



## GOVERNOR LAMONT ISSUES EXECUTIVE ORDER 9R

On December 16, 2020, Governor Lamont issued Executive Order 9R, which includes, among other things, significant provisions which renew the municipal tax deferments, low interest programs, and other items originally included in Executive Order 7S.

### **EXECUTIVE ORDER 9R**

Executive Order 9R is of particular interest to municipalities as it renews those certain property tax relief provisions that were originally set out in Executive Order 7S back on April 1, 2020. Both the deferment program and the low interest rate program contained in Executive Order 7S that were available to mitigate property tax and similar payments due on July 1, 2020 are once again being made available for the January 1, 2021 installments. The earlier order mandated that municipalities choose to offer one or both of those property tax relief options to qualified taxpayers and the same is true for the January 1, 2021 payments. The newly issued order provides that, unless the municipality affirmatively decides to change the program(s) that it had previously adopted, the same election that was made for the July 1, 2020 payments will be applicable to the January 1, 2021 payments and no further action is necessary. It is only necessary for the municipality to take action before December 30, 2020 if it wishes to switch or add relief programs from what had been adopted in the spring.

Below is a summary of the relevant portions of Executive Order 7S which are being renewed by Executive Order 9R. Guidance published by the Secretary of OPM on April 17, 2020 and updated April 24, 2020 shall be updated and republished on December 21, 2020 pursuant to this new Executive Order 9R to reflect these updated dates.

### **EXECUTIVE ORDER 7S**

On April 1, 2020, Governor Lamont issued Executive Order 7S, effective immediately, requiring municipalities to, among other things, enact a temporary program for relief from collection of property taxes, utility charges, and assessments (“Taxes”), extend certain filing deadlines for some municipal taxpayers, and suspend all non-judicial tax sales.

Under Order 7S, Paragraph 6, each municipality shall provide: (1) a temporary deferment of certain tax, municipal water, sewer, and electric rates, charges, and assessment collection (“Deferment Program”); and/or, (2) reduced interest on delinquent payments for certain tax, municipal water, sewer, and electric rates, charges, and assessment delinquencies (“Low Interest Rate Program”). The Deferment Program, unlike the Low Interest Rate Program, requires a showing of COVID-19 taxpayer impact. Further, municipalities shall notify the State Office of Policy and Management (“OPM”) no later than April 25, 2020, as to which one or both of the programs it elects to offer. Although Executive Order 7S defines “municipality” as a town, city or borough, and did not include special taxing districts and special service districts, a subsequent Executive Order 7W made these provisions applicable to all other quasi-municipal corporations including school, water, sewer, fire, special service, beach association, or any other political subdivisions having the power to make appropriations or levy assessments and taxes.

Paragraph 6 mandates that every town, city, borough and quasi-municipal corporation adopt one or both of the following relief programs:

1. The Deferment Program. This program allows towns to delay any real property, personal property, motor vehicle, municipal water, sewer, electric rates, charges, assessment or tax (collectively “Taxes”) between the dates of April 1, 2020 through and including July 1, 2020 for three (3) months from the date that they become due and payable without interest or penalty. This program is the equivalent of an extended grace period. The tax itself is not deferred, but rather the last day to pay without interest is extended to three (3) months instead of thirty (30) days. If municipalities choose this option, they shall offer this program to “eligible taxpayers,” businesses, nonprofits, and residents, who attest or document “significant economic impact by COVID-19” and/or those that document that they are providing relief to those “significantly affected by the COVID-19 pandemic.” OPM has issued guidance on those that are considered “eligible taxpayers”:
  - Resident: suffered a reduction in income of at least 20% due to COVID-19
    - Since March 10, 2020, have been either (1) furloughed without pay; (2) hours significantly reduced; or (3) unemployed.
  - Business/Non-Profit: revenue expected to decrease at least 30% from March to June 2020 versus March to June 2019 at the property
    - Proof of Ownership must be attached such as a business license, utility bills, Secretary of State listing, or other proof of ownership

A municipality may, by its legislative body, extend eligibility to other categories of taxpayers, businesses, nonprofits and residents.

Pursuant to Subparagraph (c), in order for landlords (or any taxpayer that rents or leases property to tenants or lessees) to be eligible for the Deferment Program, they must provide the municipality with documentation that either the parcel will suffer significant income decline, or, that commensurate forbearance has been offered to their tenants.

“Commensurate Forbearance” shall mean (1) a deferral of 25% of rent for ninety (90) days after its due date; (2) a deferral of one month’s rent to be paid over the ninety (90) day period; or (3) forbearance substantially similar to (1) or (2) as determined by the tax collector. The landlord must provide documentation evidencing proof that tenants have received forbearance or that the landlord has actively offered forbearance to the tenants or lessees.

2. The Low Interest Rate Program. The second program provides that between April 1, 2020 through and including July 1, 2020, any delinquent portion of the principal of any Taxes shall be subject to 3% interest per annum or .25% per month for three (3) months from the date that they become due and payable until the date the Taxes are paid. After the three (3) months, the regular interest rate is restored to the statutory eighteen percent (18%) with a portion of a month being considered a full month. This lower delinquency rate applies to Taxes that have been delinquent prior to April 1, 2020 for a period of three (3) months from April 1, 2020 through and including June 30, 2020. This option does not provide an extended grace period, but taxpayers would be able to pay a significantly reduced interest rate. This program does not require taxpayers to qualify based on eligibility criteria as in the Deferment Program.

Landlords will only be eligible for the Low Interest Rate Program if Commensurate Forbearance has been offered to their tenants.

Paragraph 6 also provides that financial institutions are required to still remit escrow payments to the municipality for property Taxes irrespective of the borrower’s eligibility for participation in the Deferment Program or Low Interest Rate Program. Additionally, the ability to continue, record and release property tax liens remains unchanged.

If you have any questions or need assistance with regard to the Executive Order 9R or Municipal Law matters in general, please contact Robert M. DeCrescenzo, Esq., at 860.548.2625 or [rdecrescenzo@uks.com](mailto:rdecrescenzo@uks.com) or Richard D. Carella, Esq., at 860.548.2681 or [rcarella@uks.com](mailto:rcarella@uks.com). You may also visit our website at: [www.uks.com/services-industries/governmental/](http://www.uks.com/services-industries/governmental/)

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