



General Assembly

February Session, 2002

Raised Bill No. 5665

LCO No. 2309

Referred to Committee on Finance, Revenue and Bonding

Introduced by:
(FIN)

AN ACT CONCERNING THE CORPORATION BUSINESS TAX, THE CIGARETTE TAX AND CERTAIN EXCISE TAXES.

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

1 Section 1. Section 12-217j of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) There shall be allowed as a credit against the tax imposed on any
4 corporation under this chapter, [(1)] with respect to income years of
5 such corporation commencing on or after [January 1, 1993, and prior
6 to] January 1, 1994, an amount equal to [ten] twenty per cent of the
7 amount spent by such corporation directly on research and
8 experimental expenditures, as defined in Section 174 of the Internal
9 Revenue Code of 1986, or any subsequent corresponding internal
10 revenue code of the United States, as from time to time amended,
11 which are conducted in this state and which exceeds the amount spent
12 by such corporation during the preceding [taxable] income year of
13 such corporation for such expenditures. [and (2) with respect to any
14 taxable year of such corporation commencing on or after January 1,
15 1994, an amount equal to twenty per cent of the amount spent by such
16 corporation on such expenditures which exceeds the amount spent by

17 such corporation during the preceding taxable year of such
18 corporation for such expenditures. A]

19 (b) (1) With respect to any income year commencing on or after
20 January 1, 2000, a credit or any portion of a credit that is allowed under
21 this section [, with respect to any taxable year commencing on or after
22 January 1, 2000,] but that is not used by a taxpayer because the amount
23 of the credit exceeds the tax due and owing by the taxpayer shall be
24 carried forward to each of the successive income years until such
25 credit, or applicable portion of the credit, is fully taken. In no case shall
26 a credit, or any portion of a credit, that is not used by a taxpayer be
27 carried forward for a period of more than fifteen years.

28 (2) (A) With respect to any income year commencing on or after
29 January 1, 1997, and prior to January 1, 2000, a credit, or any portion of
30 a credit, that is allowed under this section for a biotechnology
31 company, which credit is not used by such company because the
32 amount of the credit exceeds the tax due and owing by the taxpayer,
33 shall be carried forward to each of the successive income years until
34 such credit, or applicable portion of the credit, is fully taken. In no case
35 shall a credit, or any portion of a credit, that is not used by a
36 biotechnology company be carried forward for a period of more than
37 fifteen years.

38 (B) For purposes of this subdivision, "biotechnology company"
39 means a company engaged in the business of applying technologies,
40 such as recombinant DNA techniques, biochemistry, molecular and
41 cellular biology, genetics and genetic engineering, biological cell fusion
42 technique and new bioprocesses, using living organisms, or parts of
43 organisms, to produce or modify products, to improve plants or
44 animals, to develop microorganisms for specific uses, to identify
45 targets for small molecule pharmaceutical development or to
46 transform biological systems into useful processes and products.

47 Sec. 2. Subsection (b) of section 12-285 of the general statutes, as
48 amended by section 27 of public act 01-6 of the June special session, is

49 repealed and the following is substituted in lieu thereof (*Effective*
50 *January 1, 2002*):

51 (b) For the purposes of part I and part II only of this chapter:

52 (1) "Cigarette" means and includes [(A)] any roll for smoking made
53 wholly or in part of tobacco, irrespective of size or shape and
54 irrespective of whether the tobacco is flavored, adulterated or mixed
55 with any other ingredient, where such roll has a wrapper or cover
56 made of paper or any other material, except where such wrapper is
57 wholly or in the greater part made of tobacco and such roll weighs
58 over three pounds per thousand, provided, if any roll for smoking has
59 a wrapper made of homogenized tobacco or natural leaf tobacco, and
60 the roll is a cigarette size so that it weighs three pounds or less per
61 thousand, such roll is a cigarette and subject to the tax imposed by part
62 I and part II of this chapter; and [(B) each nine one-hundredths of an
63 ounce of roll-your-own tobacco;]

64 (2) "Unstamped cigarette" means any package of cigarettes to which
65 the proper amount of Connecticut cigarette tax stamps have not been
66 affixed. [; and]

67 [(3) "Roll-your-own tobacco" means any tobacco which, because of
68 its appearance, type, packaging or labeling, is suitable for use and
69 likely to be offered to, or purchased by, consumers as tobacco for
70 making cigarettes.]

71 Sec. 3. Section 12-294 of the general statutes is repealed and the
72 following is substituted in lieu thereof (*Effective July 1, 2002*):

73 (a) If a distributor or dealer removes his or her business from one
74 location to another during the period in which the license is in force,
75 the commissioner shall transfer the license to the new location without
76 an additional fee.

77 (b) (1) If any distributor liable for any amount due under this
78 chapter sells out his or her business or stock of goods or quits the

79 business, such distributor's successors or assigns shall withhold
80 sufficient of the purchase price to pay such amount due from the
81 business until the distributor provides to such successor or assignee a
82 receipt from the commissioner showing that such amount has been
83 paid or a certificate stating that no amount is due.

84 (2) If the purchaser of a business or stock of goods fails to withhold
85 the purchase price as required, such purchaser shall be personally
86 liable for the payment of the amount required to be withheld by the
87 purchaser to the extent of the purchase price, valued in money.

88 (c) (1) No later than the sixtieth day after the latest of the dates
89 specified in subdivision (2) of this subsection, the commissioner shall
90 either issue the certificate or mail notice of the amount that must be
91 paid as a condition of issuing the certificate. Such notice shall be
92 mailed to the purchaser at said purchaser's address as it appears on
93 the records of the commissioner.

94 (2) For purposes of subdivision (1) of this subsection, the latest of
95 the following dates shall apply: (A) The date the commissioner
96 receives a written request from the purchaser for a certificate; (B) the
97 date of the sale of the business or stock of goods; or (C) the date the
98 former owner's records are made available for audit.

99 (d) Failure of the commissioner to mail the notice referred to in
100 subsection (c) of this section shall release the purchaser from any
101 further obligation to withhold the purchase price as provided in
102 subsection (b) of this section. The period within which the obligation of
103 the successor may be enforced shall commence on the date the person
104 sells out his or her business or stock of goods or quits the business or
105 on the date that the assessment against such person becomes final,
106 whichever event occurs later, and shall end three years after such date.

107 (e) The certificate provided for in subsection (c) of this section may
108 be issued after the payment of all amounts due under this chapter,
109 according to the records of the department as of the date of the

110 certificate, or after the payment of the amounts is secured to the
111 satisfaction of the commissioner.

112 (f) The obligation of the successor shall be enforced by serving a
113 notice of successor liability on the successor. The notice shall be served
114 in the manner prescribed under section 12-309 for service of a notice of
115 assessment, not later than three years after the date the commissioner
116 is notified by the successor of the purchase of the business or stock of
117 goods. The successor may protest the assessment in the manner
118 provided in section 12-311. Sixty days after the date on which a notice
119 of assessment is mailed, an assessment shall become final except for
120 any amount as to which the successor has filed a written protest with
121 the commissioner, as provided in section 12-311.

122 Sec. 4. Section 12-330a of the general statutes, as amended by section
123 28 of public act 01-6 of the June special session, is repealed and the
124 following is substituted in lieu thereof (*Effective January 1, 2002*):

125 As used in this chapter: (1) "Commissioner" means the
126 Commissioner of Revenue Services; (2) "tobacco products" means
127 cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut,
128 ready rubbed and other smoking tobacco, snuff tobacco products,
129 cavendish, plug and twist tobacco, fine cut and other chewing
130 tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of
131 tobacco and all other kinds and forms of tobacco, prepared in such
132 manner as to be suitable for chewing or smoking in a pipe or otherwise
133 or for both chewing and smoking, but shall not include any cigarette,
134 as defined in section 12-285; [or any roll-your-own tobacco, as defined
135 in section 12-285;] (3) "distributor" means (A) any person in this state
136 engaged in the business of manufacturing tobacco products, (B) any
137 person who purchases tobacco products at wholesale from
138 manufacturers or other distributors for sale, or (C) any person who
139 imports into this state tobacco products, at least seventy-five per cent
140 of which are to be sold; (4) "unclassified importer" means any person,
141 other than a distributor, who imports, receives or acquires tobacco

142 products from outside this state for use or consumption in this state;
143 (5) "sale" or "sell" includes or applies to gifts, exchanges and barter; (6)
144 "wholesale sales price" means, in the case of a manufacturer of tobacco
145 products, the price set for such products or, if no price has been set, the
146 wholesale value of such products, and, in the case of a distributor who
147 is not a manufacturer of tobacco products, the price at which the
148 distributor purchased such products, and, in the case of an unclassified
149 importer of tobacco products, the price at which the unclassified
150 importer purchased such products; and (7) "snuff tobacco products"
151 means only those snuff tobacco products that have imprinted on the
152 packages the designation "snuff" or "snuff flour", or the federal tax
153 designation "Tax Class M", or both.

154 Sec. 5. Subsection (a) of section 12-459 of the general statutes is
155 repealed and the following is substituted in lieu thereof (*Effective from*
156 *passage*):

157 (a) The payment of the tax provided for by section 12-458 shall be
158 subject to refund as provided herein when such fuel has been sold for
159 use of any of the following: (1) Any person, other than one engaged in
160 the business of farming, when such fuel is used other than in motor
161 vehicles licensed or required to be licensed to operate upon the public
162 highways of this state, except that no tax paid on fuel which is taken
163 out of this state in a fuel tank connected with the engine of a motor
164 vehicle and which is consumed without this state shall be refunded; (2)
165 any person engaged in the business of farming, when such fuel is used
166 other than in motor vehicles licensed or required to be licensed to
167 operate upon the public highways of this state or such fuel is used in
168 motor vehicles registered exclusively for farming purposes, except that
169 no tax paid on fuel which is taken out of this state in a fuel tank
170 connected with the engine of a motor vehicle and which is consumed
171 without this state shall be refunded; (3) the United States; (4) a
172 Connecticut motor bus company, as defined in subsection (e) of section
173 12-455a, engaged in the business of carrying passengers for hire in this
174 state in common carrier motor vehicles, or any person, association or

175 corporation engaged in the business of operating taxicabs in this state
176 pursuant to a certificate under chapter 244a, when such fuel is used in
177 such common carrier motor vehicle or taxicab on roads in this state,
178 except that with respect to such fuel used in a taxicab only fifty per
179 cent of the tax paid on any purchase of fuel applicable to mileage on
180 any roads in this state shall be refunded; (5) any person, association or
181 corporation engaged in the business of operating a motor vehicle in
182 livery service pursuant to a permit issued under chapter 244b, or a
183 motor bus over highways within this state and between points within
184 and without this state pursuant to a permit issued under chapter 244,
185 when such fuel is used in such motor bus on roads in this state for the
186 exclusive purpose of transporting passengers for hire to or from
187 airport facilities, except that with respect to any such motor vehicle in
188 livery service pursuant to a permit issued under chapter 244b only fifty
189 per cent of the tax paid on any purchase of fuel applicable to mileage
190 on any roads in this state shall be refunded; (6) this state or a
191 municipality of this state, when such fuel is used in vehicles owned
192 and operated, or leased and operated, by this state or municipality for
193 governmental purposes; (7) any school bus, as defined in section 14-
194 275; (8) a hospital, when such fuel is used in an ambulance owned by
195 such hospital; (9) a nonprofit civic organization approved by the
196 commissioner, when such fuel is used in an ambulance owned by such
197 organization; (10) a transit district formed under chapter 103a or any
198 special act, when such fuel is used in vehicles owned and operated, or
199 leased and operated, by such transit district for the purposes of such
200 transit district; (11) a corporation or an employee of a corporation or of
201 the United States, this state or a municipality of this state, when such
202 fuel is used in a high-occupancy commuter vehicle on roads in this
203 state, which vehicle is owned or leased by such corporation or such
204 employee, [which] seats at least ten but not more than fifteen
205 passengers and [which] has a minimum average daily passenger usage
206 of nine persons to and from work, for the purpose of transporting such
207 passengers to and from work daily; (12) a person, corporation or
208 association operating a motor vehicle in livery service which is

209 registered in accordance with the provisions of section 13b-83, when
210 such fuel is used in such motor vehicle in livery service on roads in this
211 state; and (13) a federally funded nutrition program approved by the
212 commissioner, when such fuel is used in a delivery vehicle [that is
213 used exclusively for the delivery of] on roads in this state for the
214 exclusive purpose of delivering meals to senior citizens.

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>January 1, 2002</i>
Sec. 3	<i>July 1, 2002</i>
Sec. 4	<i>January 1, 2002</i>
Sec. 5	<i>from passage</i>

Statement of Purpose:

To clarify a tax credit carry-forward for biotechnology companies; to remove "roll-your-own" tobacco from liability for the cigarette tax; to provide successor tax liability when a cigarette distributor acquires a competitor's business; to clarify that certain refunds of motor vehicle fuels tax are for miles traveled in this state; and to repeal certain obsolete provisions.

[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.]