



STATE OF CONNECTICUT  
DEPARTMENT OF REVENUE SERVICES

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Hartford CT 06106-5032

IP 2010(21)

INFORMATIONAL PUBLICATION

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## Corporation Business Tax Application to Real Estate Investment Trusts (REITs) and Owners of REITs

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**Purpose:** This Informational Publication explains how the Connecticut corporation business tax applies to Real Estate Investment Trusts (REITs) and owners of REITs.

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**Effective Date:** Upon issuance.

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**Statutory Authority:** 2010 Conn. Pub. Act 188, §§1-3; 2010 Conn. Pub. Acts 1, §60 (June Spec. Sess.); Conn. Gen. Stat. §12-214; Conn. Gen. Stat. §12-217; and Conn. Gen. Stat. §12-219.

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**Definitions:** For purposes of this publication, the following definitions apply:

**REIT** means a real estate investment trust as defined in IRC §856.

**Captive REIT** means a REIT where more than 50% is owned or controlled, directly or constructively, by a single entity and where the REIT is not regularly traded on an established securities market. However, exceptions to that definition apply when a REIT is a qualified REIT or a REIT is more than 50% owned by a corporation that is, in turn, 10% or more directly or constructively owned by:

- A REIT;
- An entity exempt from tax under IRC §501;
- A listed property trust or other foreign REIT from a country with a tax treaty with the US; **or**
- A REIT intended to be regularly traded on an established securities market.

**Qualified REIT** means a REIT that was incorporated prior to April 1, 1997, and had more than \$500 million in real estate assets contributed to it prior to April 1, 1997.

**In General:** REITs that carry on business or have the right to carry on business in Connecticut are subject to the corporation business tax imposed under Chapter 208. REITs should file **Form CT-1120**, *Corporation Business Tax Return*. REITs cannot be included on **Form CT-1120CR**, *Combined Corporation Business Tax Return*, because they cannot be included in an affiliated group that files a federal consolidated return under IRC §1504(b)(6). REITs also cannot be included on the **Form CT-1120U**, *Unitary Corporation Business Tax Return*.

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**Tax on Capital:** The tax on capital under Conn. Gen. Stat. §12-219 does not apply to REITs under Conn. Gen. Stat. §12-219(c).

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**Tax on Net Income:** The tax on net income under Conn. Gen. Stat. §12-214 applies to REITs. Line 20 of federal Form 1120-REIT, U.S. Income Tax Return for Real Estate Investment Trusts, is "Taxable income before net operating loss deduction, total deduction for dividends paid, and section 857(b)(2)(E) deduction." To calculate the tax due on net income on its Form CT-1120, a REIT should enter the amount on Line 20 of its federal Form 1120-REIT onto *Schedule D*, Line 1 of its Form CT-1120.

Federal Form 1120-REIT, Line 21 contains three federal deductions from taxable income. As a general rule, Conn. Gen. Stat. §12-217(a)(1)(A) adopts all federal deductions unless otherwise stated. However, Connecticut law does not allow all of the federal Form 1120-REIT, Line 21 deductions. For purposes of this publication, the line references refer to the 2009 federal Form 1120-REIT.

**Federal Net Operating Loss Deduction:** Federal Form 1120-REIT, Line 21a contains a “Net operating loss deduction.” Conn. Gen. Stat. §12-217(a)(2)(B) does not allow this federal deduction.

**Dividends Paid Deduction:** Federal Form 1120-REIT, Line 21b contains the “Total deduction for dividends paid.” Conn. Gen. Stat. §12-217(a)(1)(A)(iv) disallows the federal deduction for dividends paid if a REIT is a captive REIT. A REIT other than a captive REIT should include the deduction for dividends paid from federal Form 1120-REIT, Line 21b on Form CT-1120, *Schedule D*, Line 20.

**IRC §857(b)(2)(E) Deduction:** Federal Form 1120-REIT, Line 21c contains four different IRC §857(b)(2)(E) deductions.

- The federal deduction for the tax imposed by IRC §857(b)(5) is disallowed under Conn. Gen. Stat. §12-217(a)(2)(B).
- The federal deduction for the tax imposed by IRC §857(b)(7) is disallowed under Conn. Gen. Stat. §12-217(a)(2)(B).
- The federal deduction for the tax imposed by IRC §856(c)(7)(C) is disallowed under Conn. Gen. Stat. §12-217(a)(2)(B) unless the amount is equal to \$50,000, in which case the \$50,000 is allowed as a deduction.
- The federal deduction for the tax imposed by IRC §856(g)(5), in the amount of \$50,000, is allowed as a deduction.

If federal Form 1120-REIT, Line 21c is equal to \$50,000 then that amount should be deducted on Form CT-1120, *Schedule D*, Line 20. If federal Form 1120-REIT, Line 21c is any amount other than \$50,000, then that amount is not allowable as a deduction.

**Apportionment:** Generally REITs should apportion their tax on net income using the payroll, property, and double receipts factors calculated under Conn. Gen. Stat. §12-218. However, REITs can apportion as a Financial Services Company if they meet the definition under Conn. Gen. Stat. §12-218b(a)(6). REITs do not need to apportion their tax on capital since they are exempt under Conn. Gen. Stat. §12-219(c).

**Owners of REITs:** REIT dividends are taxable in Connecticut to the extent that they are included in federal gross income. REIT dividends are not eligible for the federal dividends received deduction under IRC §243(d)(3). Conn. Gen. Stat. §12-217(a)(3) provides a general rule that a dividend received from a REIT is not deductible. However, the General Statutes provide two exceptions to this general rule. Conn. Gen. Stat. §12-217(a)(3)(B) allows a dividends received deduction if the dividend is received from a qualified REIT. In addition, Conn. Gen. Stat. §12-217(a)(3)(C) allows a dividends received deduction if the dividend is received from a captive REIT that is taxable in Connecticut.

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**Effect on Other Documents:** None

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**Effect of This Document:** An Informational Publication issued by the Department of Revenue Services (DRS) addresses frequently asked questions about a current position, policy, or practice, usually in a less technical question and answer format.

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**For Further Information:** Call DRS during business hours, Monday through Friday:

- **1-800-382-9463** (Connecticut calls outside the Greater Hartford calling area only); **or**
- **860-297-5962** (from anywhere).

**TTY, TDD, and Text Telephone users only** may transmit inquiries anytime by calling 860-297-4911.

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