OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY

PA 18-26—sHB 5433
Finance, Revenue and Bonding Committee

AN ACT CONCERNING MINOR AND TECHNICAL CHANGES TO THE TAX AND RELATED STATUTES

SUMMARY: This act makes various unrelated changes in state tax laws. The act:

1. modifies the method used to determine the amount of income tax withholding from pension and annuity payments (§ 7);
2. makes permanent the income tax exemption for pension and annuity income for eligible taxpayers that was previously scheduled to end after 2025 (§ 27);
3. expands the types of transactions subject to an existing penalty for income tax underpayments attributable to a taxpayer's failure to disclose potentially abusive tax avoidance transactions (§§ 5 & 6);
4. explicitly authorizes the Department of Revenue Services (DRS) commissioner to use electronic signatures for any filing authorized under the law concerning liens on personal property for delinquent state taxes (i.e., Uniform Commercial Code filings) (§ 1);
5. clarifies that taxpayers issued a Green Building tax credit prior to the program's sunset date (December 1, 2017) may claim the credits (§ 2);
6. eliminates a requirement that the DRS commissioner notify the comptroller of any errors in insurance premiums tax returns that are disclosed during his examination of the returns (§ 3);
7. limits succession tax filing requirements to the estates of decedents who died on or before January 1, 2005, that filed a succession tax return or were assessed the succession tax before October 1, 2018 (existing law eliminates the tax for the estates of decedents who died on or after January 1, 2005) (§ 4); and
8. makes numerous technical changes and corrections (§§ 8-26 & 28-33).

EFFECTIVE DATE: Upon passage, except the technical changes and corrections (excluding corrections to an estate and gift tax rate calculation) are effective October 1, 2018.

§ 7 — PENSION AND ANNUITY INCOME WITHHOLDING

Payers Subject to the Withholding Requirement

Prior law required income tax withholding by payers of pension and annuity distributions that (1) maintain an office or transact business in Connecticut and (2) make taxable payments to resident individuals. The act specifies that the withholding requirement applies to any such payers that make distributions (1) from a profit-sharing plan, stock bonus, deferred compensation plan, individual retirement arrangement, endowment, or life insurance contract or (2) of pension payments or annuities. Under prior law, the pension or annuity distributions subject to withholding included these distribution types.

Withholding Amount

The act requires the method used to determine the amount of income tax withholding to be determined according to instructions the DRS commissioner provides, rather than the same method employers use for payroll withholding.

Prior law generally required lump sum distributions to be taxed at the highest marginal rate. The act instead generally requires the amount withheld from lump sum distributions to be equal to the distribution's taxable portion multiplied by the highest marginal rate. Additionally, it exempts from withholding lump sum distributions that are direct rollovers in the form of a check made payable to another qualified account. As under existing law, a lump sum distribution is also exempt from withholding if any portion of it was previously taxed or it is a rollover effected as a direct trustee-to-trustee transfer.

The act also provides that the withholding requirements must not result in the nonpayment of any distribution to a resident individual.

Penalty for Estimated Income Tax Underpayment

For the 2018 calendar year, the act prohibits the DRS commissioner from assessing interest on taxpayers for underpaying estimated taxes based solely on the payer's failure to comply with the withholding requirements.

§§ 5 & 6 — POTENTIALLY ABUSIVE TAX SHELTER TRANSACTIONS

By law, a separate penalty applies to state personal income tax underpayments attributable to a taxpayer's failure to disclose transactions on his or her federal tax return (as required under federal law) that the Internal Revenue Service (IRS) has determined are potentially abusive tax shelters. The penalty is 75% of the underpayment.

For income tax audits beginning on or after January 1, 2018, the act applies the underpayment penalty to the taxpayer's failure to disclose a "reportable transaction," rather than a "listed transaction." Under federal law, a "reportable transaction" is one required to be disclosed because the IRS has determined, under its regulations, that it is potentially a tax avoidance or evasion transaction. A "listed transaction" is a reportable transaction that is the same as, or substantially similar to, a type of tax avoidance transaction. Reportable transactions also include other specified transaction types, including confidential transactions (i.e., transactions offered to a taxpayer under conditions of confidentiality and for which the taxpayer has paid a minimum advisor fee) and loss transactions (i.e., certain losses, including individual losses of at least $2 million in a single tax year or $4 million in any combination of tax years).

§ 27 — INCOME TAX DEDUCTION FOR PENSION AND ANNUITY INCOME

The act makes permanent the personal income tax deduction for pension and annuity income which was previously scheduled to phase in from the 2019 to 2025 tax years, and end after 2025. Under the act, eligible taxpayers may deduct 100% of such income for tax years beginning in 2025, and each tax year thereafter. By law, the deduction applies to taxpayers with federal adjusted gross incomes below (1) $75,000 for single filers, married people filing separately, and heads of households and (2) $100,000 for married people filing jointly.