



General Assembly

Substitute Bill No. 5550

February Session, 2002

AN ACT PROTECTING THE STATE'S CORPORATION BUSINESS TAX REVENUE.

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

1 Section 1. Section 12-226a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage and*
3 *applicable to income years commencing on or after January 1, 2002*):

4 If it appears to the Commissioner of Revenue Services that any
5 agreement, understanding or arrangement exists between the taxpayer
6 and any other corporation or any person or firm, whereby the activity,
7 business, income or capital of the taxpayer within the state is
8 improperly or inaccurately reflected, the Commissioner of Revenue
9 Services is authorized and empowered, in his or her discretion,
10 provided such discretion is not arbitrarily, capriciously or
11 unreasonably exercised, and in such manner as he or she may
12 determine, to adjust items of income, deductions and capital, and to
13 eliminate assets in computing any apportionment percentage under
14 this chapter, provided any income directly traceable thereto shall also
15 be excluded from entire net income, so as equitably to determine the
16 tax. Where [(a)] (1) any taxpayer conducts its activity or business under
17 any agreement, arrangement or understanding in such manner as
18 either directly or indirectly to benefit its members or stockholders, or
19 any of them, or any person or persons directly or indirectly interested
20 in such activity or business, by entering into any transaction at more or

21 less than a fair price which, but for such agreement, arrangement or
 22 understanding, might have been paid or received therefor, or [(b)] (2)
 23 any taxpayer, a substantial portion of whose capital stock is owned
 24 either directly or indirectly by another corporation, enters into any
 25 transaction with such other corporation on such terms as to create an
 26 improper loss or to reflect inaccurate net income, the Commissioner of
 27 Revenue Services may include in the entire net income of the taxpayer
 28 the fair profits, which, but for such agreement, arrangement or
 29 understanding, the taxpayer might have derived from such
 30 transaction. Not later than January 1, 1995, the commissioner shall
 31 adopt regulations, in accordance with the provisions of chapter 54,
 32 setting forth standards for taking the actions authorized under this
 33 section.

34 Sec. 2. (*Effective from passage*) The General Assembly hereby affirms
 35 that the facts, circumstances and transactions at issue in Carpenter
 36 Technology Corp. v. Commissioner, 256 Conn. 455 (2001), amply
 37 satisfy the improper or inaccurate reflection of net income standard
 38 adopted by the General Assembly in the enactment of section 12-226a
 39 of the general statutes and were properly the subject of an adjustment
 40 by the Commissioner of Revenue Services pursuant to said section 12-
 41 226a.

This act shall take effect as follows:	
Section 1	<i>from passage and applicable to income years commencing on or after January 1, 2002</i>
Sec. 2	<i>from passage</i>

FIN *Joint Favorable Subst.*