



General Assembly

Substitute Bill No. 5589

February Session, 2002

**AN ACT CONCERNING TAXATION OF CERTAIN
TELECOMMUNICATIONS SERVICES COMPANIES.**

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

1 Section 1. Section 12-80a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2002, and*
3 *applicable to assessment years commencing on or after October 1, 2002*):

4 (a) Any (1) taxpayer which, prior to January 1, 1990, was subject to
5 tax under chapter 211 with respect to the rendering of
6 telecommunications service and which, on or after January 1, 1990, is
7 subject to tax under chapter 219 for rendering telecommunications
8 service and (2) other taxpayer that is subject to tax under chapter 219
9 for rendering telecommunications service and which has elected in the
10 manner specified in this section to have personal property, except
11 motor vehicles, taxed as provided in this section, shall be required to
12 submit to the Commissioner of Revenue Services and the Secretary of
13 the Office of Policy and Management, not later than the thirtieth day of
14 November of each year during which it is subject to tax under chapter
15 219, a [list] report of all personal property that is owned by such
16 taxpayer in this state on the first day of October of such year and that
17 is used solely and exclusively for rendering telecommunications
18 service, as defined in said chapter 219, including the location of [each
19 item of] such property and the fair market value thereof, recognizing
20 depreciation of such property to the maximum extent allowed

21 annually as of the assessment date for purposes of the corporation
22 business tax in this state, as certified by the Commissioner of Revenue
23 Services, provided for property acquired after October 1, 2002, such
24 depreciation does not exceed eighty per cent of the cost of acquisition
25 of such property. If the records of a taxpayer subject to the
26 requirements of this subsection do not contain the data necessary to
27 develop the [list] report as required without undue cost, the taxpayer
28 may, for purposes of requirements under this subsection, petition the
29 Commissioner of Revenue Services for approval of an alternate
30 method of determining the value of the plant used solely and
31 exclusively to render telecommunications services, but not including
32 central office or switching equipment of that taxpayer, located in each
33 town in the state. If the commissioner finds that the alternative method
34 proposed results in a reasonable approximation of the value of the
35 property of the taxpayer located in each town and used solely and
36 exclusively for rendering telecommunications service, the
37 commissioner shall notify the taxpayer that the proposed alternate
38 method is acceptable and the taxpayer shall be permitted to use the
39 alternate method in developing the [list] report required under this
40 subsection.

41 (b) Not later than the first day of February immediately following
42 the end of such tax year, the Secretary of the Office of Policy and
43 Management shall determine, with respect to such company, a value
44 for personal property equivalent to seventy per cent of the value of
45 personal property included in the [list] report of such property
46 prepared and certified in accordance with subsection (a) of this section.
47 The amount of tax applicable with respect to such personal property of
48 any taxpayer subject to the tax imposed under this section shall be
49 determined by multiplying the value of personal property of such
50 company, as determined under this subsection, by a mill rate of forty-
51 seven mills. Said secretary shall, not later than the first day of March
52 immediately following the end of such tax year, submit a tax bill to
53 each company stating the amount of tax payable to each town in
54 relation to the personal property of such taxpayer located in such

55 town. Such tax shall be due and payable to the town in which such
56 personal property is located not later than the first day of April
57 immediately following. Any city or borough not consolidated with the
58 town in which it is located and any town containing such a city or
59 borough shall receive a portion of the tax due and payable to such
60 town on the basis of the following ratio: The total taxes levied in the
61 previous fiscal year by such town, city or borough shall be the
62 numerator of the fraction. The total taxes levied by the town and all
63 cities or boroughs located within such town shall be added together,
64 and the sum shall be the denominator of the fraction. Any such city or
65 borough may, by vote of its legislative body, direct the Secretary of the
66 Office of Policy and Management to reallocate all or a portion of the
67 share of such city or borough to the town in which it is located.

68 (c) With respect to tangible personal property included in the [list]
69 report of such property submitted to the Secretary of the Office of
70 Policy and Management as provided in subsection (a) of this section,
71 any taxpayer subject to the tax imposed under this section for any tax
72 year shall not be subject to property tax in any town applicable to such
73 personal property for the assessment year in such town commencing
74 on the first day of October immediately preceding the date on which
75 the tax determined with respect to such property in accordance with
76 this section becomes due and payable.

77 (d) Any taxpayer that, on or after January 1, 1990, is subject to tax
78 under chapter 219 for rendering telecommunications service but that,
79 prior to January 1, 1990, was not subject to tax under chapter 211 for
80 rendering telecommunications service may elect to have personal
81 property taxed in the manner specified in this section. Such election
82 shall be made in writing and filed with the Secretary of the Office of
83 Policy and Management and a copy thereof shall be filed with the
84 assessor of each town in which personal property affected by such
85 election is located. Such election, once filed with the secretary, shall be
86 irrevocable and shall, if filed on or before the date that is two months
87 prior to the start of the assessment year, be effective for such
88 assessment year and for all succeeding assessment years, otherwise to

89 be effective for the next succeeding assessment year and all succeeding
90 assessment years. Notwithstanding the provisions of this subsection,
91 on or after January 1, 2002, any taxpayer may elect to have personal
92 property taxed by each town or city in which such taxpayer's property
93 is located, provided such election is made in writing and filed with
94 said secretary. A copy of such election shall be filed with the assessor
95 of each town or city in which personal property that is affected by such
96 election for local taxation is located. An election for local taxation shall
97 be made on or before the date that is two months prior to the start of
98 the assessment year as of which the taxpayer elects to have property
99 taxed by each town or city in which such property is located and shall,
100 if filed on or before such date, be effective for such assessment year
101 and for all succeeding assessment years.

102 (e) For assessment years commencing on or after October 1, 1997,
103 the provisions of this section, including informational reporting
104 requirements imposed on owners, shall also apply, to the extent
105 provided in section 12-80b, to property that is used both to render
106 telecommunications service subject to tax under chapter 219 and to
107 render community antenna television service subject to tax under
108 chapter 219 and that is required, under subsection (a) of section 12-80b,
109 to be taxed as provided in this section.

110 Sec. 2. (NEW) (*Effective October 1, 2002, and applicable to assessment*
111 *years commencing on or after October 1, 2002*) (a) The assessor of any
112 town or city may perform an audit or require a designee of the
113 assessor to perform an audit of any personal property required to be
114 reported pursuant to section 12-80a of the general statutes, as amended
115 by this act, for any assessment year. The assessor shall give notice in
116 writing to the owner, custodian or other person having knowledge of
117 any such property or the valuation of such property, of the time and
118 place of such audit with respect to such property. Such notice shall be
119 placed in the hands of such person or left at such person's usual place
120 of business or shall be sent to such person by registered or certified
121 mail at the last-known place of business. Such notice shall direct the
122 person named therein to appear before the assessor, or before a

123 designee of said assessor, with books of account, papers, documents
124 and other records for examination under oath relative to any such
125 property or the valuation of such property. The property owner shall
126 provide an inventory of personal property of another taxpayer that is
127 taxed under section 12-80a of the general statutes, as amended by this
128 act, and located in the offices of the property owner upon request of
129 the assessor. The methodology used to determine the assessment of
130 such property to which such audit or audits relate shall be the
131 methodology set forth in section 12-80a of the general statutes, as
132 amended by this act.

133 (b) Upon completing an audit of property assessed in accordance
134 with this section, the assessor shall send written notification to the
135 property owner. Such notice shall identify any property the assessor
136 believes (1) was erroneously included in the report the owner
137 submitted under section 12-80a of the general statutes, as amended by
138 this act, (2) was not included in said report, or (3) was included in said
139 report but was not valued in the manner required by said section 12-
140 80a, of the general statutes, as amended by this act. Such notice shall be
141 sent not later than thirty business days after such audit is completed. A
142 copy of the notice shall be sent to the Secretary of the Office of Policy
143 and Management.

144 (c) With respect to property discovered to have been included on a
145 report in error, the Secretary of the Office of Policy and Management
146 shall determine the amount of the tax represented by such property
147 and shall deduct such amount from the tax next certified by said
148 secretary, under section 12-80a of the general statutes, as amended by
149 this act, as payable to the municipality to which such amount was paid
150 in error. With respect to any other property, the owner shall submit to
151 the secretary, not later than thirty business days after the date of the
152 assessor's notice, an amended report regarding such property or a
153 written notice refuting the findings of the assessor. If the owner
154 submits a written notice refuting such findings, the provisions of this
155 subsection regarding the filing of an amended report shall not become
156 effective until the conclusion of a hearing held pursuant to subsection

157 (d) of this section.

158 (d) (1) An amended report required to be submitted under this
159 section shall reflect the value of any personal property that was not
160 included in the report on which the company's tax, under section 12-
161 80a of the general statutes, as amended by this act, was based. If the
162 value of any property included in said report was inaccurate, the
163 amended report shall reflect the correct value of such property. Upon
164 receipt of an amended report, the Secretary of the Office of Policy and
165 Management shall determine the assessment of property included in
166 such amended report, which shall equal seventy per cent of the value
167 of such property plus a penalty equal to twenty-five per cent of said
168 assessment. The secretary shall determine the tax due for such
169 assessment plus penalty, pursuant to section 12-80a of the general
170 statutes, as amended by this act, and shall notify the owner to pay the
171 amount due to the municipality not later than thirty days after such
172 notice.

173 (2) If a property owner elects to refute the findings of the assessor
174 with respect to an audit of property that was assessed and taxed under
175 section 12-80a of the general statutes, as amended by this act, the
176 owner shall submit a written notice to such election to the assessor,
177 and a copy of the notice shall be sent to the Secretary of the Office of
178 Policy and Management. The notice shall state the reasons why the
179 owner believes the assessor's audit findings are incorrect. Not later
180 than sixty business days after receiving the notice, the assessor shall
181 notify the property owner in writing, of the time and place of a
182 hearing. The purpose of such hearing shall be to review the assessor's
183 findings and the property owner's response to such findings. The
184 assessor's decision with respect to such findings, including a decision
185 whether or not the property owner is required to file an amended
186 report, shall be issued in writing not later than thirty business days
187 after the conclusion of the hearing. Any property owner aggrieved by
188 the assessor's decision, may, not later than sixty business days from
189 the date of the mailing of notice of the outcome of such hearing, make
190 application for relief to the Superior Court for the judicial district in

191 which said owner's property is or was purported to be located, and
192 shall notify the Secretary of the Office of Policy and Management of
193 the filing of such application for relief. Such application shall be
194 accompanied by a citation to the town or city to appear before said
195 court and such appeal shall be returnable at the same time and served
196 and returned in the same manner as is required in case of a summons
197 in a civil action. The authority issuing the citation shall take from the
198 applicant a bond or recognizance to such town or city, with surety, to
199 prosecute the application to effect and to comply with and conform to
200 the orders and decrees of the court in the premises. Any such
201 application shall be a preferred case, to be heard, unless good cause
202 appears to the contrary, at the first session, by the Superior Court or by
203 a committee appointed by the court. The pendency of such application
204 shall not suspend an action by such town or city to collect not more
205 than seventy-five per cent of the tax assessed by the Secretary of the
206 Office of Policy and Management with respect to property upon which
207 such appeal is taken. If, during the pendency of such appeal, a new
208 assessment year begins, the applicant may amend the application as to
209 any matter therein, including an appeal for such new assessment year,
210 which is affected by its inception. The court shall have power to grant
211 such relief as to justice and equity appertains, upon such terms and in
212 such manner and form as appear equitable, and, if the application
213 appears to have been made without probable cause, may tax double or
214 triple costs, as the case appears to demand; and, upon all such
215 applications, costs may be taxed at the discretion of the court. If the
216 assessment originally determined by the Secretary of the Office of
217 Policy and Management is reduced by said court, the applicant shall be
218 reimbursed by the town or city for any overpayment of taxes, together
219 with interest and any costs awarded by the court, or, at the applicant's
220 option, shall be granted a tax credit for such overpayment, interest and
221 any costs awarded by the court. Upon motion, said court shall, in
222 event of such overpayment, enter judgment in favor of such applicant
223 and against such city or town for the whole amount of such
224 overpayment, together with interest and any costs awarded by the
225 court.

