OLR Bill Analysis
sSB 1239

AN ACT CONCERNING CERTAIN EMPLOYEE STOCK-SHARING ARRANGEMENTS.

SUMMARY

Starting with the 2026 income year, this bill creates tax incentives for corporations offering an employee stock-sharing arrangement that periodically distributes their common stock to participating employees (i.e., offering a “share plan”). The bill sets the criteria employee stock-sharing plans must meet in order to qualify as a share plan, including requiring that at least 80% of the company’s eligible employees participate in the plan, of which some must be Connecticut residents.

Under the bill, if the revenue services commissioner finds that a corporation’s share plan meets the bill’s requirements, the corporation is either (1) exempt from the corporation business tax surcharge or (2) if the surcharge expires or is eliminated on or after January 1, 2026, eligible for a credit against the corporation business tax equal to the surcharge amount they would have owed had it still been in effect (see BACKGROUND).

The bill also exempts from state personal income tax any (1) share plan stock taxpayers receive and (2) net gain on the stock, up to the taxpayer’s eligible expenses for certain student loans, medical care, and debt.

EFFECTIVE DATE: January 1, 2024

SHARE PLAN CRITERIA

Under the bill, the plan’s distributions must meet certain requirements to be treated as a share plan. Specifically, they:

1. must be made without compensation other than the employee’s

service;

2. may be sold or transferred without restriction after a holding period of up to three years, except that employees may sell or transfer them during the holding period for any hardship, subject to the same conditions that federal law provides for hardship withdrawals from 401(k) plans;

3. must be made in equal amounts to each participating employee, except as described below, determined in the aggregate for any calendar year and adjusted for any employee partially employed during the year; and

4. must vest immediately in the recipient, except as described below.

Under the bill, the requirement that plan distributions be made in equal amounts to participating employees must be treated as met when applied to separate groups of participating employees divided under the share plan's terms based on how long they have been employed by the company.

For those employed by the company for less than five years, their interest in a share plan distribution must vest (1) by the date on which they have been employed for five years or (2) on the first date after the distribution on which there is a change in the distributing company's control, whichever comes first.

INCOME TAX EXEMPTION FOR NET SHARE PLAN STOCK GAIN

Under the bill, if an employee or former employee disposes (e.g., sells) stock he or she received under a share plan during any tax year, the amount of the "net share plan stock gain" (i.e., aggregate gains or losses from the stock's disposition) that does not exceed his or her "eligible expenses" is exempt from state personal income tax.

"Eligible expenses" are the amount the taxpayer paid during the tax year for the following:

1. principal or interest on any qualified education loan (i.e., generally debt incurred by the taxpayer solely to pay for qualified higher education expenses (26 U.S.C. § 221));

2. medical care for the taxpayer or his or her spouse or dependents that is not paid for by insurance or otherwise; and

3. principal or interest on any debt secured by the taxpayer's principal residence.

BACKGROUND

Corporation Business Tax Surcharge

For most income years since 1989, Connecticut law has required certain corporation business taxpayers to pay an additional surcharge equal to a specified percentage of their tax liability before tax credits are applied.

Most recently, a 10% surcharge applied for the 2018 to 2022 income years. It applied to companies with more than $250 in corporation tax liability that either (1) had at least $100 million in annual gross income in those years or (2) were taxable members of a combined group that filed a combined unitary return, regardless of the amount of annual gross income.

Related Bill

sSB 981, favorably reported by the Finance, Revenue and Bonding Committee, extends the 10% corporation business tax surcharge for three additional years, to the 2023 through 2025 income years.

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute
Yea 51 Nay 0 (04/19/2023)