

SN 2000(17)

2000 Legislation Affecting the Connecticut Income Tax ("548-Day Rule" and Claim of Right Credit)

Purpose: This Special Notice describes two important legislative changes affecting the Connecticut income tax for the 2000 taxable year. The first legislative change ("548-day rule") provides that certain individuals who are domiciled in Connecticut but who are present in a foreign country or countries for at least 450 days and meet certain other requirements will not be treated as resident individuals for Connecticut income tax purposes. The second legislative change ("claim of right credit") provides a credit against the Connecticut income tax for income that was included in Connecticut adjusted gross income for an earlier taxable year, and that was repaid during a taxable year beginning on or after January 1, 1999, if the amount repaid was greater than \$3,000.

Effective Date: The 548-day rule is applicable to taxable years commencing on or after January 1, 2000, and the claim of right credit is applicable to taxable years commencing on or after January 1, 1999.

Statutory Authority: Conn. Gen. Stat. §12-701(a)(1), as amended by 2000 Conn. Pub. Acts 174, §38, and 2000 Conn. Pub. Acts 174, §46.

PART 1. THE 548-DAY RULE

Resident Individual: Under Conn. Gen. Stat. §12-701(a)(1), a "resident of this state" or "resident individual" is any individual who is:

- Domiciled in Connecticut; or
- Not domiciled in Connecticut but who maintains a permanent place of abode in Connecticut and is in Connecticut for an aggregate of more than 183 days of the taxable year. (This provision does not extend to any individual who is in active service in the Armed Forces of the United States.)

Domicile is defined by Conn. Agencies Regs. §12-701(a)(1)-1(d).

Exceptions: Certain individuals are not treated as resident individuals even though they are domiciled in Connecticut.

Group A Exception: If an individual who is domiciled in Connecticut satisfies all three of the following requirements, the individual is not treated as a resident individual:

- The individual did not maintain a permanent place of abode inside Connecticut for the entire taxable year;
- The individual maintains a permanent place of abode outside Connecticut for the entire taxable year; and
- The individual spends not more than 30 days in the aggregate in Connecticut during the taxable year.

Permanent place of abode is defined by Conn. Agencies Regs. §12-701(a)(1)-1(e). The term does not include, for example, a cottage that is suitable and used only for vacations, a motel room, or military barracks. Also, a place of abode is not deemed permanent if it is maintained only during a temporary stay for the accomplishment of a particular purpose.

As long as an individual who is domiciled in Connecticut continues to meet all three requirements of the Group A Exception during a taxable year, the individual is not treated as a resident individual for Connecticut income tax purposes for that taxable year. However, if during any taxable year all three requirements of

the Group A Exception are not met, the individual shall be subject to Connecticut income tax as a resident individual for that year. Where an individual domiciled in Connecticut claims that he or she should be treated as a nonresident individual for a specific taxable year, the burden of proof is on the individual to demonstrate that all three requirements of the Group A Exception have been satisfied. *Conn. Agencies Regs. §12-701(a)(1)-1(b)*.

Filing Returns – Group A Exception: An individual who meets all three requirements of the Group A Exception during a taxable year will file a Connecticut income tax return as a nonresident individual for the taxable year.

Group B Exception: Under 2000 Conn. Pub. Acts 174, §38, if an individual who is domiciled in Connecticut satisfies all three of the following requirements, the individual is not treated as a resident individual:

- Within any period of 548 consecutive days (the "548-day period"), the individual is present in a foreign country (or countries) for at least 450 days;
- During the 548-day period, the individual is not present in Connecticut for more than 90 days and does not maintain a permanent place of abode in Connecticut at which the individual's spouse (unless the spouse is legally separated) or minor children are present for more than 90 days; and
- During the nonresident portion of the taxable year with which or within which the 548-day period begins and during the nonresident portion of the taxable year with which or within which the 548-day period ends, the individual is present in Connecticut for a number of days which does not exceed an amount which bears the same ratio to 90 as the number of days contained in the nonresident portion of the taxable year bears to 548.

As long as an individual who is domiciled in Connecticut continues to meet all three requirements of the Group B Exception, the individual will not be treated as a resident

individual for Connecticut income tax purposes. However, if all three requirements of the Group B Exception are not met, the individual shall be subject to Connecticut income tax as a resident individual. (See Example 3.) Where an individual domiciled in Connecticut claims that he or she should not be treated as a resident individual for a specific taxable year, the burden of proof is on the individual to demonstrate that all three requirements of the Group B Exception have been satisfied. *Conn. Agencies Regs. §12-701(a)(1)-1(b)*.

Rules for days within and outside Connecticut: In counting the number of days spent within and outside Connecticut, a day spent within Connecticut includes any part of a day, except for a part of a day during which an individual is present solely while in transit to a destination outside Connecticut. *Conn. Agencies Regs. §12-701(a)(1)-1(c)*.

Filing Returns – Group B Exception: An individual cannot satisfy all three requirements of the Group B Exception until the 548-day period has concluded. If the individual meets all three requirements of the Group B Exception, the individual will be:

- A part-year resident individual for the taxable year in which the 548-day period begins (even if the period begins on the first day of his or her taxable year);
- A part-year resident individual for the taxable year in which the 548-day period ends (even if the period ends on the last day of his or her taxable year). (See Example 2.); and
- A nonresident individual for any intervening taxable year. (See Example 1.)

Where an individual is a part-year resident individual for Connecticut income tax purposes, the special accrual rules apply.

Before the 548-day period concludes, an individual who believes that he or she will ultimately meet all three requirements of the Group B Exception may either:

- File a Connecticut income tax return as a resident individual for all taxable years with which or within which the 548-day period begins and ends; and, if he or she ultimately meets all three requirements of the Group B Exception, file a timely amended Connecticut income tax return as a part-year resident individual for the taxable year in which the 548-day period begins; as a part-year resident individual for the taxable year in which the 548-day period ends; and as a nonresident individual for any intervening taxable year.
- Apply for an extension of time to file a Connecticut income tax return (**Form CT-1040 EXT, *Application for Extension of Time to File Income Tax Return for Individuals***). Before the expiration of any such extension, the individual may apply for a further extension of time to file a Connecticut income tax return or returns after the 548-day period concludes by attaching a letter to the subsequently filed Form CT-1040 EXT explaining why additional time to file is being requested. If the individual ultimately meets all three requirements of the Group B Exception, he or she will file a Connecticut income tax return as a part-year resident individual for the taxable year in which the 548-day period begins; as a part-year resident individual for the taxable year in which the 548-day period ends; and as a nonresident individual for any intervening taxable year.

Form CT-1040 EXT only extends the time to file the income tax return; it does not extend the time to pay the income tax. To avoid or minimize the interest or penalty that might otherwise be owed if the individual does not ultimately meet all three requirements of the Group B Exception, the individual may wish to pay, on or before the original due date of the return, the amount of tax that he or she would owe as a resident individual.

When the 548-Day Period Begins Prior to January 1, 2000: An individual may use *any* period of 548 consecutive days to determine whether he or she meets all three requirements of the

Group B Exception, including a period that begins prior to January 1, 2000 (for example, from July 3, 1999 to December 31, 2000).

However, the Group B Exception applies only to a taxable year commencing on or after January 1, 2000, even if the 548-day period began before January 1, 2000. (See Example 2.)

EXAMPLES:

(Round up to the next highest whole number all decimals that include .50 through .99. Round down to the next lowest whole number all decimals that include .01 through .49.)

Example 1: *W* is domiciled in Connecticut. During the period November 2, 2000, through May 3, 2002 (a period of 548 consecutive days), *W* was present in a foreign country 480 days.

During the above period, *W* was present in Connecticut a total of 65 days, 9 days during the period November 2, 2000, through December 31, 2000; 41 days during 2001; and 15 days during the period January 1, 2002, through May 3, 2002.

Because *W* was present in a foreign country 480 days, she meets the first requirement. *W* also meets the second requirement because she was present in Connecticut a total of 65 days during the 548-day period (which is less than the maximum of 90 days allowed).

To ascertain whether *W* meets the third requirement, she must determine if the number of days present in Connecticut during the period November 2, 2000, through December 31, 2000 (60 days), exceeds the maximum number of days allowed for the nonresident portion of the taxable year within which the 548-day period began.

The maximum number of days *W* may be present in Connecticut during the period November 2, 2000, through December 31, 2000 is 10, as determined by the following computation:

$$\frac{60}{548} = \frac{d}{90}$$

$$90 \times \frac{60}{548} = d \quad d = 10 [9.85]$$

Because *W* was present in Connecticut 9 days during the period November 1, 2000, through December 31, 2000, she did not exceed the maximum of 10 days allowed for this period.

W must also determine if the number of days she was present in Connecticut during the period January 1, 2002, through May 3, 2002, exceeds the maximum allowed for the nonresident portion of the taxable year within which the 548-day period ended. The maximum number of days she may be present in Connecticut during the period January 1, 2002, through May 3, 2002, is 20, as determined by the following computation:

$$90 \times \frac{123}{548} = d \quad d = 20 [20.20]$$

Because *W* was present in Connecticut 15 days during the period January 1, 2002, through May 3, 2002, she did not exceed the maximum of 20 days allowed for this period.

W meets all the requirements of the Group B Exception. Therefore, she must file as a part-year resident individual for the 2000 taxable year, as a nonresident individual for the 2001 taxable year, and as a part-year resident individual for the 2002 taxable year.

Example 2: *G* is domiciled in Connecticut. During the period July 3, 1999, through December 31, 2000 (a period of 548 consecutive days), *G* was present in a foreign country 488 days.

During the above period, *G* was present in Connecticut a total of 60 days, 20 days during the period July 3, 1999, through December 31, 1999, and 40 days during 2000.

Because G was present in a foreign country 488 days, he meets the first requirement. G also meets the second requirement because he was present in Connecticut a total of 60 days during the 548-day period (which is less than the maximum of 90 days allowed).

G must also determine if the number of days he was present in Connecticut during the period of July 3, 1999, through December 31, 1999, exceeds the maximum allowed for the nonresident portion of the taxable year within which the 548-day period began. The maximum number of days G may be present in Connecticut during the period July 3, 1999, through December 31, 1999, is 30, as determined by the following computation:

$$90 \times \frac{182}{548} = d \quad d = 30 [29.89]$$

Because G was present in Connecticut 20 days during the period July 3, 1999, through December 31, 1999, he did not exceed the maximum of 30 days allowed for this period

G must also determine if the number of days he was present in Connecticut during the period of January 1, 2000, through December 31, 2000, exceeds the maximum allowed for the nonresident portion of the taxable year with which the 548-day period ended. The maximum number of days G may be present in Connecticut during the period January 1, 2000, through December 31, 2000, is 60, as determined by the following computation:

$$90 \times \frac{366}{548} = d \quad d = 60 [60.11]$$

Because G was present in Connecticut 40 days during the period January 1, 2000, through December 31, 2000, he did not exceed the maximum of 60 days allowed for this period.

G meets all three requirements of the Group B Exception. However, since 2000 Conn. Pub. Acts 174, §38 is applicable to taxable years commencing on or after January 1, 2000, G must file as a resident individual for the 1999 taxable year and as a part-year resident individual for the 2000 taxable year.

Example 3: C is domiciled in Connecticut. During the period August 1, 2000, through January 30, 2002 (a period of 548 consecutive days), C was present in a foreign country 470 days.

During the above period, C was present in Connecticut a total of 54 days, 15 days during the period August 1, 2000, through December 31, 2000; 33 days during 2001; and 6 days during the period January 1, 2002, through January 30, 2002.

Because C was present in a foreign country 470 days, he meets the first requirement. C also meets the second requirement because he was present in Connecticut a total of 54 days during the 548-day period (which is less than the maximum of 90 days allowed).

C must determine if the number of days he was present in Connecticut during the period of August 1, 2000, through December 31, 2000, exceeds the maximum allowed for the nonresident portion of the taxable year within which the 548-day period began. The maximum number of days C may be present in Connecticut during the period August 1, 2000, through December 31, 2000, is 25, as determined by the following computation:

$$90 \times \frac{153}{548} = d \qquad d = 25 [25.13]$$

Because C was present in Connecticut 15 days during the period August 1, 2000, through December 31, 2000, he did not exceed the maximum of 25 days allowed for this period.

C must also determine if the number of days he was present in Connecticut during the period January 1, 2002, through January

30, 2002, exceeds the maximum allowed for the nonresident portion of the taxable year within which the 548-day period ended. The maximum number of days C may be present in Connecticut during the period January 1, 2002, through January 30, 2002, is 5, as determined by the following computation:

$$90 \times \frac{30}{548} = d \qquad d = 5 [4.93]$$

Because C was present in Connecticut for 6 days during the period of January 1, 2002, through January 30, 2002, he fails to meet the third requirement of the Group B Exception. Therefore, he must file as a resident individual for the 2000 taxable year, the 2001 taxable year, and the 2002 taxable year.

PART 2. THE CLAIM OF RIGHT CREDIT

Who is Eligible for the Connecticut Claim of Right Credit? An individual is eligible for the Connecticut claim of right credit if **ALL** of the following conditions are met:

- The individual was a resident, nonresident or part-year resident who included income in Connecticut adjusted gross income for an earlier taxable year (year(s) of receipt). A trust or estate is not eligible to claim such relief for Connecticut income tax purposes;
- The individual was required to repay such income during a taxable year beginning on or after January 1, 1999 (year of repayment);
- The amount of the repayment exceeds \$3,000; **and**
- The individual determined his or her federal income tax liability for the year of repayment under I.R.C. §1341(a)(4) (see *Exception*) or I.R.C. §1341(a)(5).

Exception: I.R.C. §1341(a) requires an individual to determine his or her federal income tax liability by whichever of the following two methods results in the lesser federal income tax liability.

1. **"Deduction" Method.** If the individual was required to determine his or her federal income tax liability using the "deduction" method (I.R.C. §1341(a)(4)), the individual may be eligible for the Connecticut claim of right credit. The "deduction" method involves deducting the repayment on the federal income tax return for the year of repayment. Depending on the type of income that was repaid, the individual will either deduct the repayment in determining federal adjusted gross income or in determining federal taxable income. If the individual deducted the repayment in determining federal adjusted gross income, the individual is **NOT eligible** for the Connecticut claim of right credit. (See Example 5.) If the repayment is deducted in determining federal taxable income and reported on federal Form 1040, Schedule A, the individual is eligible for the Connecticut claim of right credit. (See Example 4.)
- 2.
3. **NOTE:** If the deduction results in a net operating loss for federal income tax purposes that is carried back to a taxable year or years preceding the year of repayment, no claim for refund is allowable for Connecticut income tax purposes for the preceding year or years on account of the loss carryback.
4. **"Credit" Method.** If the individual is required to determine his or her federal income tax liability using the "credit" method (I.R.C. §1341(a)(5)), the individual is eligible for the Connecticut claim of right credit. (See Example 4.)

Rules for nonresidents and part-year residents: If the individual is a nonresident or part-year resident in the year(s) of receipt and repaid income during the 2000 taxable year, the individual will determine the decrease in Connecticut income tax liability for the year(s) of receipt by excluding the repaid income from Connecticut adjusted gross income. To the extent that such repayment is derived from or connected with sources within this state, the individual will also exclude this repayment from Connecticut source income.

What Documentation is Needed to Prove Eligibility for the Credit? An individual must submit the following documentation with his or her Connecticut income tax return (Assume that the year of repayment is the 2000 taxable year.):

- A completed *Schedule CT-1040CRC* (placed on top of the completed 2000 Connecticut income tax return);
- A copy of the completed 2000 federal income tax return (including all schedules and attachments) that the individual signed and filed for the 2000 taxable year;
- Proof that the individual was required to repay income that he or she included in Connecticut adjusted gross income for the year(s) of receipt (such as a letter from an employer requiring sales commissions to be repaid);
- A copy of the completed federal income tax return (including all schedules and attachments) that the individual signed and filed for the year(s) of receipt; **and**
- Proof that the individual repaid the income during the 2000 taxable year (such as a copy of a cancelled check or money order).

How is the Connecticut Claim of Right Credit Computed? The Connecticut income tax liability for the year of repayment is equal to:

- The tax for the year of repayment, computed as if there were no Connecticut claim of right credit; **minus**
- The decrease in tax for the year(s) of receipt that would result solely from the exclusion of the amount of income that was subsequently required to be repaid from Connecticut adjusted gross income for the year(s) of receipt.

Example 4: In December 1999, *J*, a Connecticut resident, was advanced commissions by his employer. These commissions were included in his 1999 Connecticut adjusted gross income of \$45,000. In May 2000, *J*'s employer advised him that some of his

customers had decided to cancel their purchases and he must repay \$4,000 of the commissions he received during 1999. If *J* was required to determine his federal income tax liability for the 2000 taxable year using the **deduction method** (I.R.C. §1341(a)(4)), he would deduct the \$4,000 as an itemized deduction on federal Form 1040, Schedule A. Assuming *J*'s filing status on his 1999 and 2000 Connecticut income tax returns is *married filing separately* and his 2000 Connecticut adjusted gross income is \$50,000, he would compute his 2000 Connecticut income tax liability as follows:

2000 Connecticut income tax liability on \$50,000		\$ 1, 973
Minus difference between:		
1999 tax payable on \$45,000	= \$1,686	
and		
1999 tax payable on \$41,000		
(\$45,000 - \$4,000)	= \$1,524	
		- \$ 162
2000 Connecticut income tax liability		\$ 1,811

If *J* was required to determine his federal income tax liability for the 2000 taxable year using the **credit method** (I.R.C. §1341(a)(5)), he would also compute his Connecticut income tax liability as shown above.

Example 5: In February 1999, *D*, a nonresident individual who works in Connecticut, realized a capital gain of \$5,000 from the sale of a capital asset. The gain was not derived from or connected with Connecticut sources. *D* included the gain in her 1999 Connecticut adjusted gross income of \$35,000. In September 2000, *D* was required to repay the purchaser of the assets \$5,000 as a result of failure to fulfill conditions of the purchase agreement. If *D* was required to determine her federal income tax liability for the 2000 taxable year using the **deduction method** (I.R.C. §1341(a)(4)), she would deduct the repayment as a capital loss on her federal Form 1040, Schedule D. For Connecticut income tax purposes, *D* would not be eligible for the

claim of right credit because she deducted the repayment under I.R.C. §1341(a)(4) in determining her federal adjusted gross income.

If *D* was required to determine her federal income tax liability using the **credit method** (I.R.C. §1341(a)(5)), she would be eligible for the Connecticut claim of right credit to the extent that her 1999 tax liability would be decreased as a result of excluding the \$5,000 that she subsequently repaid.

Effect On Other Documents: None affected.

Effect Of This Document: A Special Notice is a document that announces a new policy or practice in response to changes in State or federal laws or regulations or to judicial decisions. A Special Notice indicates the DRS's informal interpretation of Connecticut tax law and may be referred to for general guidance by taxpayers or tax practitioners.

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