued regulations implementing the statutory exemptions: First, Conn. Agencies Reg. §12-412(34)-1 for "Machinery used directly in the manufacturing production process"; and second, Conn. Agencies Reg. §12-412(18)-1 for "Materials, tools and fuel used directly in an industrial plant in the actual fabrication of finished products to be sold." In addition, the DRS has issued Informational Publication 2009(13), *Sales and Use Tax Guide for Manufacturers, Fabricators and Processors.* This comprehensive guide covers many manufacturing related issues including the manufacturing exemptions.

a. *Overview*

As stated above, there are two basic exemptions from the Connecticut sales and use tax for certain manufacturer's purchases; a full 100% exemption, and a partial exemption.

The full 100 % exemption is limited to:

- material that becomes an ingredient or component part of a product to be manufactured and sold (C.G.S. §12-412(18));
- materials, tools and fuel used in the actual fabrication of the finished product to be sold (C.G.S. §12-412(18)); and
- the sale of and storage, use or other consumption of machinery used directly in a manufacturing process (C.G.S. §12-412(34)).

In 1992, the legislature enacted the Manufacturing Recovery Act (MRA), creating a second class of manufacturing purchases, which are *partially* exempt from the sales and use tax. The partial exemption is broader in the scope of purchases covered than the full 100% exemption but it is limited to:

- materials, tools and fuels which become an ingredient or component part of a product to be sold (C.G.S. §12-412i);
- materials, tools and fuels that are used or consumed in an industrial plant in the manufacturing, processing or fabricating of products to be sold, or in any process preparatory or related thereto or in the measuring or testing of such products (C.G.S. §12412i); and
- machinery or equipment which will be used primarily in the process of manufacturing, processing or fabricating of a product (C.G.S. §12-412i).

At first glance, the full and partial exemptions appear almost identical; however, the partial exemption is much broader than the full exemption. This is because the terms used to define the scope of the exemption are different for the full and partial exemption. For example, the partial exemption expands the definition of "machinery" and "equipment" to include machinery or equipment used in a process related to manufacturing, but not used directly in manufacturing. Also, the partial exemption definition of "manufacturing" includes many more activities than are covered under the total exemption. These distinctions will be discussed in greater detail below.

b. *The Full Exemption*

(i) Full Exemption for Machinery Used Directly in a Manufacturing Process

For a purchase of machinery to qualify for a total exemption, it must be used directly in manufacturing at a manufacturing plant during the manufacturing production process of a product to be sold (Conn. Agencies Reg. §12-

412(34)-1). Use CERT-101, *Machinery, Component Parts and Replacement Repair Parts of Machinery Used Directly in a Manufacturing Process,* when claiming this exemption.

<u>Definitions:</u>

(1) Manufacturing

For the full exemption, "manufacturing" means an operation or an integrated series of operations that substantially transform, by physical, chemical, or other means the form, composition, or character of raw or finished materials into a product possessing a new name, nature, and use which is intended for sale, whether by the manufacturer or by another on whose behalf the manufacturer has undertaken the manufacture (Conn. Agencies Reg. §12-412(34)-1(c)).

In determining if a process constitutes manufacturing, the following guidelines will be used:

- the process must occur at a manufacturing plant;
- if the process involves chemical change to property rather than only physical change, it is more likely to be manufacturing;
- the process must be commonly regarded as manufacturing;
- if the process involves only physical change to property, the greater the degree of physical change, the more likely the process is to be manufacturing;
- if the process involves production in standardized sizes and quality and multiple quantities, it is more likely to be manufacturing; and
- the development of software programs is not manufacturing.

(2) Manufacturing Plant

A manufacturing plant is an establishment that has manufacturing as its predominant purpose and that is generally recognized as such. The term "manufacturing plant" means an establishment that has the manufacturing of finished products for sale as its predominant purpose. If the floor space of the establishment, the number of employees working at the establishment, the wages and salaries of employees working at the establishment, and the cost of operating the establishment are predominantly attributable to the cost of manufacturing products to be sold, then the establishment is considered a manufacturing plant (Conn. Agencies Reg. §12-412(34)-1).

(3) Machinery and Component Parts

Machinery is defined as a device composed of solid, fluid, or electrical parts assembled into a unit for the purpose of transmitting forces, motion, and energy. It includes the basic machine and all equipment or devices used or required to control, regulate, or operate the machine. Effective for sales after January 1, 1999, component, enhancement, replacement and repair parts for use in machinery that is used directly in a manufacturing production process also qualify for the full exemption. Component and enhancement parts are those that expand the capability of a machine or add a new function. The full exemption applies whether or not those parts are sold in the same transaction as the original machine (C.G.S. §12-412(34)). Canned or prewritten computer software is considered to be a component or enhancement part of machinery and can also qualify for full exemption if purchased for use on qualifying machinery.

(4) Direct Use

Machinery is "used directly" in the manufacturing production process, if: (A) The machinery directly transforms, or has a direct effect upon, the form, composition, or character of raw materials being manufactured; (B) The machinery is used predominantly on the production line to perform an activity occurring during the manufacturing production process; (C) The machinery is used exclusively to control or monitor an activity occurring during the manufacturing production process, or exclusively to design a product as well as to control or monitor an activity occurring during the manufacturing production process, and the machine is directly physically linked with machinery described in subdivisions A and B. Machinery that controls, monitors or designs but is not directly and physically linked is not considered to be used directly in the manufacturing process; or (D)The machinery is used exclusively during the manufacturing production process to test (other than destructive testing) or measure materials and products being manufactured. If any of these statements are true, then the machinery is considered to be used directly in a manufacturing production process. Machinery used to perform an activity occurring before the first production stage of the manufacturing production process, or used to perform an activity occurring after the last production stage of the production process, is not considered to be used directly in a manufacturing production process. Machinery that repairs or maintains machinery used in the production process is not considered to be used directly in the manufacturing process. Machinery or equipment used to manufacture tools that are then used in the manufacturing process is not considered to be used directly in the manufacturing production process. An example of such machinery is a machine used to make a hammer that is then used to make the widgets to be sold. The machine used to make the hammer would not qualify as a machine used directly in the manufacturing process. However, all of these machines would qualify for the partial sales tax exemption. Office equipment and office-related data processing equipment are those not used directly in manufacturing and therefore not eligible for any exemption.

(5) Exclusive Use

Certain machinery must be used exclusively in manufacturing. Computers used must be used exclusively in the manufacturing production process to qualify for the full exemption. However, certain machinery does not have to be used "exclusively" in the manufacturing production process, but rather "predominantly" (greater than 50%). Examples of such assets include forklifts, cranes, and hoists, as well as electric hydraulic motors and air compressors.

(6) The Manufacturing Production Process

The "manufacturing production process" begins with the movement of materials, after their receipt, inspection and storage, to the first production machine and ends with the packaging of the manufactured product for its sale to the ultimate consumer.

(ii) Full Exemption for Materials, Tools and Fuel Used Directly in an Industrial Plant.

Materials, tools and fuel are also fully exempt from the sales and use tax when used directly in an industrial plant in the actual fabrication of finished products to be sold (Conn. Agencies Reg. §12-412-(18)-1). The total exemption for materials, tools and fuel is slightly broader than the exemption for machinery. While machinery must be used in a "manufacturing process" to qualify for the total exemption, materials, tools and fuel need only be used in "fabrication." A process that is regarded as manufacturing will be regarded as fabrication, but a process that is regarded as fabrication will not necessarily be regarded as manufacturing. It is important to recognize that the definitions of manufacturing and fabricating overlap considerably and many activities are both manufacturing and fabricating. Use CERT-100, *Materials, Tools and Fuel,* when claiming this exemption.

Definitions:

(1) Fabrication

"Actual fabrication" means an operation or an integrated series of operations that alter or modify a manufactured product or raw materials, whether or not a change in the identity of the product or materials occurs. The transformation cannot be a mere natural process, whether or not it was expedited by human skill, labor, or machinery. For a process to constitute actual fabrication, the process must occur at an industrial plant, the finished products of fabrication must be intended for sale (whether by the fabricator or by another on whose behalf the fabricator has undertaken the fabrication), and the process must be commonly regarded as fabrication (Conn. Agencies Reg. §12-412(18)-1(f)).

(2) Industrial Plant

The term "industrial plant" means an establishment that has the actual fabrication, or the manufacturing, of finished products to be sold as its predominant purpose. The establishment will be considered an industrial plant if the floor space of the establishment, the number of employees working at the establishment, the wages and salaries of employees working at the establishment, and the cost of operating the establishment are predominantly attributable to the costs of actual fabrication or manufacturing of products to be sold (Conn. Agencies Reg. §12-412(18)-1(e)). If sales made at the establishment are predominantly of products fabricated or manufactured elsewhere, it is unlikely to be an industrial plant. The term industrial plant does not include cottage industries.

(3) Direct Use of Materials in Fabrication

Materials must be used directly in fabrication in an industrial plant to qualify for the exemption. Some examples include lubricants, chemicals, solvents, anodes, catalysts, dyes and refrigerants. DRS will use a factual analysis to determine if the material qualifies for a total exemption with the following three principles as guidelines:

- materials for cleaning or lubricating machinery used directly in the actual fabrication of finished products to be sold are exempt;

- materials that remove impurities from raw materials being fabricated into finished products to be sold are exempt; and
- materials that are used to make molds into which molten steel will be poured to make parts being fabricated into the finished products to be sold are exempt.

(4) Direct Use of Tools in Fabrication

Tools must be used directly in fabrication in an industrial plant to qualify for the exemption. Some examples of tools that are exempted from sales tax under this regulation are hand tools, tools used in the operation of machinery, accessory tools that hold or align a piece of work being fabricated, and tools used in actual fabrication (Conn. Agencies Reg. §12-412(18)-1(c)). The definition of tools also includes nondestructive testing devices. If the tool has any of the following functions, it is considered exempt:

- the tool comes into direct contact with, and is used in the fabrication of, finished products to be sold;
- the tool has a direct effect on finished products to be sold by holding or aligning tools that come into direct contact with raw materials or pieces of work being fabricated into products;
- the tool has a direct effect on finished products by holding or aligning pieces of work that are being fabricated into such products;
- the tool adjusts or repairs machinery used directly in the actual fabrication of finished products;
- the tool is used for checking the performance or output of machinery used directly in the actual fabrication of the finished products. Tools used to make other tools and tools that are used to inspect already finished products to be sold are not considered tools used directly in the actual fabrication of finished products to be sold. However, while these tools do not qualify for the full exemption, they may qualify for the partial exemption discussed on the following page.

(5) Direct Use of Fuel in Fabrication

Fuel used directly in an industrial plant for fabrication is exempt from the sales and use tax (Conn. Agencies Reg. §12-412(18)-1(d)). DRS uses the following guidelines to determine whether fuel is used directly in an industrial plant for fabrication of finished products:

- fuel that is used to provide a temperature or pressure required in the process of fabrication is exempt;
- fuel used to generate power for machinery used directly in actual fabrication is exempt;
- fuel used to generate power for machinery not used directly in actual fabrication is taxable (Conn. Agencies Reg. §12-412(18)-1(d)).

In addition to the exemption for fuel consumed directly in fabricating a product, fuel used for space heating in business and industry is exempt from the sales tax if at least 75% of the space is used for manufacturing or at least 75% of the space is used for manufacturing (C.G.S. §12-412(16)). Also, there is an exemption for purchases of gas and electricity used in the fabrication of a product to be sold or in an industrial manufacturing plant (C.G.S. §12-412(3)). This exemption is allowed if at least 75% of the gas or electricity purchased is used for manufacturing or at least 75% of the space is used for manufacturing. DRS Policy Statement 94(3.2) describes these exemptions for heating fuel, gas, and electricity in detail. Use CERT-115, *Exempt Purchases of Gas, Electricity and Heating Fuel,* to obtain these exemptions.

c. *The Partial Exemption*

The partial exemption exempts 50% of the price of qualified items from the sales and use tax. DRS Special Notice 93(1.1) and DRS Informational Publication 2009(13) provide a detailed interpretation of the application of the partial exemption. There are two major differences between the partial and the full exemptions. The first difference is the definition of manufacturing used for each type of exemption. While the full exemption uses a narrow definition of manufacturing, the partial exemption uses a much broader definition that qualifies more purchases. Second, material, tools, fuel, and machinery or equipment must be used directly in manufacturing to qualify for the full exemption. To qualify for the partial exemption, items do not need to be used directly or exclusively in manufacturing. The items must be used primarily (more than 50% of the time) in manufacturing, but they can be used incidentally in other functions. This change in definition allows many items used in processes related to manufacturing to qualify for the partial exemption. For example, computers used in manufacturing but not directly linked to a machine, or to machinery used for quality testing or research and development, can now qualify for the partial exemption.

(i) Machinery and equipment purchases that qualify for the partial exemption.

The partial exemption for machinery and equipment applies to:

- machinery or equipment used primarily for research and development;
- machinery or equipment used primarily at any stage of the manufacturing, fabricating, or processing from the time raw materials are received to when the product is ready for delivery, including the storage, packing, and crating stages;
- machinery or equipment used primarily in measuring or testing;
- machinery or equipment used primarily to repair or maintain any equipment described above; and
- machinery or equipment used primarily for metal finishing.

Use CERT-109, *Partial Exemption for Machinery, Equipment, or Repair and Replacement Parts,* when claiming this exemption.

Definitions:

(1) MRA, Machinery, Equipment and Component Parts

Machinery includes the basic machine and all equipment or devices used or required to control, regulate, or operate the basic machine. These items often include testing equipment and computers used to maintain quality control of the product but that are not directly linked to the production machinery. Equipment is any device separate from the machinery but essential to the manufacturing, processing, or fabricating process. Previously, these items were taxable because they were not used directly in the manufacturing of products to be sold.

Component, enhancement, replacement or repair parts to be used on qualifying machinery, equipment and tools also qualify for the partial exemption. Canned or prewritten software purchased in the same or a separate transaction from the purchase of qualifying machinery is treated as the purchase of a component or enhancement part. The partial sales tax exemption applies only to tangible personal property and not to services. Therefore, the development or creation of custom or customized computer software is subject to tax as a computer service. (See discussion of services, below.)

(2) MRA, Primary Use

"Primarily" means chiefly. For example, if a machine is used for two different functions, one of which would qualify the machine for the MRA Exemption and the other of which would not, the machine is used primarily in the activity in which it is used more than 50% of the time. If, however, the machine is used for three or more different functions, the machine is used primarily in the activity in which it is used the greatest percentage of the time. The "primarily" standard allows machinery that is used over 50% of the time in manufacturing to be used incidentally on other activities without losing its partial exemption. Also, there is no requirement that the machinery or equipment be used exclusively in manufacturing as there is in the full exemption. Machinery or equipment is used primarily in the process of manufacturing, processing, or fabricating tangible personal property if:

- the machinery or equipment is primarily used for research and development;
- the machinery or equipment is used at any stage of the manufacturing or fabricating process from the time any raw materials are received to when the product is ready for delivery, which includes the storage, packing and crating stages;
- the machinery and equipment is used primarily to repair or maintain any equipment described above; or
- the machinery and equipment is used primarily for metal finishing. Machinery and equipment that are used primarily for administration, management, or sales activities are fully taxable and do not qualify for any exemption.

(3) MRA, Manufacturing

The definition of manufacturing under the partial exemption includes a range of activities. Any activity that converts tangible personal property by changing its form, composition, quality or character for ultimate sale at retail, or use in the manufacturing of a product to be ultimately sold, qualifies for a partial exemption. The "substantial transformation" required for a total exemption is not required for a partial exemption. The changing of a tangible personal property's quality involves any change that results in a significantly greater service life or a significantly greater function within the original service life. Many activities that would not qualify as a substantial transformation of the product meet a change-in-quality standard (DRS Special Notice 93(1.1)).

(4) MRA, Fabrication

"Fabricating" means making, building, creating, producing or assembling components of tangible personal property to work in a new or different manner. For example, the term includes such activities as assembling, cutting, perforating, welding, bending or shaping, painting and coating (DRS Special Notice 93(1.1)).

(5) MRA, Processing

"Processing" means the physical application of materials and labor necessary to modify or change the characteristics of tangible personal property. The repair of tangible personal property by restoring it to its original condition is not considered processing of that property, nor is the remodeling of property. The mere packing, unpacking or shelving of a product to be sold is not considered to be processing of that property. Some examples of activities constituting processing are metal, glass, or paper recycling and pipe threading (DRS Special Notice 93(1.1)).

(ii) <u>Materials, tools and fuel purchases that qualify for the partial exemption</u>.

The partial exemption also applies to materials, tools and fuel that:

- become an ingredient or component part of tangible personal property to be sold; or
- are used or consumed in the manufacturing, processing or fabricating of tangible personal property to be sold.

Use CERT-108, *Partial Exemption of Materials, Tools, and Fuels,* when claiming this exemption.

<u>Definitions:</u>

(1) MRA, Materials, Tools and Fuel

Materials, tools and fuel that become an ingredient or component part of tangible personal property to be sold or that are used or consumed in manufacturing, processing, and fabricating tangible personal property to be sold are partially exempt. The expanded definition of manufacturing referred to above applies here also.

(2) MRA, Manufacturing Production Process

The definition of the production process has been expanded to include any materials, tools, and fuel used in any preparatory process or process related to the manufacturing, processing, or fabricating of tangible personal property to be sold. Items in this category include materials or tools used to move or prepare materials for production, tools used to repair equipment used in fabricating, materials used for packing and equipment used for packing products after the manufacturing process is completed. Also, any item used or consumed in measuring or testing such products is partially exempt from tax. These items include destructive testing equipment and materials used in destructive testing. As an example, a partially completed widget is put into a machine to test the widget's strength. The widget is destroyed in the test. The machine used to test the widget would not qualify for a total exemption, but now qualifies for the partial exemption.

(3) MRA, Manufacturing, Fabricating, Processing

See partial exemption part (i) (3), (4) and (5).

d. *Manufacturing Exemptions for Paving Companies*

Portions of the full exemption and the partial exemption discussed above can apply to a paving company (DRS Special Notice 2009(6)). In accordance with legislation that became effective in July of 2009, the following manufacturing exemptions can apply to an asphalt manufacturer that makes asphalt (a finished product) used to fulfill a paving contract:

- The full exemption for purchases of gas and electricity used in the fabrication of a product to be sold in an industrial manufacturing plant provided by C.G.S. §12-412(3).
- The full exemption for materials, tools, and fuel used directly in an industrial plant in making a finished product to be sold provided by C.G.S. §12-412(18). However, this exemption does not extend to purchases of materials for use as ingredients or component parts of a finished product to be used to fulfill a paving contract. A person that produces an item of tangible personal property and installs it into a customer's real property is generally considered to be acting as a construction contractor rather than as a manufacturer and is required to pay sales tax on the materials it buys to make the item (Conn. Agencies Regs. §12-426-18(d)).

- The full exemption for machinery used directly in a manufacturing production process provided by C.G.S. §12-412(34), as long as the purchaser would qualify for this exemption except for the fact that its products made with such machinery are used by the purchaser to fulfill a paving contract instead of being sold as tangible personal property.
- The partial exemption for materials, tools, fuels, machinery, and equipment used or consumed in manufacturing, fabricating, or processing tangible personal property to be sold provided by C.G.S. §12-412i.

2. Packaging Materials & Containers

Packaging that becomes part of the product can be purchased as materials under the manufacturing exemption discussed above. This would include any packaging that goes to the ultimate consumer. Another container exemption also exists. It exempts non-returnable containers sold to persons who fill them and then sell the resulting packaged product; sales of containers that are filled and sold with nontaxable contents; returnable containers when sold with the contents in connection with a retail sale of the contents, or when sold for refilling; and returnable dairy product containers (C.G.S. §12-412(14)).

Sales of shipping tags, shipping labels and price tags are taxable. But sales of wrapping paper, bags, twine, tape, etc., may be purchased tax free on a resale certificate when sold for use in packaging products for sale at retail, whether the sale of such products is taxable or exempt.

3. Heating Fuel and Other Utilities

The first $150 of electricity purchased per month per commercial or industrial customer is exempt from sales tax. Aside from the manufacturers exemption for fuel used in the production process, discussed above, there is another exemption for heating fuel and other utilities. If 75% or more of the gas, electricity, or heating fuel purchased by the customer is consumed in a building or location for agricultural production, manufacturing production, or the fabrication of a finished product to be sold, then the purchase is exempt (C.G.S. §§12-412(3), 12-412h and 12-412(16), and DRS Policy Statement 94(3.2)). Use CERT-115, *Exempt Purchases of Gas, Electricity and Heating Fuel,* to claim this exemption.

4. Commercial Printers Exemption

Machinery, equipment, tools, materials and supplies used predominantly in the production of printed materials by commercial printers and publishers, as well as, purchases by persons producing typesetting, color separation, finished copy with type proofs and artwork or similar content mounted for photomechanical reproduction are exempt from sales and use tax (C.G.S. §§12-412(71) and (72), DRS Policy Statement 2001(7)).

Commercial printers generally perform work on a job or custom basis, but also may sell their product themselves. Establishments primarily engaged in providing photocopying services are not commercial printers. In-house print shops do not qualify as commercial printers. Publishers are primarily engaged in the business of preparing and distributing, books, periodicals, newspapers and other printed materials. Publishers may have in-house printing facilities or they may use independent contractors to perform the actual printing of the materials. See DRS Policy Statement 2001(7) for more detail.

5. Air and Water Pollution Control Equipment

There are sales tax exemptions for air pollution control equipment and water pollution control equipment. In order to qualify for the exemption the equipment must be certified by the Department of Energy and Environmental Protection. The DEEP has pre-certified a list of air and water pollution control equipment. If equipment is not listed, the taxpayer must obtain written approval for an exemption for such equipment from the DEEP. The list of pre-certified air pollution control equipment is contained in DRS Policy Statement 99(2), *Tax Exemptions for Certain Air Pollution Control Equipment.* Taxpayers should use a CERT-117 when purchasing the equipment. The list of pre-certified water pollution control equipment is contained in DRS Policy Statement 2014(1), *Tax Exemptions for Certain Water Pollution Control Equipment.* Taxpayers should use a CERT-124 when purchasing the water pollution control equipment (C.G.S. §§12-412(21) and (22)).

6. Biotechnology Exemption

The sale or use of machinery, equipment, tools, materials, supplies and fuel used directly in the biotechnology industry is exempt from tax. “Biotechnology” means the application of technologies, such as recombinant DNA techniques, biochemistry, molecular and cellular biology, genetics and genetic engineering, biological cell fusion techniques and new bioprocesses, using living organisms, or parts of organisms, to produce or modify products, to improve plants or animals, to develop microorganisms for specific uses, to identify targets for small molecule pharmaceutical development, to transform biological systems into useful processes and products or develop microorganisms for specific uses (C.G.S. §12-412(89), DRS Policy Statement 98(8)).

Generally, "biotechnology" encompasses all activities beginning with research activities in the laboratory and ending when a product is ready for commercial production. Use CERT-129 when claiming this exemption.

7. Fuel Cell Exemption

The sale or use of machinery, equipment, tools, materials, supplies, and fuel used by a fuel cell manufacturing facility in Connecticut is exempt. A "fuel cell" is a device that produces electricity directly from hydrogen or hydrocarbon fuel through a noncombustive electrochemical process. "Machinery and equipment" is tangible personal property installed in a fuel cell manufacturing facility operated by a fuel cell manufacturer, the predominant use of which is for the manufacturing of fuel cells. A "fuel cell manufacturing facility" is that portion of a plant, building or other real property improvement used for the manufacturing of fuel cell parts or components or for the significant overhauling or rebuilding of such parts or components on a factory basis (C.G.S. §12-412(113), DRS Special Notice 2001(9)).

8. Aircraft Manufacturers

Sales of materials, tools, fuel and machinery used by an aircraft manufacturer operating an aircraft manufacturing facility in Connecticut are fully exempt from sales and use tax. An "aircraft manufacturing facility" means that portion of a plant used for the manufacturing or rebuilding of aircraft or aircraft parts or components (C.G.S. §12412(78)). This exemption also applies to purchases of materials, tools, fuel, machinery and equipment used at an aircraft manufacturing facility by an aircraft manufacturer for research and development activities related to the manufacturing activities (*Sikorsky Aircraft Corp. v. Commissioner,* 297 Conn. 540 (2010)). Use CERT-111 to claim this exemption.

9. The "Buy Connecticut" Exemption

Whenever a business in Connecticut purchases tangible personal property for the purpose of subsequently transporting such property outside this state by common carrier for use outside of Connecticut, or for the purpose of being processed or fabricated into other tangible personal property and then transported outside of Connecticut, then the business may claim a refund of sales tax paid on the property. The refund request is made on Form AU-526, and must be made by April 1 of the year following the property's purchase. No extension of the filing deadline is allowed by law. The property must be shipped out of Connecticut within three years of purchase (C.G.S. §12-408c, DRS Special Notice 2001(5)).

10. The Renewable and Clean Energy Technology Exemption

Machinery, equipment, tools, materials, supplies and fuel used directly in the renewable energy and clean energy technology industries are exempt from sales and use taxation. "Renewable energy and clean energy technology industries" are industries that apply technologies to produce, improve or develop solar energy electricity generating systems, passive or active solar water or space heating systems, geothermal resource systems and wind power electric generation systems, including equipment related to such systems (C.G.S. §12-412(117)(B), DRS Special Notice 2010(9.1)).

11. Services to Affiliates

Sales of services between the following affiliated business entities are exempt from sales and use taxes: corporations, trusts, estates, partnerships, limited partnerships, limited liability partnerships, limited liability companies, single member limited liability companies, sole proprietorships, and nonstock corporations. To qualify, the business entities must be affiliated in such a manner that: (i) either business entity in the transaction owns a controlling interest in the other business entity; or (ii) a controlling interest in each business entity in the transaction is owned by the same person or persons or business entity or business entities (C.G.S. §12-412(62)). Please note that "controlling interest" is defined to require 100% control after the application of certain attribution rules. Taxpayers should note that a business entity cannot purchase services on resale when the services are purchased for resale to another affiliate (DRS Informational Publication 2010(20)).

12. Other Exemptions

Listed below are many of the remaining sales and use tax exemptions:

- sales to the federal government, the state of Connecticut, or any of the political subdivisions thereof, or its or their respective agencies (C.G.S. §12-412(1))
- sales of gas and electricity for residential use and certain manufacturing and agricultural production (C.G.S. §12-412(3))
- prescription medicine, syringes and needles (C.G.S. §12-412(4))
- sales of tangible personal property or services to and by nonprofit charitable hospitals, nursing homes, rest homes and homes for the aged (C.G.S. §12-412(5)(A))
- sales of tangible personal property on a hospital's premises by a section 501(c)(3) organization (C.G.S. §12-412(5)(B))
- sales of tangible personal property or services to and by a "sole community hospital" for the exclusive purposes of such hospital (C.G.S. §12-412(5)(C))
- sales to tax exempt organizations (charitable organizations) (C.G.S. §12-412(8))
- sales of meals and food in certain educational institution and health care facilities (C.G.S. §12-412(9))
- sales of food products for human consumption (does not include sales of meals) (C.G.S. §12-412(13))
- sales of motor vehicle fuel (C.G.S. §12-412(15))
- sales of heating fuel for residential dwellings and certain manufacturing/agricultural buildings (C.G.S. §12-412(16))
- fishing materials, rope, nets and tools used directly in the fishing industry (C.G.S. §12-412(18))
- oxygen, blood plasma, prostheses, custom-made wigs or hairpieces, hearing aids, canes, crutches, walkers and wheel chairs, vital life support equipment, apnea monitors and related repair services and parts, support hose (C.G.S. §12-412(19))
- inclined stairway lifts (C.G.S. §12-412(19))
- closed-circuit TV for the visually impaired (C.G.S. §12-412(19))
- flyable aircraft (C.G.S. §12-412(20))
- United States and Connecticut state flags (C.G.S. §12-412(23))
- sales by public libraries (C.G.S. §12-412(24))
- sales of less than $20 each by certain nonprofit organizations and schools (C.G.S. §12-412(26))
- sales from vending machines costing fifty cents or less, or meals sold through coin-operated vending machines or at unattended honor boxes (C.G.S. §12-412(27))
- sales of personal property used or consumed in the operation of housing facilities for low and moderate income families and persons (C.G.S. §12-412(29))
- commodities in the form traded on boards of trade and not converted to use by the purchaser (C.G.S. §12-412(30))
- printed material manufactured for a purchaser in Connecticut to be delivered for use outside the state (C.G.S. §12-412(31))
- sales of tangible personal property or services to centers of service for elderly persons (C.G.S. §12-412(35))
- motor vehicle driving service performed out of state (C.G.S. §12-412(36))
- fuel of use in certain high-occupancy commuter vehicles (C.G.S. §12-412(37))
- telephone equipment designed exclusively for deaf or blind persons (C.G.S. §12-412(38))
- commercial fishing vessels and machinery or equipment for use thereon (C.G.S. §12-412(40))
- services to determine the effect on human health of consumption or use of a product or substance (C.G.S. §12-412(41))
- certain replacement parts for machinery sold to businesses in an enterprise zone (C.G.S. §12-412(43))

- certain motion picture or video production equipment or sound recording equipment (C.G.S. §12-412(44))
- filmed and taped television and radio programs and any material of films or tapes broadcast to the general public or used for medical or surgical training (C.G.S. §12-412(44))
- gold or silver bullion, legal tender of any nation, or rare and antique coins (C.G.S. §12-412(45))
- meals delivered to homes of persons who are elderly, disabled or otherwise confined (C.G.S. §12-412(46))
- property tax payments under motor vehicle leases (C.G.S. §12-412(49))
- lease or rental of any motion picture film for display by theater owners or operators (C.G.S. §12-412(50))
- disposable pads used for incontinency (C.G.S. §12-412(53))
- test strips and tablets, lancets and glucose monitoring equipment (and associated repair or replacement parts) used in the care of diabetes (C.G.S. §12-412(54))
- personal property used in burial or cremation with value up to $2,500 for any single funeral, and caskets used for burial or cremation (C.G.S. §12-412(55))
- sales of certain items by nursing homes, rest homes for the aged, convalescent homes or adult day care centers (C.G.S. §12-412(56))
- sales of items purchased with supplemental nutrition assistance program benefits (C.G.S. §12-412(57))
- services related to personnel, management, or marketing, development, testing or research when the company rendering the service and the recipient are participating in a joint venture for purposes of the production or development of new or experimental products or systems, and the marketing and support thereof (C.G.S. §12-412(58))
- aviation fuel used exclusively and directly in the experimental testing of any product (C.G.S. §12-412(59))
- a motor vehicle or vessel purchased but not registered in this state by a person who is not a resident of this state (C.G.S. §12-412(60))
- items sold for use in agricultural production by a farmer engaged in such production as a business (C.G.S. §12-412(63))
- computer-related cleaning equipment (C.G.S. §12-412(64))
- molds, dies, patterns and sand handling equipment for metal casting foundries (C.G.S. §12-412(65))
- molds, dies and patterns for pattern shops and metal casting foundries (C.G.S. §12-412(66))
- commercial trucks, truck tractors, tractors and semitrailers and vehicles used in combination therewith (C.G.S. §12-412(70))
- aviation fuel (C.G.S. §12-412(75))
- aircraft repair or replacement parts (C.G.S. §12-412(76))
- aircraft repair services (C.G.S. §12-412(77))
- marine fuel (C.G.S. §12-412(79))
- equipment and associated repair and replacement parts installed in motor vehicles for persons with physical disabilities (C.G.S. §12-412(80))
- machinery, equipment, tools and materials used in fabricating optical lenses (C.G.S. §12-412(81))
- sales of certain commercial motor vehicles or motor buses where 75% of days-in-service revenue derives from trips involving other states (C.G.S. §§12-412(82) & (83))
- sales of goods and services to The University of Connecticut Educational Properties, Incorporated (C.G.S. §12-412(84))
- sales of certain services to totally disabled individuals (C.G.S. §12-412(85))
- sales by an affiliate participating in certain community economic development programs (C.G.S. §12-412(86))
- sales of eligible benefits under Title XVIII or XIX of the Social Security Act or CHAMPUS (C.G.S. §12-412(87))

- machinery, equipment, tools and materials used exclusively in the commercial processing of photographic film and paper (C.G.S. §12-412(88))
- sales of safety apparel (C.G.S. §12-412(91))
- sales of goods or services for the operation of projects of the Connecticut Resources Recovery Authority (C.G.S. §12-412(92))
- sales of goods or services to any tourism districts (C.G.S. §12-412(93))
- sales of goods or services to be incorporated into or used or otherwise consumed in the operation of a solid waste-to-energy facility (C.G.S. §12-412(95))
- sales of vegetable seeds suitable for planting to produce food for human consumption (C.G.S. §12-412(96))
- sales of goods by historical societies (C.G.S. §12-412(98))
- firearm safety devices (C.G.S. §12-412(101))
- bicycle helmets (C.G.S. §12-412(102))
- freight railroad equipment (C.G.S. §12-412(103))
- shoe repair services (C.G.S. §12-412(105))
- diesel fuel for portable power system generators larger than 150 kilowatts (C.G.S. §12-412(107))
- car seats for children (C.G.S. §12-412(108))
- college textbooks, including for students at authorized private occupational schools (C.G.S. §12-412(109))
- sales of certain data transmission equipment to a telecommunications company or community antenna television company (C.G.S. §12-412(112))
- sales of newspapers (C.G.S. §12-412(114))
- sales of magazines and puzzle books by subscription (C.G.S. §12-412(114))
- marine vessel brokerage services (C.G.S. §12-412(116))
- solar energy electricity generating systems, passive or active solar water or space heating systems and geothermal resource systems (C.G.S. §12-412(117))
- ice storage systems used for cooling by a utility ratepayer (C.G.S. §12-412(118))
- sales of certain nonprescription drugs and medicines (C.G.S. §12-412(120))
- sales of tangible personal property or services to a Connecticut credit union on or after July 1, 2016 (C.G.S. §12-412(121))
- sales of goods or services to Connecticut Innovations, Incorporated ("CII") (C.G.S. §32-23h), or stored, used or consumed in connection with the development, construction, rehabilitation, renovation or repair of a CII-approved project (C.G.S. §32-46)
- the value of certain core parts of tangible property in certain trade-in/exchange transactions (C.G.S. §12-412j)
- certain sale and lease back agreements (C.G.S. §12-407(a)(3)(B))
- coin and currency services to a financial services company by or through another financial services company (C.G.S. §12-407(a)(37)(D))
- residential weatherization products, including windows, doors, boilers and furnaces that meet the federal Energy Star standard (C.G.S. §12-412k)
- sales of internet access services (C.G.S. §12-408(1))
- patient care services provided by a hospital, including tangible personal property transferred in connection with such services (C.G.S. §12-408(1))
- sales of tangible personal property and services to the Health Information Technology Exchange of Connecticut (HITEC) or its subsidiaries (C.G.S. §12-412(1), DRS Special Notice 2010(6))
- dry or wet storage of a noncommercial vessel during the period beginning on October 1 and ending on May 31 (C.G.S. §§12-407(a)(2)(M) and 12-413a)
- sales of feminine hygiene products (C.G.S. §§12-412(122), effective July 1, 2018)
- sales of disposable or reusable diapers (C.G.S. §12-412(123), effective July 1, 2018)

III. SALES OF TAXABLE SERVICES

1. Introduction

As was stated in the overview of the sales and use tax, sales of services are not taxable unless the service is specifically listed as a taxable service in the law; however, there are a significant number of taxable services. This section contains a list of taxable services that is accurate as of July 1, 2016. One particular difficulty with the list of taxable services is that the title of a particular service category does not always completely and accurately describe the types of activities that are considered taxable under that category. Therefore, readers are encouraged to further explore whether a service might be taxable if the service they are analyzing could be considered related to a taxable service. Certain taxable services affect businesses more than other services. This chapter will highlight those services which have the most impact on businesses.

2. List of Taxable Services

- Non-media advertising or public relations services
- Business analysis, management, management consulting and public relations services (see below)
- Car wash services, including coin-operated car washes.
- Cellular mobile phone service
- Certified competitive video service
- Community antenna television services
- Computer and data processing services including charges for online access to information. Effective October 1, 2015 the tax on computer and data processing services is extended to apply to 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. The tax on computer and data processing services was being phased out through a series of rate reductions. The final step in the phase-out was repealed and such services, with the exception of Internet access services, have remained subject to a 1% tax since July 1, 2001. The tax on access charges of Internet service providers was repealed effective July 1, 2001.
- Cosmetic medical procedures [N.B. Reconstructive surgery is expressly excluded from the definition of cosmetic medical procedures.]
- Credit information and reporting
- Employment agency and personnel services
- Exterminating services
- Flight instruction and chartering by certificated air carrier
- Furniture reupholstering and repair services
- Health and athletic club services, including yoga instruction provided at a yoga studio
- Intrastate livery services (excluding transportation by taxicab, motorbus, ambulance or ambulette, scheduled public transportation or services provided in connection with funerals)
- Janitorial services
- Landscaping and horticulture services
- Lobbying or consulting services for purposes of representing the interests of a client in relation to any governmental entity or instrumentality
- Locksmith services
- Maintenance services
- Manicure and pedicure services and all other nail services
- Miscellaneous personal services (i.e., valet services)
- Motor vehicle parking services, other than parking in metered space, in a lot having thirty or more spaces, excluding (i) parking in certain lots operated by an employer for the exclusive use of its employees, (ii) parking in certain municipally-operated railroad parking facilities, and (iii) parking in a seasonal parking lot provided by certain tax-exempt entities, and (iv) seasonal lots owned by the United States, the state of Connecticut or any of its political subdivisions or municipalities, or any federal or state agency.
- Motor vehicle repairs
- Motor vehicle storage services (including motor homes, campers and camp trailers)
- Motor vehicle towing and road services

- Packing and crating services (to the extent not taxed in connection with the sale of tangible personal property)
- Painting and lettering
- Patient care services
- Pet grooming and pet boarding services, except when such services are provided as an integral part of professional veterinary services, and pet obedience services
- Photographic studio services
- Piped-in music service
- Private investigation and security services, except for services of off-duty police officers and off-duty firefighters, and coin and currency services provided to a financial services company by or through a financial services company
- Radio or television repair services
- Repair services to electrical or electronic devices
- Repair or maintenance services to tangible personal property, except for calibration and shoe repair services
- Repair or renovation services to industrial, commercial and income-producing real property, including the voluntary evaluation, prevention, treatment or removal of hazardous waste or other contaminants of air, water or soil
- Sales agent services for selling tangible personal property, excluding the services of a consignee selling works of art or clothing, and the services of an auctioneer
- Spa services, regardless of where performed, including body waxing and wraps, peels, scrubs and facials
- Stenographic service
- Storage or mooring of any noncommercial vessel on land or in the water, except the off-season dry or wet storage or mooring of noncommercial vessels
- Storage space
- Swimming pool cleaning and maintenance services
- Telecommunications services
- Telephone answering services
- Prepaid telephone calling services
- Warranty and service contracts for any item of tangible personal property
- Window cleaning services

3. Business Analysis, Business Management, Business Management Consulting and Business Public Relations Services

Business analysis, management, management consulting and public relations services are subject to the 6.35% sales and use tax when the service is purchased by a person in business (Conn. Agencies Reg. §12-407(2)(i)(J)-1). Determining whether a service is a business consulting service can be difficult. A two-part approach works well. First, determine whether the service relates to either a "core business activity" or a "human resource management activity." Then determine whether the service falls into one of the four taxable service categories. Taxpayers also must consider where the benefit of the service is received as that will impact the analysis of whether the service is taxable in Connecticut.

Core business activities are those directly related to a service recipient's line of business involving sales of products, property, goods, or services to others, and its capital structure, budgeting, and short-range, long-range or strategic planning.

Human resource management activities are activities relating to the hiring, development, job-related training, compensation and management of personnel. They also include employee relations and the design and implementation, but not ongoing administration, of employee benefits plans.

Business analysis services include examining data, formulating conclusions, and making recommendations that relate to core business activities or human resource management.

Business management services are defined as the day-to-day managing of a service recipient's personnel in relation to all or a portion of the core business activities or the human resource management activities. Business management consulting services are those that provide advice on matters pertaining to the management of core business activities or human resource management activities. Business management services do not include the mere rendering of advice to a recipient that itself maintains day-to-day control (though the rendering of such advice might be taxable as business analysis or consulting).

Business management consulting services do not include specialized consulting services such as insurance and investment banking.

Business public relations services mean the preparation of materials that are designed to influence the general public or other groups by promoting the interests of a service recipient. Business public relations services do not include marketing services, which, in contrast with business public relations services, involve testing, research or analyzing existing or potential consumer markets in developing particular products, property, goods or services for sale to others by the service recipient.

Services rendered by directors as members of boards of directors are not subject to the tax. Also not subject to the tax are the services of a professional when the services are commonly associated with his or her profession and the professional is acting in his or her professional capacity. The term "professional" means any generally acknowledged professional occupation requiring a degree, license or specialized training, including the medical, legal, accounting and actuarial professions. Professional services do not include services commonly known as management advisory services or human resource management services, even when these services are rendered by an attorney, accountant or other professional (Conn. Agencies Reg. §12-407(2)(J)-1(c)(3)).

Retroactive to January 1, 1994, aircraft management services are excluded from business analysis, management, consulting and public relations services when rendered in connection with aircraft leased or owned by a certified air carrier or in connection with an aircraft that has a maximum certified take-off weight of at least 6,000 pounds.

4. Services to Industrial, Commercial and Income-Producing Real Property

Almost any type of service work performed with respect to existing non-residential real property is subject to sales and use tax as a taxable service to industrial, commercial and income-producing real property. Conn. Agencies Reg. §12-407(2)(i)(I)-1 clarifies which services are taxable, and the DRS has published the *Building Contractors' Guide to Sales and Use Taxes,* DRS Informational Publication 2006(35), as modified by DRS Special Notice 2007(7) and DRS Special Notice 2012(2), which provides even more helpful guidance. Any business owner in the construction trade, as well as any owner of industrial, commercial or income-producing property should obtain a copy of these documents. Below is a very brief overview of the general rules for services to real property and the exemption for new construction.

Services provided in the construction of a new building are not taxable. The reconstruction of an existing building will be considered new construction if only the external walls and the roof of the existing building are left in place before new construction begins. Everything in the interior of the building must be replaced to qualify as new construction (Conn. Agencies Reg. §12-407(2)(i)(I)-1). The substantial rehabilitation of a certified historic structure and the initial finish out work to the interior of a new building (provided there has been no previous use of the space including storage) are also considered new construction. Other than these exceptions, the DRS strictly adheres to the statutory requirement that only the external walls and roof be left in place.

Site improvements — such as the construction of roadways, walkways, parking lots, patios, swimming pools, tennis courts or decks — that put the property to a new use are also considered to be services rendered in the construction of new property. These site improvements should be differentiated from improvements that merely enhance an existing use of the property, such as the installation of wells, septic systems, utility lines, storm water drainage systems or outdoor lighting systems. Such improvements are considered taxable services unless the services are directly connected to the construction of a new building. The following is an example of this situation: An industrial establishment with one existing building has a septic system. The owner constructs a second building next to the existing one. Rather than add a new septic system, the owner merely adds on to the existing septic system. Construction of the added septic system is considered a service to new construction, even though it enhances the use of the older building.

The service provider has the burden of proving the services were applied to new construction. This burden can be relieved if the service provider receives, in good faith, a new construction certificate (CERT-104) from the owner.

When the contractor (service provider) consumes materials or supplies in fulfilling a construction contract, the portion of the charge that covers the cost of materials or supplies is not handled as a charge for services to industrial, commercial or income-producing real property. Rather, the contractor pays the tax as a consumer on the purchase or lease of all materials, supplies or equipment used by him to fulfill a construction contract (Conn. Agencies Reg. §12-426-18). In a few narrow situations, the contractor may give the person selling him the materials a resale certificate (Conn. Agencies Reg. §12-426-18(b)). Generally, this is only allowed when the contractor also has a retail store as part of his operation. In these cases, the tax on the materials is passed on and ultimately paid by the buyer of the construction contract (Conn. Agencies Reg. §12-426-18).

When the contractor performs taxable services, he is making a sale at retail and must collect the tax on that portion of the charge that is for taxable services (Conn. Agencies Reg. §12-407(2)(i)(I)-1). When the contractor has already paid the tax on the materials, the charge for the services and the charge for the materials (including the tax paid by the contractor on the materials) should appear separately on the invoice or can be combined with the statement "tax included" (Conn. Agencies Reg. §12-407(2)(i)(I)-1). If a construction contractor, in fulfilling a construction contract, buys services from a construction subcontractor, the subcontractor can accept a resale certificate for those services (Conn. Agencies Reg. §12-407(2)(i)(I)-1). When the contractor bills the owner for the cost of his services, he also adds the tax for the subcontractor's services to the bill (Conn. Agencies Reg. §12-407(2)(i)(I)-1).

Services rendered to and by tenants of industrial, commercial or income-producing real property are considered services to industrial, commercial or income-producing real property, and are taxable, even if the tenant has no right of reimbursement from the landlord.

5. Service Resale Transactions

Services may be resold if they are an integral, inseparable part of a listed taxable service which is resold by the purchaser to an ultimate consumer. The purchaser of the service for resale must keep sufficient records to prove the service purchased was an integral part of the ultimate taxable service sold to the end consumer (C.G.S. §12-410(5)). See DRS Informational Publication 2009(15); C.G.S. §§12-410(6) and 12-411(15). Please note that taxable services under C.G.S. §12-407(a)(2)(I) may not be purchased for resale by one affiliate and sold to another subject to the exemption under C.G.S. §12-412(62).

IV. MISCELLANEOUS RENTAL SURCHARGE

Prior to July 1, 2015, the law imposed a surcharge 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). Effective July 1, 2015, the statute imposing the surcharge was 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 total revenue of the business entity in a given taxable year; and (ii) expand the application of the surcharge on machinery to <u>all</u> 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 report annually 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. Effective July 1, 2015, this report must now be filed on a consolidated basis (C.G.S. §12-692).

V. ADMINISTRATION

1. Permits

Each person in business as a seller within the state of Connecticut must obtain a separate seller's permit for each place of business. To obtain a permit, a business must first register for Connecticut taxes by filing Form REG-1 with the DRS and obtaining a tax registration number. See DRS Informational Publication No. 2015(12). Each permit has a one-time $100 fee. Permits expire five years from their issuance but are renewable. Permits are automatically renewed if the taxpayer's account shows no sales tax delinquencies. If the account shows delinquencies, the taxpayer will be mailed Form OR-219, an application for renewal. Permits are valid only at the places of business designated thereon, when conspicuously displayed, and only for the persons in whose name they are issued (C.G.S. §12-409). A new permit will be required if there is a change in a taxpayer's business structure, such as the incorporation of a single member limited liability company.

Prior to issuing or renewing the sales tax permit, the Commissioner must determine whether the applicant: (i) owes taxes to the state, which taxes are finally due and payable and with respect to which any administrative or judicial remedies, or both, have been exhausted or have lapsed; and (ii) has failed to file any state tax returns. If the Commissioner determines that there are outstanding tax liabilities or tax returns, the Commissioner may not issue or renew a permit until the applicant pays the taxes and files the tax returns, or makes an arrangement satisfactory to the Commissioner. Similarly, the Commissioner of Motor Vehicles is prohibited from granting or renewing a motor vehicle dealer or repairer license where the applicant or holder of the license is delinquent in the payment of sales tax in connection with a business from which it is or was obligated to remit sales tax (C.G.S. §14-52a(b)). Any person who fails to secure or renew a sales tax permit will be subject to a civil penalty of $250 for the first day that the person engages in or transacts business without a permit and $100 for each subsequent day that the person engages in or transacts business without a permit (C.G.S. §12-409(h)).

2. Resale and Manufacturers' Exemption Certificates

When a registered seller makes a sale which is not taxable, such as a sale at wholesale (C.G.S. §12-408(1) or a sale exempt from tax (C.G.S. §12-412), he is supposed to procure evidence of non-taxability from his customer (C.G.S. §12-410). This evidence should be in the form of a resale certificate prescribed by Sales and Use Tax Regulation No. 1. See DRS Informational Publication 2009(15).

The customer may provide a separate resale certificate for each purchase. A common practice is to use a blanket certificate for a continuing line of purchases. A blanket certificate is good for up to three years or until revoked in writing.

It is important for a seller to ask his customer for a resale certificate, because the law places the burden of proving that a sale is not at retail on the seller unless the transaction is covered by a certificate accepted by the seller in good faith. The good faith of the seller may be questioned if he has information implying that the purchaser does not intend to resell the item.

In the case of a sale that is exempt under the manufacturer's exemption the seller should obtain from the buyer a certificate of proof of non-taxability (CERT- 100, 101, 109 and 110). These certificates are generally issued in the form of blanket certificates covering all purchases for up to three years or until revoked in writing, although an individual certificate may be used for each purchase. However, separate certificates should be furnished for production machinery. A seller who has received such a certificate from his customer is relieved of liability for any tax.

When a purchaser cannot tell at the time of purchase whether the material will ultimately be used for an exempt purpose, it is common to cover the purchase with an exemption certificate and to account for the use tax on any of the material that is used for a nonexempt purpose on the purchaser's own quarterly tax return (Sales and Use Tax Return).

Any business purchasing tangible personal property or an enumerated service under circumstances that make it impossible or impractical to determine, at the time of purchase, how the tangible personal property or service will be used, may apply to the commissioner of the DRS for a direct payment permit. The permit costs $20. It is granted at the discretion of the commissioner. If the seller accepts the permit from the buyers in good faith, then the seller is released from his obligation to collect the sales tax (C.G.S. §12-409).

3. Nonresident Contractor Security Requirements

Any business that retains a nonresident contractor for work in Connecticut must comply with certain Connecticut tax security procedures or the business may become liable for the Connecticut tax obligations of the nonresident contractor (C.G.S. §12-430(7)). In general, a "nonresident contractor" is defined as a contractor who does not continuously maintain and occupy a bona fide office, factory, warehouse or other space in Connecticut (i.e., not a temporary office or trailer at a job site). The governing statute was amended in 2011 to revise the security requirements and to apply them to any nonresident contractor who is not a "verified contractor" (i.e., a nonresident contractor who is registered for all applicable taxes with the DRS, has filed all returns with the DRS, has no outstanding liabilities with the DRS and is treated as verified contractor by the DRS). Taxpayers should confirm whether the old or new rules are applicable to a particular construction project.

Effective October 1, 2011, a person doing business with a prime or general contractor who is an "unverified contractor" must obtain proof that the contractor has posted with the DRS a good and valid bond with a surety company authorized to do business in Connecticut in an amount equal to 5% of the contract price. Persons doing business with an unverified contractor are no longer required to withhold an amount from payment due to the contractor under the contract. However, if the person fails to obtain proof that a bond was posted, the person can be held personally liable for the sale and use tax and withholding tax liability of the unverified contractor arising from the activities of the contractor on the project. The DRS, upon request, is to verify that whether a contractor is a resident or nonresident contractor, whether a nonresident contractor is a verified contractor and whether a valid bond has been posted.

In a similar manner, a resident or verified general or prime contractor or a resident or verified subcontractor is required to determine whether a nonresident subcontractor with which they contract is a verified contractor; however, if the nonresident contractor is an unverified contractor, the resident or verified general or prime contractor or subcontractor is required to: (i) hold back an amount equal to 5% of the payments due to such unverified subcontractor until the unverified contractor furnishes a certificate of compliance from the DRS authorizing the full or partial release of those funds; and (ii) provide notice of such hold back requirement to the unverified subcontractor no later than the time of commencement of work under the contract. The governing statute is also amended to clarify the protections of parties who comply with its provisions and that it is not applicable to any contract in which the contract price for the entire project is less than $250,000. See DRS Special Notice 2012(2), *2011 Legislative Changes to the Procedures Governing Nonresident Contractors.*

Businesses should take note of the Connecticut Supreme Court's decision in *Rainforest Café, Inc. v. Dep't. of Revenue Services,* 293 Conn. 363 (2009). The decision interpreting the prior version of the statute suggests that a taxpayer who contracts with a nonresident contractor who failed to post a cash or guarantee bond should, nevertheless, not be held liable for sales tax attributable to the project that the taxpayer did, in fact, contract to pay and paid sales tax to the nonresident contractor. The DRS has raised questions relating to the decision, including whether it can still pursue the taxpayer for withholding and other taxes attributable to the project. These issues remain unresolved at the time this publication went to press.

4. Returns, Payment, Interest and Penalties

A seller initially is required to file sales and use tax returns (Form OS-114) with the Commissioner of Revenue Services on a quarterly basis. How often a seller eventually must file a return depends on the amount of tax owed. A monthly filing is required if the seller's total tax liability for the 12-month period ending on the preceding June 30th was $4,000 or more. The Commissioner of Revenue Services can permit taxpayers to file annual returns, so long as their total sales and use tax liability for the 12–month period ending on the preceding September 30th was less than $1,000. Annual returns are normally computed on a calendar–year basis. On taxpayer request, the Commissioner can allow the use of a fiscal year. See Section V(3) below. The Commissioner of Revenue Services may require a delinquent taxpayer to remit the sales tax collected during 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 file on a weekly basis and shall be required to do so for one year from the date set forth in the notice. The DRS is to notify a taxpayer in writing if a change to filing frequency is required. Monthly filers pay taxes on sales occurring in the preceding month, while quarterly filers pay taxes on sales concluded during a period of three calendar months beginning on the first day of January, April, July or October of each year (C.G.S. §12-414). The amount to be paid is based on the gross taxable receipts of the seller and is not limited to the amount of tax actually collected from customers. A retailer is entitled to take a credit for sales tax collection and remitted to the state on installment contracts that are ultimately not paid in full and become worthless, but the retailer may not assign this right to a purchaser of the installment contract. Returns are required even if there is no tax due for the reporting period.

The tax return form also requires the seller to report and pay a use tax on all of the seller's own taxable purchases during the quarter (or other applicable filing period) for which the seller did not pay tax to its vendors. Often, a business may have made no taxable sales during a quarter, but will have made some taxable purchases on which the tax had not been collected by the vendor. The tax is payable on the same date the return is filed (C.G.S. §12-414).

A return must be signed by the person required to file the return or by the seller's authorized agent. A return filed by a corporation must be signed by an officer of the corporation. They need not be verified under oath (C.G.S §12-414(2)).

The tax return and payment is due on the last day of the next succeeding month for monthly filers, on the last day of the first month following the end of the quarter for quarterly filers, and by January 31st of the next year for annual filers (C.G.S. §12-414). [Under legislation adopted during the 2014 legislative session and amended during the 2015 legislative session, for periods ending on or after October 1, 2014 and before December 31, 2015, the due date for all filers was the 20th day after the reporting period.] The Commissioner of Revenue Services generally may extend the filing date for good cause if a written request is filed on or before the due date of the return and includes a tentative return and an estimated tax payment. The Commissioner is not authorized to extend the time for a delinquent taxpayer filing on a weekly basis to make a return or pay any amount. For tax periods that begin on or after January 1, 2014, all taxpayers registered for the sales tax must file and pay that tax electronically.

If the return shows that more tax is due than was paid, interest on the excess is charged at the rate of 1% per month from the due date (C.G.S. §12-415(b)). The penalty for failure to pay the tax reported on the return when it is due is 15% of the tax, or $50, whichever is greater, plus 1% interest per month (C.G.S. §12-419). If a taxpayer fails to file a return for any quarter, the Commissioner may, at any time (there is no limitations period in this situation), estimate the tax and assess the delinquent taxpayer for the amount plus interest at the rate of 1% per month from the date the return should have been filed. Additionally, a penalty of 15% of the amount, or $50, whichever is greater, is imposed (C.G.S. §12416). If the failure to file a return is due to fraud or an intention to evade the tax, a penalty of 25% may be imposed (C.G.S. §12-415(d). Within 30 days after receiving the notice of assessment, the taxpayer may file a request with the Commissioner for a reassessment and request a hearing, if desired (C.G.S. §12-418). For a further discussion of the audit and appellate procedure, refer to the heading "Audits, Assessments, Hearings and Appeals" below.

Please note that the Commissioner of Revenue Services has been authorized to use his or her statutory authority to collect taxes owed by a Connecticut taxpayer to another state or the District of Columbia if such other state or the District of Columbia adopts a similar reciprocal collection statute. If the claimant state provides a written certification that such taxes are owed to Connecticut's Commissioner, the Commissioner is to provide written notice of the claim to the taxpayer and afford sixty (60) days to file a written protest with the Commissioner. Failure to timely protest will permit the Connecticut Commissioner to collect the tax and remit it to the claimant state (C.G.S. §12-34e).

5. Record Retention

The sales and use tax regulations require taxpayers to keep certain records on taxable transactions for no less than three years, unless the Commissioner of Revenue Services authorizes them to be destroyed or disposed of earlier. These records must include the book accounts normally maintained by a prudent business person, bills, receipts, invoices, cash register tapes, or other documents of original entry, and the schedules or working papers used for preparing tax returns. Failure to keep proper records will be considered negligent or as an intention to evade the tax, which invokes substantial penalties (Conn. Agencies Reg. §12-2-12). The Connecticut Supreme Court has held that a "Z tape" or a "Z report" does not constitute an acceptable substitute for a cash register tape showing all sales. *Alexandre v. Commissioner,* 300 Conn. 566 (2011).

6. Refund of Sales Tax

If a taxpayer inadvertently over pays the sales and use tax, a refund can be obtained within three years from the date of the transactions. The purchaser of the goods or service should request a refund from the seller of the goods or services. The seller of the goods or services should file an amended sales and use tax return for the month/quarter in which the tax was paid over to the state along with a written request for a refund of the tax and an explanation for the refund. Proof that the tax has been refunded to the purchaser or will be refunded to the purchaser must be provided. If the seller is unable or unwilling to provide the refund, a purchaser may request a refund directly from the DRS. The Connecticut Appellate Court has held that there is no private action for sales tax overcharges against the retailer and that the Connecticut Unfair Trade Practices Act does not give a taxpayer a right to avoid exhausting her administrative remedies. *Blass v. Rite Aid of Connecticut, Inc.*, 127 Conn. App. 569 (2011).

A purchaser must provide to the DRS proof that the tax was paid (a copy of the invoice), proof that the vendor refused a request to refund the tax, and an explanation of why the refund should be granted. The DRS reviews all requests to determine whether a refund is authorized for the transaction. If a refund is denied, taxpayers may request an administrative appeals hearing before the DRS Appellate Division within 60 days from the notice denying the request. If the taxpayer is not satisfied, decisions of the DRS Appellate Division may be appealed to the Tax Session of the Superior Court for the Judicial District of New Britain within one month from the date that the notice of the commissioner's action is received (C.G.S. §12-422; DRS Policy Statement 98(5)). Please note, however, that the Connecticut Superior Court cannot order interest to be paid on a tax refund awarded to a taxpayer in litigation, except to the extent that Connecticut statutes authorize payment.

7. Credit

Sales tax remitted to the DRS on an account receivable that is determined to be worthless, and is actually written off as uncollectible for federal income tax purposes, may be credited against the tax due on the sales tax return filed by the retailer (C.G.S. §12-408(2) and DRS Policy Statement 2001(1)).

8. Use Tax Credit - Interstate Transactions

If a taxable service or article of tangible personal property, which has already been properly subject to a sales or use tax by another state or its political subdivision, is purchased for use in Connecticut, no Connecticut tax is due if the tax paid out-of-state is equal to or more than the Connecticut tax. If the amount of sales or use tax paid out-of-state is less than the Connecticut tax, only the difference between the Connecticut rate and the out-of-state rate is payable in Connecticut (C.G.S. §12-430(5)).

9. Regulations and Rulings

The Commissioner of Revenue Services is authorized to issue rules and regulations governing the administration and enforcement of the sales and use tax (C.G.S. §12-426). The regulations have the force of law except when they are inconsistent with Connecticut tax statute. Informal rulings are issued to individuals and are binding on the taxpayer involved and the DRS. Other taxpayers in the same circumstances may rely upon the rulings, and the DRS is bound in that situation. Generally, rulings indicate the DRS's viewpoint on the various problems addressed.

10. Audits, Assessments, Hearings and Appeals

The sales and use tax law is enforced by the Audit Division of the DRS which periodically visits the plants and offices of taxpayers to check the accuracy of returns against the taxpayers' books. If, during the course of an audit, the examiner proposes an additional tax of which the taxpayer disapproves, the taxpayer may request an informal conference with the unit chief of the regional office of the DRS even before an assessment is made. If the dispute involves a question of law or procedure that cannot be resolved at the regional office level, an informal conference may be requested with the audit management office in Hartford.

If the matter in dispute is not settled by agreement, a formal notice of assessment (a billing notice) is sent to the taxpayer. Interest on the additional tax assessed is 1% per month from the due date of the original return. If the taxpayer failed to include the tax on which the assessment is based with his original return because of negligence or intentional disregard of the law, a penalty of 15% of the tax, or $50, is imposed, whichever is greater (C.G.S. §12-415(c)). If the failure is due to fraud or an intent to evade the law, the penalty is 25%. However, no taxpayer shall be subject to both of these penalties (C.G.S. §12-415(d)). Except in the case of fraud or intent to evade, the notice of assessment from the DRS must be sent out within three years after the tax return for the period in question was filed or was due, whichever is later (C.G.S. §12-415(f)). Within 60 days after receiving the billing notice, the taxpayer may write to the Commissioner of Revenue Services requesting a reassessment of the tax and, if desired, a hearing on the matter. (Note: Taxpayers only have 10 days after a jeopardy assessment has been made to petition the Commissioner for a reassessment (C.G.S. §12-417(3).) It is the Commissioner's discretion whether or not to grant a hearing. Unless the request is filed within the 60-day period, the assessment becomes final (C.G.S. §12-418). A taxpayer that objects to an assessment can minimize the accrual of interest by making a payment that is designated as a cash bond rather than a tax payment, without conceding any of its rights to challenge the assessment, using Form APL-004, *Deposit in the Nature of a Cash Bond.*

Hearings are generally informal and give the taxpayer an opportunity to explain his position to the Commissioner or to an Appellate Division official assigned to the case. The Commissioner's decision on the request for reassessment is sent to the taxpayer, who, if still dissatisfied, may file an appeal in the Tax Session of the Superior Court for the Judicial District of New Britain within 30 days after notification of the decision (C.G.S. §12-422).

MUNICIPAL PROPERTY TAX

I. NATURE OF THE TAX

In addition to the state taxes described previously, Connecticut businesses must pay local property taxes. The state allows local municipalities to levy taxes on real property, motor vehicles and various other kinds of business personal property, including machinery and equipment used in mills and factories. Local property taxes are levied annually by the town in which the property is located. In some towns, a property tax also is levied by the other tax authorities such as cities, boroughs, or fire and sewer districts. The local property tax in Connecticut traditionally has included a tax on real estate and tangible personal property within the state, but not on intangible personal property. In addition, manufacturers' and merchants' inventories are exempt from the local property tax (C.G.S. §§12-81(50) and (54)).

Each town has an annual assessment date of October 1, and generally uses a uniform assessment ratio of 70% of the actual value of the property (C.G.S. §§12-62a and 71). Individual municipalities may elect to make annual adjustments to the assessment rate charged to apartment and residential property to temper the effect of shifting the property tax burden to these types of the properties as a result of revaluation. The assessor may increase the assessment rate with reference to the consumer price index, although for any subsequent year in which the increase is more than 2.5%, one percent of the electorate in such municipality may force a referendum on the budget establishing such increase. In the case of apartment property, an electing municipality is required to assess the property at 50% of its true and actual fair market value for the October 1, 2011 assessment year and must proportionately increase this assessment amount so that it is 70% by the October 1, 2015 assessment year (C.G.S. §12-62r).

Generally, each municipality must conduct a revaluation of property at least once every five years. A revaluation can be postponed for a year only with the approval of the Office of Policy and Management ("OPM"). Connecticut law allows individual municipalities to phase in property revaluations (C.G.S. §12-62c). During its 2014 legislative session, the Connecticut General Assembly authorized a municipality otherwise required to effect a revaluation of real property for the assessment year October 1, 2013 or October 1, 2014, by vote of its legislative body, to not effect a revaluation until the October 1, 2015 assessment year. The same legislation permits a municipality similarly to defer for one year the phase in of a real property assessment increase as of July 1, 2014.

Municipalities have the option of sending to taxpayers an electronic mail bill for current taxes, provided that the taxpayer consents in writing to receive such bills electronically and the municipality establishes a procedure to ensure that such taxpayers receive the bills and are provided with the municipality's return email address. The municipality also must post its email address on its website. Taxpayers may sign and file personal property declarations with municipalities electronically on forms provided by the municipality's assessor, provided that the municipality has the technological ability to accept electronic signatures and agrees to do so. Finally, if a taxpayer requests in writing, the municipality may send property tax declaration forms electronically, rather than by mail (C.G.S. §§12-41 and 43).

II. MANUFACTURING PROPERTY TAX EXEMPTIONS

Imposing property taxes on manufacturing machinery and equipment puts Connecticut manufacturers at a disadvantage competitively. Many other states do not tax manufacturing machinery and equipment. To make the situation more equitable, the Connecticut legislature has supplemented the existing five-year exemption for new or newly-acquired manufacturing machinery and equipment with a phased-in total exemption for all other manufacturing machinery and equipment.

Effective for assessment years beginning on or after October 1, 2011, machinery and equipment, installed in a manufacturing facility, including machinery used in biotechnology, and regardless of when purchased, are exempt from taxation. Previously, new or newly acquired machinery and equipment was only exempt for the first five years after acquisition. A taxpayer claiming this exemption is not eligible to claim another exemption for the same machinery and equipment (C.G.S. §12-81(76)). This exemption applies only if the subject machinery and equipment had been claimed on the owner's federal income tax return as either five-year property or seven-year property, and to authorize the Secretary of OPM to require a taxpayer claiming such exemption to produce a copy of its federal income tax return(s) or, with the Secretary's approval, an affidavit with the applicable schedule(s) from the federal income tax return.

Prior to October 1, 2011, new or newly-acquired manufacturing equipment or biotechnology equipment installed in a manufacturing facility predominantly used for manufacturing purposes, was exempt from property taxes for the first five full tax years after purchase or lease (C.G.S. §12-81(72)).

To qualify for the exemption, a company must complete Form M-65 annually, and file it with the local assessor's office by November 1 of the assessment year for which the company is seeking the exemption. The assessor's office forwards the completed M-65 to the Connecticut Office of Policy and Management ("OPM"). Because of the volume of forms received, OPM requires forms to be fully and accurately completed. Therefore, the M-65 should be filled out carefully. A new M-65 must be filed each year. OPM may deny a claim for property-tax exemption by a claimant who is delinquent in paying the corporation business tax.

The definition of "machinery" and "equipment" for purposes of the property tax exemption is similar to the definition used for the partial sales tax exemption (see the Sales and Use Tax section), but the machinery or equipment must be either 5 or 7 year property as defined by the IRS depreciation guidelines. Machinery includes the basic machine plus any component parts, repair or replacement parts and all other equipment or devices used or required to control, regulate or operate the machinery, including all computer and data processing equipment. Machinery includes any tangible personal property with the following predominant "manufacturing uses":

- manufacturing, processing or fabricating
- research and development
- the significant servicing, overhauling or rebuilding of machinery and equipment for industrial use
- the significant overhauling or rebuilding of other products on a factory basis
- measuring or testing
- metal finishing
- the production of motion pictures video and sound recordings
- recycling

For this exemption, manufacturing means any activity that converts or conditions tangible personal property by changing the form, composition, quality, character or use of the product ultimately sold at retail. This is the same expanded definition used for the partial sales tax exemption (C.G.S. §12-72).

Legislation enacted in 2010 created a new Bradley Airport Development Zone in parts of Windsor Locks, Suffield, East Granby and Windsor. Commencing with the 2012 assessment year, newly acquired, constructed or substantially renovated or expanded property and machinery and equipment installed therein may be eligible for certain property tax exemptions generally applicable to "manufacturing facilities" and the equipment they house located in certain specially-designated enterprise zones (C.G.S. §12-81(59), (60)).

III. EXEMPTION FOR CONSTRUCTION IN PROGRESS

C.G.S. §12-71(b) provides an exemption from the property tax for machinery and equipment that is to be used in manufacturing, processing or fabricating but does not qualify for the exemption provided in C.G.S. §12-81(72) because it has not yet been installed and begun manufacturing, processing or fabricating.

IV. EXEMPTION OF WATER AND AIR POLLUTION STRUCTURES AND EQUIPMENT

Structures and equipment acquired by purchase or lease after July 1, 1965, the primary purpose of which is to reduce, control or eliminate water pollution, are exempt from the property tax imposed by the local taxing jurisdictions. To be entitled to a tax exemption, the property must be certified as approved pollution-abatement structures or equipment by the Department of Energy and Environmental Protection ("DEEP") (C.G.S. §12-81(51)).

A similar exemption is available for structures and equipment the main purpose of which is to reduce, control or eliminate air pollution (C.G.S. §12-81(52)). As with water pollution abatement equipment, the exemption for air pollution abatement property applies whether the structure was acquired by "purchase or lease."

To qualify for the air pollution abatement exemption, the property must have been acquired after July 1, 1967, and have been certified by the DEEP (C.G.S. §12-81(52)). A full description of the types of property which qualify for these exemptions can be found in DRS Policy Statement 99(2), *Tax Exemptions for Certain Air Pollution Equipment,* and DRS Policy Statement 2014(1), *Tax Exemptions for Certain Water Pollution Control Equipment,* available from the Department of Revenue Services.

To receive the pollution prevention exemption, a company must file a copy of the CERT-117, *Air Pollution Control Equipment,* or CERT-124, *Water Pollution Control Equipment,* with the town assessor of board of assessors by November 1 of an assessment year. The certificates are available from the Department of Revenue Services. In the event of a change in the name of the owner or lessee of the equipment or structure, the new owner must file a revised application with the local assessor or board of assessors on or before November 1, immediately following the end of the assessment year during which such change occurs (and obtain a new DEEP certification if the equipment or structure has been altered).

V. EXEMPTION FOR RENEWABLE ENERGY SOURCES

Legislation adopted in 2013 established a new exemption from the property tax for the following renewable energy sources if they are or were installed to generate or displace electricity for commercial or industrial use and purposes and the nameplate capacity of such source does not exceed the load for the location where such generation or displacement is located: (i) any Class I renewable energy source; (ii) any hydropower facility described in Conn. Gen. Stat. §16-1(a)(27); or (iii) any solar thermal or geothermal renewable energy source (each, an "Exempt Renewable Energy Source"). In summary, all such Exempt Renewable Energy Sources installed on or after January 1, 2014 are exempt from property tax effective with assessment years commencing on or after January 1, 2014.

The property tax exemption is effective for the assessment year commencing on October 1, 2013, in the case of: (i) an Exempt Renewable Energy Source installed on or after January 1, 2010 in a "distressed municipality," as defined in Conn. Gen. Stat. §32-9p, with a population between 125,000 and 135,000 (i.e. New Haven); or (ii) an Exempt Renewable Energy Source installed between January 1, 2010 and December 31, 2013 located in any other municipality if that municipality approves such abatement up to 100% of the tax. In order to obtain the foregoing property tax exemption, the property owner must file a written application with the town assessor or board of assessors by November 1. Failure to file a timely application constitutes a waiver of the exemption for that assessment year. Once an application has been approved, no renewal is required by that property owner unless the Exempt Renewable Energy Source is altered in a way that requires a building permit (C.G.S. §12-81(57)).

Finally, 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 respect to any Class I renewable energy source (C.G.S. §12-81(57)(F)).

VI. ABATEMENT OF TAXES

Another attempt at lessening the high burden of property taxes on Connecticut business is through legislation that allows a municipality to negotiate an agreement with a business to fix the assessment on real estate or air space, including improvements. This provision was adopted to encourage businesses to make improvements, or to expand, by minimizing property taxes on those improvements. There are certain conditions that apply to the use of improvements, the first of which must be for at least one of the following:

- office use
- retail use
- permanent residential use (effective October 1, 2016, the use must be in connection with a residential property consisting of four or more dwelling units)
- transient residential use (effective October 1, 2016, the use must be in connection with a residential property consisting of four or more dwelling units)
- manufacturing use

- warehouse, storage or distribution use
- structural multi-level parking use (necessary in connection with a mass transit system)
- information technology
- recreation facilities
- transportation facilities
- mixed use development
- use by or on behalf of a health system

For purposes of assessment years commencing prior to October 1, 2016, the following rules applied: If the cost of the improvement is $3 million or more, the abatement can extend up to seven years. If the cost is greater than $500,000, but less than $3 million, an abatement is allowed for up to two years. An abatement of up to 50% of the amount of the increased assessment is permitted for up to three years if the costs of the improvement are not less than $10,000 (C.G.S. §12-65b(a)(2)).

Effective October 1, 2016, for assessment years commencing on or after October 1, 2016, the above-described limits on the length of the abatement based upon the cost of the improvement are abandoned in favor of a single limit of up to ten years (allowing a municipality to set such criteria as it chooses).

Another statutory provision permits a municipality to fix an assessment of personal property in a manufacturing facility for a certain period (the length of which is limited depending upon the assessed value of such personal property) (C.G.S. §12-65h).

Fixed assessments also are permitted for forest land under the so-called "10 mill program." Pursuant to this program, property with a minimum of 25 acres with a value (excluding timber) of at least $100 per acre, or timber land of more than 10 years' growth, or land stocked with trees of up to ten years old may be taxed at 100% of the true valuation established at the time of classification. The valuation is frozen for a 50-year period and the tax rate for such land is up to 10 mills. At the end of the 50-year period, the land is revalued and again taxed at a rate of up to 10 mills for another 50 years. Generally, if the classification is cancelled prior to the expiration of the 50-year period, the land will be subject to tax as other land and was subject to a penalty of up to 5 mills per year on the difference in valuation. Legislation introduced in 2011 permits individual municipalities to allow 10-mill land to be converted without penalty to the state's forest preservation program under C.G.S. §12-107d (which does not require revaluation every 50 years). Alternatively, the law provides that 10-mill property cannot be assessed at a tax rate exceeding similar properties classified as forest land under the state's forest preservation program (C.G.S. §§12-96, 12-97 and 12-98).

Besides allowing a fixed assessment to be negotiated for a set period of time, Connecticut law permits the deferral of an increased assessment on property rehabilitated within designated rehabilitation areas. This law permits any municipality to designate part of the town as a rehabilitation area and defer any increased assessment on the rehabilitated property for up to 11 years. The law further allows 10% of the increase to be assessed each year after the property is rehabilitated. Legislation adopted in 2011 allows individual municipalities to enter into similar deferral arrangements with respect to "brownfields," as defined in C.G.S. §32-9cc, where the owner agrees to construct new multi-family rental housing, cooperative housing, community interest communities or mixed-use or commercial structures on the property. When a general revaluation is made in the year rehabilitation is completed, only the portion of the assessment increase resulting from rehabilitation may be deferred. When a general revaluation is made in any year following the rehabilitation, the deferred assessment shall be increased or decreased in proportion to the increase or decrease in the total assessment on the property. In any case, deferral shall only continue as long as the property continues to be used for the purposes specified in the agreement that permitted the deferral (C.G.S. §§12-65d and e).

Municipalities are permitted to abate or forgive property taxes on certain contaminated property being remediated and redeveloped. Municipalities are permitted to forgive all or a portion of delinquent property taxes and interest for the benefit of a prospective purchaser of property deemed to be a brownfield as defined in C.G.S. §32-9kk(a)(1). The legislation also allows a municipality to enter into an agreement with a property owner to fix the assessment of property as of the last assessment date prior to the commencement of remediation efforts approved by the Department of Energy and Environmental Protection or otherwise verified by a licensed environmental professional for a periods up to seven years (C.G.S. §12-81r).

There is also a property tax exemption for property developed, operated, or held by a private entity pursuant to a public-private partnership agreement entered into with a state agency (C.G.S. §4-263).

VII. MOTOR VEHICLE MILL RATE

The mill rate on motor vehicles has been limited for the October 1, 2015 assessment year and thereafter. Beginning in the aforementioned assessment year, any municipality or district may establish a mill rate for motor vehicles that is different from the mill 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) 37 mills for the October 1, 2015 assessment year; and (ii) 32 mills for each assessment year thereafter. 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 aforementioned mill rate caps (C.G.S. §12-71e).

VIII. APPEALS FROM ASSESSMENTS

It is the taxpayer's right to discuss a proposed assessment of his property with the local assessor and, oftentimes, a satisfactory adjustment of the assessment can be made this way. If, however, a taxpayer is dissatisfied with the assessor's final decision, he generally has a right to appeal the assessment to the town Board of Assessment Appeals (C.G.S. §12111). The town Board of Assessment Appeals may refuse to conduct a hearing on a property tax appeal for any commercial, industrial, utility or apartment property with an assessed value in excess of $1 million (C.G.S. §12-111).

Appeals generally must be brought before the local board at a meetings held and advertised for that purpose during the month of March (C.G.S. §12-110). Appeals must be filed in writing on or before February 20 of each year. The chief executive officer of any town may authorize an extension of each of the above deadlines for up to one month (C.G.S. §§12-111(b), 12-117(a)). When a Board of Assessment Appeals increases or decreases an assessment, such assessment is generally fixed until the next municipal-wide revaluation (C.G.S. §12-111).

An appeal from the decision of the Board of Assessment Appeals may be made to the Superior Court for the judicial district where the town is located, if it is filed within two months after the Board's decision (C.G.S. §12117a). A taxpayer whose appeal will not be heard by the Board may appeal directly to the Superior Court (C.G.S. §12117a). Further, a taxpayer may appeal directly to the Superior Court, without first appealing to the Board of Assessment Appeals if such taxpayer can show that the assessment was "manifestly excessive and could not have been arrived at except by disregarding the provisions of the statutes for determining the valuation of the property." Such appeals must be made within one year of the date the property was last evaluated for taxes and generally may not be based solely on a dispute regarding the valuation of the property (C.G.S. §12-119).

Ordinarily, the safest course is to appeal an assessment, first, to the Board of Assessment Appeals and then, if necessary, to the Superior Court. After this procedure, a taxpayer may have his assessment reduced without the burden of proving that it was "manifestly excessive" and made in disregard of the law.

REAL ESTATE CONVEYANCE TAX/CONTROLLING INTEREST TRANSFER TAX

Generally, all real estate transactions in Connecticut where the consideration equals or exceeds $2,000 are subject to Connecticut's real estate conveyance tax, which consists of a state conveyance tax and a municipal conveyance tax. Real estate that is not classified either as residential or as unimproved land at the time of conveyance is currently taxed, for state tax purposes, at a rate of one and one-quarter percent (decimal equivalent of .0125) of the selling price (C.G.S. §12-494). Residential real estate and unimproved land currently is taxed at three-quarters of one percent (.0075) of the first $800,000 of consideration, and at one and one quarter percent of any consideration in excess of $800,000.

The base municipal tax rate is one-fourth of one percent (0.0025). In addition, 18 municipalities that qualify as targeted investment communities or which have a manufacturing plant that qualifies for enterprise zone benefits are authorized to increase the municipal tax rate an additional one-fourth of one percent (0.0025) to a total of one-half of one percent (0.0050). Under current law, the term "unimproved land" includes any property classified as farm land, forest land or open space land.

Exemptions from both the state and municipal portions of the real estate conveyance tax exist for (i) judicial foreclosures, (ii) deeds in lieu of foreclosure that transfer the transferor's principal residence, (iii) so-called "short sales" of a principal residence, where the gross purchase price is insufficient to pay the sum of all of the transferor's mortgages, property taxes and municipal liens, and, effective October 1, 2016, (iv) deeds made pursuant to a judgment of loss mitigation. Other exemptions apply only to the state portion of the tax (e.g., sales in an enterprise zone). Taxpayers should be careful to consult the full list of exceptions to see if any apply (C.G.S. §12-498).

The controlling interest transfer tax is intended to complement the real estate conveyance tax. The controlling interest transfer tax is a tax on the sale or transfer of a controlling interest in any entity which possesses, directly or indirectly, an interest in real property in Connecticut when the present true and actual value of such interest equals or exceeds $2,000 (C.G.S. §12-638b). A "controlling interest" means, in the case of a corporation, more than 50% of the total combined voting power of all classes of stock, or in the case of a noncorporate entity (e.g., a partnership, limited liability company or trust), more than 50% of the capital, profits or beneficial interest in the entity. The tax generally is at the rate of one and eleven one-hundredths of one percent (0.0111) of the value of the interest in real property. If the real property interest is land which has been classified by the landowner as open space land or as maritime heritage land, an additional tax of between one percent and ten percent can be imposed if the transfer occurs within ten years of its initial classification (C.G.S. §12-638l(a)). If the real property interest is land which has been classified by the landowner as farm land or forest land, an additional tax of between one percent and ten percent can be imposed if the transfer occurs within ten years of the earlier of (i) the date the owner acquired title to such land and (ii) the first day of the first assessment year the land was so classified by the owner (C.G.S. §12-638l(b)).

Two controlling interest transfer returns must be filed with respect to each transaction. The transferor is required to file a return, the Form AU-330, *Controlling Interest Transfer Taxes,* and pay the applicable tax on or before the end of the month following the month in which the transfer occurs. The entity in which a controlling interest is transferred must file a Form AU-331, *Controlling Interest Transfer Taxes Informational Return.* If the transfer is made as part of a series of transactions, the tax is due by the end of the month after the month during which the interest(s) sold or transferred, in the aggregate, first exceeds 50%. The failure to pay the tax when due can subject a taxpayer to interest on the unpaid tax at the rate of one percent per month and a penalty equal to the greater of $50 or 10% of the tax due (25% of the tax due if the failure is due to fraud or intent to evade).

MOTOR FUELS AND ROAD USE TAXES

I. MOTOR VEHICLE FUELS TAX

Connecticut imposes a tax on each gallon of motor vehicle fuel sold (C.G.S. §12-458). Motor vehicle fuel distributors are required to collect the tax when selling motor vehicle fuel to retail dealers and end users. The tax rate on both gasoline and gasohol is 25 cents per gallon. Propane and natural gas are taxed at the rate of 26 cents per gallon. Compressed natural gas, liquefied petroleum gas and liquefied natural gas have been subject to the tax since a prior exemption was permitted to expire on June 30, 2008. The base tax rate on diesel fuel will be reduced from 50.3 cents per gallon to 41.7 cents per gallon, effective July 1, 2016. (This tax rate is adjusted annually by the Commissioner of Revenue Services for each 12-month period thereafter pursuant to a statutory formula.)

On or before June 15th each year, the Commissioner is required to publish certain information concerning the computation of the fuel tax on fuel in gas form. This information must include the conversion factor used to determine the liquid gallon equivalent of such fuel and the conversion factor must be consistent with the applicable federal standard. With regard to propane, the tax on gaseous fuels only applies to propane used in a motor vehicle owned by the purchaser of the propane and stored in a cylinder or tank owned by the purchaser.

Motorists support the maintenance of Connecticut's roadways through the fuel tax. Therefore, anyone who buys gasoline in Connecticut but uses it in motor vehicles not required to be licensed for operation on the state's public highways may file a refund claim with the DRS for the tax paid on motor vehicle fuel used by these unregistered motor vehicles. The claim must be filed by May 31 of the succeeding year and be supported by original bills, sales receipts or like evidence of the tax payment. Each refund claim must be made for at least 200 gallons of motor vehicle fuel (C.G.S. §12-459). The amount of refund available to diesel fuel purchasers for taxes paid on diesel fuel is limited to 26 cents per gallon, regardless of the full amount of taxes paid, except in the case of farmers or operators of certain types of vehicles such as ambulances (C.G.S. §12-458h).

II. MOTOR CARRIER ROAD TAX

In addition to the taxes on fuel bought in Connecticut, the state imposes a motor carrier road tax on motor carriers operating qualified motor vehicles, as long as the motor fuel bought outside the state is used on highways in the state (C.G.S. §12-479).

Motor carriers operating qualified motor vehicles and using Connecticut roadways pay the tax by filing a motor carrier road tax return with the DRS. A qualified motor vehicle is one used to transport persons or property that has two axles and a gross vehicle weight over 26,000 pounds, has three or more axles regardless of weight or is used in combination and the combined gross vehicle weight exceeds 26,000 pounds. Recreational vehicles used exclusively for personal pleasure are excluded (C.G.S. §12-478). All vehicles covered under the motor carrier road tax must be registered annually with the Commissioner of Revenue Services and a motor carrier decal must be obtained for each vehicle. Decals are obtained by completing Form REG-3-MC, *Application for Motor Carrier Road Tax.* The registration fee is $10 per vehicle per year and the registration expires annually on December 31.

The road tax is levied at the same rate per gallon as the current Connecticut tax on gasoline or diesel fuel for all fuel used while operating in Connecticut (C.G.S. §12-479). To determine the amount of fuel consumed in Connecticut, the miles traveled within Connecticut is divided by the total miles traveled within and outside of the state during the period. The result is then multiplied by the amount of fuel consumed during the tax period.

The road tax is levied for each calendar quarter, and quarterly returns and payments are due by the end of the month following the quarter (C.G.S. §§12-483; 12-484(a)). The DRS has exempted taxpayers operating solely within the state of Connecticut and who purchased their motor fuel solely in Connecticut from all filing requirements (C.G.S. §12-484(b)). On their quarterly road tax returns, taxpayers may take credit for any Connecticut gasoline and diesel fuel taxes paid at the pump during the quarter. If the credit for any quarter exceeds the tax, the excess may be carried forward as a credit against the road tax for any of the four succeeding quarters (C.G.S. §12-480).

A refund claim may be filed for unused excess credit within one year after the end of the filing quarter. The refund is limited to the amount of unused excess credit per gallon used in another state, paid at the current Connecticut rate (C.G.S. §12-480).

A motor carrier primarily engaged in transporting passengers on a regular basis cannot elect to omit its charter or special operations in filing its quarterly motor carrier road tax return (DRS Special Notice 2003(19)). Please note that the Commissioner of Revenue Services has expansive powers to investigate potential motor carrier road tax and motor vehicle fuel investigation liabilities. The Commissioner, or his or her representative, is authorized to administer oaths, take testimony under oath and subpoena witnesses, books, and records, as well as apply to the superior court for criminal sanctions should a person fail to comply with such an investigation (C.G.S. §12-491).

MOTOR VEHICLE REGISTRATION FEES

Connecticut law imposes a registration fee on all motor vehicles registered in the state. A $5 Greenhouse Gas Reduction Fee is due upon the initial registration of any new motor vehicle (C.G.S. §22a-201c), and a $10 Federal Clean Air Act Fee is due with all initial registrations or renewals of conventional and hybrid vehicles, but does not apply to electric vehicles (C.G.S. §14-49b). These fees are in addition to the registration fee which, for a noncommercial motor vehicle, generally is $80 every two years (individuals 65 years or older may register annually for $40) (C.G.S. §14-49). The registration fee for commercial motor vehicles and tractors includes a $10 administrative fee, plus an additional amount determined by the gross weight of the motor vehicle and whether it is equipped with pneumatic or solid tires. The following schedule indicates the method of computing such fees (C.G.S. §14-47):

Gross weight of vehicle* pneumatic tires

- Not exceeding 20,000 lbs. $11.60 per thousand pounds or fraction thereof.
- 20,001 lbs. to 30,000 lbs. $14.20 per thousand pounds or fraction thereof.
- 30,001 lbs. to 73,000 lbs. $17.70 per thousand pounds or fraction thereof.
- 73,001 lbs. and over, $19.20 per thousand pounds or fraction thereof.
- The minimum fee for any commercial motor vehicle or tractor equipped with pneumatic tires is $47.

Gross weight of vehicle* solid tires

- Not exceeding 20,000 lbs. $1.75 per cwt.**
- 20,001 lbs. to 26,000 lbs. $2.25 per cwt.
- The minimum fee for any commercial motor vehicle or tractor equipped with solid tires is $60.

** Gross weight, in all cases, is the total weight of the vehicle plus its rated load capacity.*

*** CWT is hundred weight or centiweight.*

The Connecticut Supreme Court has ruled that motor vehicle registration renewal fees paid by lessees are gross receipts of lessors subject to Connecticut sales and use tax, even if the lease agreement provides that the lessee is responsible for paying the costs of maintaining the vehicle's registration. See *HVT, Inc. v. Law,* 300 Conn. 623 (2011).

EMPLOYER AND PASS-THROUGH ENTITY INCOME TAX WITHHOLDING REQUIREMENTS

I. WITHHOLDING RULES FOR WAGES AND NONPAYROLL AMOUNTS

With the imposition of the individual income tax in 1991, Connecticut businesses became responsible for deducting and withholding Connecticut income tax from their employees' wages. In 2005, Connecticut abandoned the federal withholding payment schedule in favor of a new schedule for both wages and nonpayroll amounts subject to the income tax. Each employer is required to determine whether it is a weekly, monthly, quarterly or annual remitter and deposit taxes according to the new schedule. Non-payroll withholding typically is remitted on a quarterly basis and household employers are to remit all taxes due annually on or before the following April 15. See DRS Informational Publication 2015(8.1), *Connecticut Tax Guide for Payers of Nonpayroll Accounts.* Connecticut income tax withholding tables are included in DRS Informational Publication 2016(1), *Connecticut Circular CT Employer's Tax Guide.*

Employers who do business within Connecticut and pay wages subject to the Connecticut income tax must register with the Department of Revenue Services (use Form REG-1, *Application for Tax Registration Number,* to register). Out-of-state employers who are not required to register to withhold Connecticut income tax may register solely for the purpose of withholding wages subject to Connecticut income tax. (Conn. Agencies Reg. §12-705(c)-2). Payments that qualify as wages from which the tax must be deducted and withheld for federal tax purposes also constitute wages for Connecticut tax purposes.

On their first day of work, all employees must complete and sign a Form CT-W4. If an employee fails to furnish the CT-W4, the employer must withhold the Connecticut income tax at the highest effective rate. Generally, the CT-W4 remains in effect until replaced by a newly completed CT-W4. If the employee claims that wages are exempt from withholding, a new CT-W4 must be obtained each year that the employee claims his wages are not subject to withholding (Conn. Agencies Reg. §12-705(a)-4). Under certain circumstances, the employer must forward each CT-W4 on which an employee claims an exemption to the Department of Revenue Services.

If the employer has employees who are not residents of, but work in, Connecticut, the employer must withhold and deduct the Connecticut income tax based on the services performed in the state. The employer should have each nonresident employee complete a Form CT-W4NA, *Employee's Withholding Certificate-Nonresident Apportionment,* and indicate the percentage of services likely to be performed in Connecticut. The withholding may be based on the information contained on the Form CT-W4NA unless the employer cannot, in good faith, rely on such information. Notwithstanding the foregoing, for years prior to 2016, an employer did not have to withhold and deduct Connecticut income tax if the nonresident employee with a primary worksite outside of Connecticut worked 14 or fewer days in Connecticut during the calendar year (DRS Announcement 2010(3), *"14-Day" Withholding Rule for Nonresident Employees);* however, the nonresident employee was generally still liable for the payment of Connecticut income tax. 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 (C.G.S. §12-711).

Each employer required to withhold tax from wages must file a Form CT-WH *(Connecticut Withholding Tax Payment)* with each payment to the Department. The Form CT-WH is similar to the federal withholding remittance form. Connecticut withholding must be paid on the schedule set out in C.G.S. §12-707. Weekly remitters must pay over withheld taxes by the Wednesday following the week in which the employees were paid and monthly remitters must pay over withholding by the fifteenth day following the end of the month during which the employees were paid. Employers required to deduct and withhold less than $2,000 during the previous twelve months need only remit the tax quarterly. A U.S. Postal Service cancellation date on or before the due date is proof that a remittance was made on time.

Employers must also file reconciliation returns on a quarterly basis (Form CT-941) and on an annual basis (Form CT-W3). State copies of Federal Form W-2 for employees performing services in Connecticut must be attached. Employers filing 25 or more Forms W-2 reporting Connecticut wages, even if Connecticut income tax is not withheld, are required to file electronically with the DRS. See Informational Publication 2015(9), *Form W-2 Electronic Filing Requirements for Tax Year 2015.* If the federal reconciliation form (Federal Form 941) is filed late, and there is good cause for doing so, the Connecticut Form CT-941 may also be filed late. In this case, the late-filed Federal Form 941 must be attached to the Connecticut Form CT-941 (Conn. Agencies Reg. §12-707-1).

Under former law, an employer required to deduct and withhold Connecticut income tax from the wages of an employee during a calendar year had to 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 electronic returns. New legislation, effective June 30, 2015, requires employers 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 (C.G.S. §12-706(b)).

Please note that there are special withholding rules for athletes and entertainers. See DRS Policy Statement 2015(5), *Income Tax Withholding for Athletes or Entertainers.*

II. LIABILITY FOR TAX

Employers are responsible for deducting the income tax from their employees' wages and for paying the tax withheld to the state. If the state does not receive the tax, the Department of Revenue Services will hold the employer liable, whether or not the employer collected the tax from the employee. The employer will not be relieved of liability for the payment of the tax unless the employer can prove that the tax has been paid. However, while the employer is not held liable for the tax once it is paid, the employer can still be held liable for any penalties or additions caused by the employer's delay or failure to deduct the payment (Conn. Agencies Reg. §12-707-2).

If wages are paid to a single employee through an agent, fiduciary or other person on behalf of two or more employers, the amount of tax required to be withheld is based upon the aggregate amount of the wages paid as if they had been paid by one employer. The agent, fiduciary or other person who pays the wages should also withhold the tax due and pay the tax to the state. However, if the agent, fiduciary or other person fails to withhold or pay the taxes, each of the two or more employers is ultimately liable for a pro rata portion of the tax (Conn. Agencies Reg. §12-705(a)-7).

If a surety, lender or other person pays wages directly to employees or to an agent on their behalf, then the payer is liable for paying the Connecticut income taxes required to be deducted and withheld. The payer also owes interest from the due date of the Connecticut employer's return for the period in which the wages are paid (Conn. Agencies Reg. §12-705(b)-5).

III. WITHHOLDING RULES FOR PARTNERSHIPS, LIMITED LIABILITY COMPANIES AND S CORPORATIONS WITH NONRESIDENT OWNERS

Unless otherwise authorized by the Commissioner, partnerships (including limited liability companies that are taxed as partnerships) and Subchapter S corporations doing business in Connecticut or having Connecticut source income with nonresident owners that are not taxable as a corporation (i.e. nonresident partners of a partnership, nonresident members of a limited liability company or nonresident shareholders of an S corporation) are required to withhold and remit taxes on behalf of each such nonresident owners at the highest marginal tax rate multiplied by the nonresident owner's distributive share generally of its Connecticut source income (C.G.S. §12-719). The composite Connecticut income tax payments made on behalf of nonresident owners should be aggregated and reported on one Form CT-1065/CT-1120SI. See DRS Informational Publication 2006(22), *Connecticut Income Tax Changes Affecting Pass-Through Entities*. A partnership, limited liability company (that is taxed as a partnership) or Subchapter S corporation will be deemed to be doing business in Connecticut if the entity has a substantial economic presence within Connecticut, as evidenced by a purposeful direction of business toward this state, even if the entity has no office, employee or other physical presence in Connecticut (C.G.S. §12-726).

APPENDIX

A good starting point for taxpayers unfamiliar with Connecticut taxes is *Business Taxes,* DRS Informational Publication 2014(21). Most state tax forms and publications can be obtained from the Connecticut Department of Revenue Services through several different mechanisms including phone, fax, and the Internet. All are easy to use.

The phone number for obtaining forms and publications is 860-297-5962 or 800-382-9463. Touch-tone callers should press "2" to obtain forms and publications.

Forms and publications can be obtained 24 hours a day at http://www.ct.gov/drs.

For your convenience we have listed below the most commonly requested forms and certificates. Please note that many of the older publications contain discussions of the law that have been superseded by subsequent legislative enactments and administrative pronouncements. Please consult with a tax advisor before relying on any of these publications or forms.

A. MANUFACTURING INDUSTRY

- **Informational Publication 2009(13),** Sales and Use Taxes Guide for Manufacturers, Fabricator and Processors
- **Regulation §12-412(34)-1,** Machinery Used Directly in the Manufacturing Production Process
- **Regulation §12-412(18)-1,** Materials, Tools and Fuel Used Directly in the Production Process
- **Policy Statement 94(3.2),** Gas, Electricity and Heating Fuel Purchased for Residential Use or for Use in Agricultural Production in the Fabrication of Finished Product to be Sold or in the Industrial Manufacturing Process
- **Policy Statement 2006(8),** Sales and Use Taxes on Computer-Related Services and Sales of Tangible Personal Property
- **Policy Statement 98(8),** Exemption for Items Used Directly in the Biotechnology Industry
- **Special Notice 2001(5),** The "Buy Connecticut" Provision
- **CERT-100,** Materials, Tools and Fuels Certificate
- **CERT-101,** Machinery, Component Parts and Replacement and Repair Parts of Machinery Used Directly in a Manufacturing Process
- **CERT-108,** Partial Exemption for Materials, Tools, and Fuel
- **CERT-109,** Partial Exemption for Machinery, Equipment, or Repair and Replacement Parts
- **CERT-115,** Exempt Purchases of Gas, Electricity and Heating Fuel

B. CONSTRUCTION INDUSTRY

- **CERT-104,** Services Certificate for New Construction.
- **Special Notice 2012(2),** 2011 Legislative Changes to the Procedures Governing Nonresident Contractors
- **Informational Publication 2003(12),** Pay-When-Paid Method for Materialmen

C. ENVIRONMENTAL EQUIPMENT AND SERVICES

- **Policy Statement 99(2),** Tax Exemptions for Certain Air Pollution Equipment
- **Policy Statement 2014(1),** Tax Exemptions for Certain Water Pollution Control Equipment

- **CERT-117,** Purchases of Tangible Personal Property Incorporated Into or Consumed in Air Pollution Control Facilities
- **CERT-124,** Purchases of Tangible Personal Property Incorporated Into or Consumed in Water Pollution Control Facilities

D. COMMERCIAL PRINTING INDUSTRY

- **Policy Statement 2001(7),** Purchases of Machinery, Equipment, Tools, Materials, and Supplies by Commercial Printers and Publishers
- **CERT-120,** Machinery, Equipment, Tools, Materials, and Supplies Used in the Production of Printed Material or in Prepress Production
- **Special Notice 2003(6),** Media Advertising and Cooperative Direct Mail Advertising
- **Policy Statement 2006(6),** Sales and Use Tax Exemption for Newspapers and Magazines

E. MISCELLANEOUS

- **Resale Certificate**
- **Conn. Agencies Reg. §12-407(2)(i)(J)-1,** Business analysis, business management, business management consulting and business public relations services
- **Informational Publication 2015(12),** Getting Started in Business
- **Informational Publication 2003(26),** Q & A on Sales and Use Taxes for a New Business
- **Informational Publication 2016(7),** Is My Connecticut Withholding Correct?
- **Policy Statement 2004(2),** Sales and Use Tax on Internet Access Services and On-Line Sales of Goods and Services
- **Policy Statement 2006(8),** Sales and Use Taxes on Computer-Related Services and Sales of Tangible Personal Property

F. CORPORATE INCOME TAX

- **Informational Publication 2016(11),** Q&A on Estimated Corporation Business Tax and Worksheet CT-1120AE
- DRS Online Guide to Connecticut Business Tax Credits
- **Informational Publication 2016(2),** Topical Index to Rulings and Administrative Pronouncements Covering Income Tax
- **Informational Publication 2016(3),** Topical Index to Rulings and Administrative Pronouncements Covering Corporation Business Tax
- **Informational Publication 2015(11),** Q & A on the Business Entity Tax
- **Informational Publication 2016(4),** Numerical Index to Rulings and Administrative Pronouncements as Affected, If At All, By Later-Issued Rulings and Pronouncements
- **Office of Counsel Guidance 2,** Regarding the Net Deferred Tax Liability Deduction Corporation Business Tax
- **Special Notice 2015(9),** Legislative Changes Affecting the Corporation Business Tax
- **Special Notice 2016(1),** Combined Unitary Legislation—Corporation Business Tax