

# SALT WATCH

## Connecticut State Tax Updates

### Summary

On December 29, 2015, Connecticut Governor Dan Malloy (D) signed into law S.B. 1601, Gen. Assem., Spec. Sess. (Conn. 2015) (“S.B. 1601”), which, effective beginning in 2016, enacts single sales factor apportionment for corporate tax purposes, and excludes compensation paid to a nonresident individual from personal income tax if the individual spent fewer than 16 days in the state during the taxable year. In addition, S.B. 1601 increases the credit cap enacted as part of the Summer 2015 budget legislation from 50.01 percent to 70 percent with respect to corporate taxpayers possessing certain credits, and makes several changes to the rules applicable to unitary combined reporting.

### Details

#### Corporate Tax Changes

##### ***Single Sales Factor Apportionment***

S.B. 1601 requires single sales factor apportionment for taxable years beginning on or after January 1, 2016.

##### ***Combined Reporting Changes***

S.B. 1601 adopts the following revisions to the Summer 2015 budget legislation as it pertains to unitary combined reporting:

- Excludes a limited partner’s distributive share of income from an investment partnership from the unitary business, unless the limited partner and the general partner share common ownership.
- Applies the “principles” of the federal consolidated return regulations promulgated under Internal Revenue Code Section 1502 to transactions occurring between members of a Connecticut combined group to the extent consistent with Connecticut combined group membership and unitary combined reporting. Previously, the Summer 2015 budget legislation only conformed to the narrower set of deferred intercompany transaction regulations set forth in Treas. Reg. § 1.1502-13.



## Connecticut State Tax Updates (cont.)

- Extends the right to apportion to each taxable member of a unitary combined group if a member of the group is a “financial service company.”
- Requires the elimination of assets and liabilities attributable to transactions with another member of the unitary combined group when computing the capital tax base.
- Provides that the tax of a unitary combined group, prior to the surtax and the application of credits, may not exceed the “nexus combined base tax” by \$2.5 million. The “nexus combined base tax” generally equals the sum of the tax of each taxable member as determined on a separate company basis.
- Eliminates the requirement imposed on the Commissioner to publish a list of jurisdictions determined to be tax havens, and excludes a jurisdiction that has entered into a comprehensive income tax treaty with the United States from the definition of “tax haven.” For purposes of determining whether to include a corporation that is incorporated in a tax haven jurisdiction in a unitary combined group, taxpayers will have to rely on the criteria in the Summer 2015 budget legislation for the time being.
- Provides that a non-U.S. corporation that is a member of a unitary combined group includes income in the combined report based on its profit and loss statement, not limited to income effectively connected with the conduct of a U.S. trade or business.
- Eliminates the from the list of non-taxable members required to be included in a unitary combined group one that earns more than 20 percent of its gross income from intangible property or service-related activities the costs of which are deductible against the income of other members of the group.

### ***Tax Credit Cap Increase***

Starting with taxable years commencing in 2016, Connecticut incrementally increases the credit cap applied to a corporate taxpayer that possesses a credit for expenditures on research and development or a credit for investments in urban and industrial sites development projects from 50.1 percent to 70 percent over a four-year period. Other corporate taxpayers will continue to be subject to the current 50.1-percent cap.

### **Personal Income Tax Nonresident Exclusion**

For taxable years beginning after December 31, 2015, Connecticut excludes compensation paid to a nonresident individual from income tax if the individual spent fewer than sixteen part or whole days in the state during the taxable year (other than solely for purposes of transit). This exclusion does not apply to an athlete, entertainer, performing artist, or member of an athletic team.



## Connecticut State Tax Updates (cont.)

### Insights

- With the enactment of S.B. 1601, Connecticut becomes one of many states that have adopted single sales factor apportionment. However, unlike many of the states that have adopted single sales factor apportionment, Connecticut has not adopted market-based sourcing for sales of services.
- The personal income tax nonresident exclusion provides individuals that travel for work and employers with a mobile workforce with a definitive safe harbor rule to be used for purposes of determining when an individual is subject to tax on services performed in the state, or when, if at all, an employer may be required to withhold on an employee.

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