



General Assembly

January Session, 2001

Raised Bill No. 7003

LCO No. 4809

Referred to Committee on Finance, Revenue and Bonding

Introduced by:
(FIN)

***AN ACT CONCERNING TAX TREATMENT OF PROPERTY
MANAGEMENT SERVICES.***

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

1 Section 1. Subdivision (8) of section 12-407 of the general statutes is
2 repealed and the following is substituted in lieu thereof:

3 (8) (A) "Sales price" means the total amount for which tangible
4 personal property is sold by a retailer, the total amount of rent for
5 which occupancy of a room is transferred by an operator, the total
6 amount for which any service described in subsection (2) of this
7 section is rendered by a retailer or the total amount of payment or
8 periodic payments for which tangible personal property is leased by a
9 retailer, valued in money, whether paid in money or otherwise, which
10 amount is due and owing to the retailer or operator and, subject to the
11 provisions of subsection (1) of section 12-408, whether or not actually
12 received by the retailer or operator, without any deduction on account
13 of any of the following: (i) The cost of the property sold; (ii) the cost of
14 materials used, labor or service cost, interest charged, losses or any
15 other expenses; (iii) for any sale occurring on or after July 1, 1993, any
16 charges by the retailer to the purchaser for shipping or delivery,

17 notwithstanding whether such charges are separately stated in a
18 written contract, or on a bill or invoice rendered to such purchaser or
19 whether such shipping or delivery is provided by the retailer or a third
20 party. The provisions of subparagraph (A) (iii) shall not apply to any
21 item exempt from taxation pursuant to section 12-412. Such total
22 amount includes any services that are a part of the sale; except as
23 otherwise provided in subparagraph (B)(v) or (B)(vi) of this subsection,
24 any amount for which credit is given to the purchaser by the retailer,
25 and all compensation and all employment-related expenses, whether
26 or not separately stated, paid to or on behalf of employees of a retailer
27 of any service described in subsection (2) of this section. (B) "Sales
28 price" does not include any of the following: (i) Cash discounts
29 allowed and taken on sales; (ii) any portion of the amount charged for
30 property returned by purchasers, which upon rescission of the contract
31 of sale is refunded either in cash or credit, provided the property is
32 returned within ninety days from the date of purchase; (iii) the amount
33 of any tax, not including any manufacturers' or importers' excise tax,
34 imposed by the United States upon or with respect to retail sales
35 whether imposed upon the retailer or the purchaser; (iv) the amount
36 charged for labor rendered in installing or applying the property sold,
37 provided such charge is separately stated and exclusive of such charge
38 for any service rendered within the purview of subparagraph (I) of
39 subdivision (i) of subsection (2) of this section; (v) unless the
40 provisions of subsection (4) of section 12-430 or of section 12-430a are
41 applicable, any amount for which credit is given to the purchaser by
42 the retailer, provided such credit is given solely for property of the
43 same kind accepted in part payment by the retailer and intended by
44 the retailer to be resold; (vi) the full face value of any coupon used by a
45 purchaser to reduce the price paid to a retailer for an item of tangible
46 personal property, whether or not the retailer will be reimbursed for
47 such coupon, in whole or in part, by the manufacturer of the item of
48 tangible personal property or by a third party; (vii) the amount
49 charged for separately stated compensation, fringe benefits, workers'
50 compensation and payroll taxes or assessments paid to or on behalf of

51 employees of a retailer who has contracted to manage a service
52 recipient's property or properties or business premises and renders
53 management services described in subdivision (i) of subsection (2) of
54 this section, provided, [the employees perform] any such employee
55 performs such services solely for [the] a service recipient at [its] any
56 property or business premises owned or occupied by such service
57 recipient and "sales price" shall include the separately stated
58 compensation, fringe benefits, workers' compensation and payroll
59 taxes or assessments paid to or on behalf of any employee of the
60 retailer who is an officer, director or owner of more than five per cent
61 of the outstanding capital stock of the retailer. Determination whether
62 an employee performs services solely for a service recipient at its
63 property or business premises for purposes of this subdivision shall be
64 made by reference to such employee's activities during the time period
65 beginning on the later of the commencement of the management
66 contract, the date of the employee's first employment by the retailer or
67 the date which is six months immediately preceding the date of such
68 determination; (viii) the amount charged for separately stated
69 compensation, fringe benefits, workers' compensation and payroll
70 taxes or assessments paid to or on behalf of (I) a leased employee, or
71 (II) a worksite employee by a professional employer organization
72 pursuant to a professional employer agreement. For purposes of this
73 subparagraph, an employee shall be treated as a leased employee if the
74 employee is provided to the client at the commencement of an
75 agreement with an employee leasing organization under which at least
76 seventy-five per cent of the employees provided to the client at the
77 commencement of such initial agreement qualify as leased employees
78 pursuant to Section 414(n) of the Internal Revenue Code of 1986, or
79 any subsequent corresponding internal revenue code of the United
80 States, as from time to time amended, or the employee is added to the
81 client's workforce by the employee leasing organization subsequent to
82 the commencement of such initial agreement and qualifies as a leased
83 employee pursuant to Section 414(n) of said Internal Revenue Code of
84 1986 without regard to subparagraph (B) of paragraph (2) thereof. A

85 leased employee, or a worksite employee subject to a professional
86 employer agreement, shall not include any employee who is hired by a
87 temporary help service and assigned to support or supplement the
88 workforce of a temporary help service's client; and (ix) any amount
89 received by a retailer from a purchaser as the battery deposit that is
90 required to be paid under subsection (a) of section 22a-245h; the
91 refund value of a beverage container that is required to be paid under
92 subsection (a) of section 22a-244; or a deposit that is required by law to
93 be paid by the purchaser to the retailer and that is required by law to
94 be refunded to the purchaser by the retailer when the same or similar
95 tangible personal property is delivered as required by law to the
96 retailer by the purchaser, if such amount is separately stated on the bill
97 or invoice rendered by the retailer to the purchaser.

98 Sec. 2. Subdivision (9) of section 12-407 of the general statutes is
99 repealed and the following is substituted in lieu thereof:

100 (9) (A) "Gross receipts" means the total amount of the sales price
101 from retail sales of tangible personal property by a retailer, the total
102 amount of the rent from transfers of occupancy of rooms by an
103 operator, the total amount of the sales price from retail sales of any
104 service described in subsection (2) of this section by a retailer of
105 services, or the total amount of payment or periodic payments from
106 leases or rentals of tangible personal property by a retailer, valued in
107 money, whether received in money or otherwise, which amount is due
108 and owing to the retailer or operator and, subject to the provisions of
109 subsection (1) of section 12-408, whether or not actually received by the
110 retailer or operator, without any deduction on account of any of the
111 following: (i) The cost of the property sold; however, in accordance
112 with such regulations as the Commissioner of Revenue Services may
113 prescribe, a deduction may be taken if the retailer has purchased
114 property for some other purpose than resale, has reimbursed his
115 vendor for tax which the vendor is required to pay to the state or has
116 paid the use tax with respect to the property, and has resold the
117 property prior to making any use of the property other than retention,

118 demonstration or display while holding it for sale in the regular course
119 of business. If such a deduction is taken by the retailer, no refund or
120 credit will be allowed to his vendor with respect to the sale of the
121 property; (ii) the cost of the materials used, labor or service cost,
122 interest paid, losses or any other expense; (iii) for any sale occurring on
123 or after July 1, 1993, except for any item exempt from taxation
124 pursuant to section 12-412, any charges by the retailer to the purchaser
125 for shipping or delivery, notwithstanding whether such charges are
126 separately stated in the written contract, or on a bill or invoice
127 rendered to such purchaser or whether such shipping or delivery is
128 provided by the retailer or a third party. The total amount of the sales
129 price includes any services that are a part of the sale; all receipts, cash,
130 credits and property of any kind; except as otherwise provided in
131 subparagraph (B)(v) or (B)(vi) of this subsection, any amount for which
132 credit is allowed by the retailer to the purchaser; and all compensation
133 and all employment-related expenses, whether or not separately
134 stated, paid to or on behalf of employees of a retailer of any service
135 described in subsection (2) of this section. (B) "Gross receipts" do not
136 include any of the following: (i) Cash discounts allowed and taken on
137 sales; (ii) any portion of the sales price of property returned by
138 purchasers, which upon rescission of the contract of sale is refunded
139 either in cash or credit, provided the property is returned within
140 ninety days from the date of sale; (iii) the amount of any tax, not
141 including any manufacturers' or importers' excise tax, imposed by the
142 United States upon or with respect to retail sales whether imposed
143 upon the retailer or the purchaser; (iv) the amount charged for labor
144 rendered in installing or applying the property sold, provided such
145 charge is separately stated and exclusive of such charge for any service
146 rendered within the purview of subparagraph (I) of subdivision (i) of
147 subsection (2) of this section; (v) unless the provisions of subsection (4)
148 of section 12-430 or of section 12-430a are applicable, any amount for
149 which credit is given to the purchaser by the retailer, provided such
150 credit is given solely for property of the same kind accepted in part
151 payment by the retailer and intended by the retailer to be resold; (vi)

152 the full face value of any coupon used by a purchaser to reduce the
153 price paid to the retailer for an item of tangible personal property,
154 whether or not the retailer will be reimbursed for such coupon, in
155 whole or in part, by the manufacturer of the item of tangible personal
156 property or by a third party; (vii) the amount charged for separately
157 stated compensation, fringe benefits, workers' compensation and
158 payroll taxes or assessments paid to or on behalf of employees of a
159 retailer who has contracted to manage a service recipient's property or
160 properties or business premises and renders management services
161 described in subdivision (i) of subsection (2) of this section, provided
162 [the employees perform] any such employee performs such services
163 solely for the service recipient at [its] any property or business
164 premises owned or occupied by such service recipient and "gross
165 receipts" shall include the separately stated compensation, fringe
166 benefits, workers' compensation and payroll taxes or assessments paid
167 to or on behalf of any employee of the retailer who is an officer,
168 director or owner of more than five per cent of the outstanding capital
169 stock of the retailer. Determination whether an employee performs
170 services solely for a service recipient at its property or business
171 premises for purposes of this subdivision shall be made by reference to
172 such employee's activities during the time period beginning on the
173 later of the commencement of the management contract, the date of the
174 employee's first employment by the retailer or the date which is six
175 months immediately preceding the date of such determination; (viii)
176 the amount charged for separately stated compensation, fringe
177 benefits, workers' compensation and payroll taxes or assessments paid
178 to or on behalf of (I) a leased employee, or (II) a worksite employee by
179 a professional employer organization pursuant to a professional
180 employer agreement. For purposes of this subparagraph, an employee
181 shall be treated as a leased employee if the employee is provided to the
182 client at the commencement of an agreement with an employee leasing
183 organization under which at least seventy-five per cent of the
184 employees provided to the client at the commencement of such initial
185 agreement qualify as leased employees pursuant to Section 414(n) of

186 the Internal Revenue Code of 1986, or any subsequent corresponding
187 internal revenue code of the United States, as from time to time
188 amended, or the employee is added to the client's workforce by the
189 employee leasing organization subsequent to the commencement of
190 such initial agreement and qualifies as a leased employee pursuant to
191 Section 414(n) of said Internal Revenue Code of 1986 without regard to
192 subparagraph (B) of paragraph (2) thereof. A leased employee, or a
193 worksite employee subject to a professional employer agreement, shall
194 not include any employee who is hired by a temporary help service
195 and assigned to support or supplement the workforce of a temporary
196 help service's client; and (ix) the amount received by a retailer from a
197 purchaser as the battery deposit that is required to be paid under
198 subsection (a) of section 22a-256h; the refund value of a beverage
199 container that is required to be paid under subsection (a) of section
200 22a-244 or a deposit that is required by law to be paid by the purchaser
201 to the retailer and that is required by law to be refunded to the
202 purchaser by the retailer when the same or similar tangible personal
203 property is delivered as required by law to the retailer by the
204 purchaser, if such amount is separately stated on the bill or invoice
205 rendered by the retailer to the purchaser.

206 Sec. 3. This act shall take effect July 1, 2001, and shall be applicable
207 to sales occurring on and after said date.

Statement of Purpose:

To provide that amounts received for certain property management services provided to a service recipient at multiple locations may be excluded from sales and gross receipts for purposes of the sales tax.

[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.]