



General Assembly

January Session, 2023

Raised Bill No. 1239

LCO No. 6605



Referred to Committee on FINANCE, REVENUE AND BONDING

Introduced by:
(FIN)

AN ACT CONCERNING CERTAIN EMPLOYEE STOCK-SHARING ARRANGEMENTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (4) of subsection (b) of section 12-214 of the
2 general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective from passage and applicable to income years commencing on*
4 *or after January 1, 2023*):

5 (4) (A) With respect to income years commencing on or after January
6 1, 2018, [and prior to January 1, 2023,] any company subject to the tax
7 imposed in accordance with subsection (a) of this section shall pay, for
8 such income year, except when the tax so calculated is equal to two
9 hundred fifty dollars, an additional tax in an amount equal to ten per
10 cent of the tax calculated under said subsection (a) for such income year,
11 without reduction of the tax so calculated by the amount of any credit
12 against such tax. The additional amount of tax determined under this
13 subsection for any income year shall constitute a part of the tax imposed
14 by the provisions of said subsection (a) and shall become due and be

15 paid, collected and enforced as provided in this chapter.

16 (B) Any company whose gross income for the income year was less
17 than one hundred million dollars shall not be subject to the additional
18 tax imposed under subparagraph (A) of this subdivision. This exception
19 shall not apply to taxable members of a combined group that files a
20 combined unitary tax return.

21 (C) For income years commencing on or after January 1, 2027, any
22 company subject to the additional tax imposed under subparagraph (A)
23 of this subdivision that demonstrates to the satisfaction of the
24 Commissioner of Revenue Services that such company satisfies the
25 requirements set forth in section 4 of this act shall not be subject to such
26 additional tax.

27 Sec. 2. Subdivision (4) of subsection (b) of section 12-219 of the general
28 statutes is repealed and the following is substituted in lieu thereof
29 (*Effective from passage and applicable to income years commencing on or after*
30 *January 1, 2023*):

31 (4) (A) With respect to income years commencing on or after January
32 1, 2018, and prior to January 1, [2023] 2028, the additional tax imposed
33 on any company and calculated in accordance with subsection (a) of this
34 section shall, for such income year, except when the tax so calculated is
35 equal to two hundred fifty dollars, be increased by adding thereto an
36 amount equal to ten per cent of the additional tax so calculated for such
37 income year, without reduction of the tax so calculated by the amount
38 of any credit against such tax. The increased amount of tax payable by
39 any company under this section, as determined in accordance with this
40 subsection, shall become due and be paid, collected and enforced as
41 provided in this chapter.

42 (B) Any company whose gross income for the income year was less
43 than one hundred million dollars shall not be subject to the additional
44 tax imposed under subparagraph (A) of this subdivision. This exception
45 shall not apply to taxable members of a combined group that files a
46 combined unitary tax return.

47 (C) For the income year commencing on or after January 1, 2027, but
48 prior to January 1, 2028, any company subject to the additional tax
49 imposed under subparagraph (A) of this subdivision that demonstrates
50 to the satisfaction of the Commissioner of Revenue Services that such
51 company satisfies the requirements set forth in section 4 of this act shall
52 not be subject to such additional tax.

53 Sec. 3. (*Effective from passage*) The provisions of section 12-242d of the
54 general statutes shall not apply to any additional tax due as a result of
55 the changes made to subdivision (4) of subsection (b) of section 12-214
56 of the general statutes pursuant to section 1 of this act or to subdivision
57 (4) of subsection (b) of section 12-219 of the general statutes pursuant to
58 section 2 of this act, for income years commencing on or after January 1,
59 2023, but prior to the effective date of sections 1 and 2 of this act.

60 Sec. 4. (NEW) (*Effective January 1, 2027, and applicable to income years*
61 *commencing on or after January 1, 2027*) (a) As used in this section:

62 (1) "Company" means an entity subject to the tax under chapter 208
63 of the general statutes;

64 (2) "Eligible employee" means any full-time employee of the
65 company, who is based in the United States and is not one of the one per
66 cent of employees receiving the highest annual compensation from such
67 company;

68 (3) "Participating employee" means any eligible employee of the
69 company who participates in a share plan; and

70 (4) "Share plan" means an employee stock-sharing arrangement
71 offered by a company that provides for making periodic distributions of
72 common stock of such company to participating employees.

73 (b) Any company that offers a share plan to its eligible employees
74 shall be eligible to receive an exemption from the additional tax imposed
75 under subdivision (4) of subsection (b) of section 12-214 of the general
76 statutes, as amended by this act, or subdivision (4) of subsection (b) of

77 section 12-219 of the general statutes, as amended by this act, as
78 applicable, if the Commissioner of Revenue Services is satisfied that
79 such share plan meets the requirements of this section.

80 (c) (1) An employee stock-sharing plan shall not be treated as a share
81 plan unless:

82 (A) At least eighty per cent of the company's eligible employees are
83 participating employees;

84 (B) At least some of the company's eligible employees who are
85 residents of this state are participating employees; and

86 (C) The distributions under such plan:

87 (i) Are made without compensation other than service as an
88 employee;

89 (ii) May be sold or transferred without restriction after a holding
90 period not to exceed three years, except that a distribution may be sold
91 or transferred during such period for any hardship of an employee in
92 accordance with Section 401(k)(2)(B)(i)(v) of the Internal Revenue Code
93 of 1986, or any subsequent corresponding internal revenue code of the
94 United States, as amended from time to time;

95 (iii) Are made in equal amounts, except as provided in subdivision
96 (2) of this subsection, to each participating employee, determined in the
97 aggregate for any calendar year and adjusted with respect to any
98 employee not employed at all times during such calendar year; and

99 (iv) Vest immediately in the recipient, except as provided in
100 subdivision (3) of this subsection.

101 (2) The requirement under subparagraph (C)(iii) of subdivision (1) of
102 this subsection shall be treated as met if such requirement is met when
103 applied to separate groups of participating employees divided under
104 the terms of the share plan on the basis of the period for which such
105 employees have been employed by the company.

106 (3) In the case of any employee employed by the company for a
107 period of less than five years, such employee's interest in any
108 distribution under a share plan shall vest not later than the date on
109 which such employee has been so employed for a period of five years or
110 the first date after such distribution on which there is a change in the
111 control of such distributing company, whichever is earlier.

112 (d) (1) Any common stock under a share plan received by a
113 participating employee pursuant to this section shall not be considered
114 income for purposes of the tax imposed under chapter 229 of the general
115 statutes.

116 (2) In the case of the disposition during a taxable year by any
117 employee or former employee of share plan stock received by such
118 employee or former employee under a share plan, the amount of the
119 taxpayer's net share plan stock gain that does not exceed the taxpayer's
120 eligible expenses shall not be considered income for purposes of the tax
121 imposed under chapter 229 of the general statutes.

122 (3) For purposes of this subsection:

123 (A) "Net share plan stock gain" means, with respect to any taxpayer
124 for any taxable year, the excess of (i) the aggregate gains from the
125 disposition of share plan stock during such taxable year, or (ii) the
126 aggregate losses from such dispositions; and

127 (B) "Eligible expenses" means, with respect to any taxpayer for any
128 taxable year, amounts paid by such taxpayer for:

129 (i) Principal or interest on any qualified education loan, as defined in
130 Section 221 of the Internal Revenue Code of 1986, or any subsequent
131 corresponding internal revenue code of the United States, as amended
132 from time to time;

133 (ii) Medical care not compensated for by insurance or otherwise, for
134 the taxpayer, the taxpayer's spouse or the taxpayer's dependents; and

135 (iii) Principal or interest on indebtedness secured by the principal

136 residence of the taxpayer.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage and applicable to income years commencing on or after January 1, 2023</i>	12-214(b)(4)
Sec. 2	<i>from passage and applicable to income years commencing on or after January 1, 2023</i>	12-219(b)(4)
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>January 1, 2027, and applicable to income years commencing on or after January 1, 2027</i>	New section

Statement of Purpose:

To continue the corporation business tax surcharge and authorize an exemption against such surcharge for companies that offer certain employee stock-sharing arrangements.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]