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Connecticut Would Narrow Economic Nexus Standards For Foreign Corporations

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A bill exempting certain foreign corporations from Connecticut's economic nexus standard was reported favorably by a Senate Committee and placed on the full Senate calendar. In addition, the legislation would require a company to meet both, rather than one, of the existing criteria to have economic nexus in the state. [S.B. 1218, reported favorably Finance, Revenue & Bonding (S), 4/20/11]

Background. Legislation (H.B. 6802) enacted in 2009 imposed the corporate business tax on "any company that derives income from sources within the state, *or* that has a substantial economic presence within this state, evidenced by a purposeful direction of business toward this state, examined in light of the frequency, quantity and systematic nature of a company's economic contacts with this state, without regard to physical presence, and to the extent permitted by the Constitution of the United States." This provision applies to income years beginning on or after January 1, 2010.

2011 Proposal. Under S.B. 1218, the economic nexus provisions would not apply to a foreign corporation under the I.R.C. that has no income effectively connected with a U.S. trade or business. To the extent a foreign corporation has income effectively connected with a U.S. trade or business, its gross income would be limited to the effectively connected income. For apportionment purposes, only property used in, payroll attributable to, and receipts effectively connected with, the company's U.S. trade or business will be included in the apportionment formula.

In addition, the legislation would amend the nexus provisions so that the tax would be imposed on a company that derives income from the state *and* has a substantial economic presence within the state.

This proposal would apply to income years beginning on or after January 1, 2011.

PwC Observes. "The economic nexus amendment was introduced in response to issues raised by tax practitioners, especially as they relate to foreign entities receiving certain payments from Connecticut taxpayers," explains Steve LaRosa, SALT Director with PwC in Hartford.

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"While the bill does not address all issues concerning the state's economic nexus provisions, it does conform the law to Department of Revenue Services policy by exempting from tax any company that is treated as a foreign corporation under the I.R.C. and has no income effectively connected with a U.S. trade or business."

For more information on PricewaterhouseCoopers' state legislative tracking service, click here*.*

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