



General Assembly

February Session, 2002

Raised Bill No. 5666

LCO No. 2279

Referred to Committee on Finance, Revenue and Bonding

Introduced by:
(FIN)

**AN ACT CONCERNING CERTAIN ADMINISTRATIVE PROCEDURES
OF THE DEPARTMENT OF REVENUE SERVICES.**

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

1 Section 1. Section 12-39r of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 The Commissioner of Revenue Services may allow the payment of
4 taxes, penalties, interest and fees by means of a credit card, charge card
5 or debit card and may charge the taxpayer a service fee for any such
6 payment made by [credit] any such card. The fee shall not exceed any
7 charge by the [credit] card issuer, including any discount rate.
8 Payments by [credit] any such card shall be made at such times and
9 under such conditions as said commissioner may prescribe. The debt
10 incurred through the payment of taxes by means of [a credit] any such
11 card shall not be considered a tax collectible pursuant to the provisions
12 of sections 12-35a, as amended, and 12-35b.

13 Sec. 2. Section 12-227 of the general statutes is repealed and the
14 following is substituted in lieu thereof (*Effective from passage*):

15 (a) To any refunds granted as a result of overpayment of any taxes
16 [assessed] imposed under this [part and] chapter or chapter 209, except
17 refunds due on estimated payments made with tentative returns and
18 refunds due because of payments on account of estimated tax pursuant
19 to section 12-242d which are greater than the tax disclosed to be due
20 upon the filing of the completed returns, there shall be added interest
21 at the rate of two-thirds of one per cent for each month and fraction of
22 a month which elapses between the later of [(a)] (1) the due date of
23 such taxes, or [(b)] (2) the date of making such overpayment, and the
24 date of notice by the Commissioner of Revenue Services that such
25 refunds are due. [This section shall apply to returns for all calendar or
26 fiscal years which commence on or after May 19, 1959.]

27 (b) Notwithstanding the provisions of subsection (a) of this section,
28 in the case of an overpayment claimed on a tax return that is filed after
29 the last date prescribed for filing such return, determined with regard
30 to any extension of time for filing, or claimed on an amended tax
31 return, no interest shall be allowed or paid for any month or fraction of
32 a month before the date on which such return or such amended return
33 is filed.

34 (c) Notwithstanding the provisions of subsection (a) of this section,
35 if any overpayment of tax imposed under this chapter or chapter 209 is
36 credited or refunded not later than three months after the last date
37 prescribed for filing the tax return on which such overpayment was
38 claimed, determined with regard to any extension of time for filing, or
39 within three months after such return was filed, whichever is later, or
40 within three months after an amended tax return was filed claiming
41 such overpayment, no interest shall be allowed or paid under this
42 section on any such overpayment. For purposes of this subsection, any
43 amended return filed before the last day prescribed for the filing of the
44 tax return for such year or period, determined with regard to any
45 extension of time for filing, shall be considered as filed on such last
46 day.

47 (d) Notwithstanding the provisions of subsection (a) of this section,
48 if any overpayment of tax imposed under this chapter or chapter 209
49 results from a carryback of a net operating loss or a net capital loss,
50 such overpayment shall be deemed not to have been made prior to the
51 last day prescribed for the filing of the tax return for the taxable year in
52 which such net operating loss or net capital loss arises, determined
53 without regard to any extension of time for filing. For purposes of
54 subsection (c) of this section, any overpayment described in this
55 subsection shall be treated as an overpayment for the taxable year in
56 which such net operating loss or net capital loss arises, and subsection
57 (c) of this section shall be applied with respect to such overpayment by
58 treating the return for such loss year as not filed before an amended
59 return claiming such overpayment is filed for the taxable year or years
60 to which such net operating loss or net capital loss is carried back.
61 Such treatment shall apply to any overpayment of tax imposed under
62 this chapter or chapter 209 which results from a carryback of a tax
63 credit.

64 (e) For purposes of subsections (b), (c) and (d) of this section, a
65 return shall not be treated as filed until it has been filed on an
66 authorized form, and such return contains the taxpayer's name,
67 address and identifying number and the required signatures and
68 sufficient required information, whether on the return or on required
69 attachments, to permit the mathematical verification of tax liability
70 shown on the return.

71 *Sec. 3. (Effective from passage)* The intent of subsection (b) of section
72 12-227 of the general statutes, as amended by section 2 of this act, is to
73 clarify that the law does not authorize the Department of Revenue
74 Services to allow or pay interest on a corporation business tax
75 overpayment that is claimed on a late corporation business tax return
76 or on an amended corporation business tax return for any month or
77 fraction of a month that is before the date on which such late return or
78 such amended return is filed with the Department of Revenue
79 Services.

80 Sec. 4. Subsection (b) of section 12-229 of the general statutes is
81 repealed and the following is substituted in lieu thereof (*Effective from*
82 *passage and applicable to income years commencing on or after January 1,*
83 *2002*):

84 (b) If any company has not made its return within three months
85 after the time specified under the provisions of this part, the
86 commissioner may make such return at any time thereafter, according
87 to the best information obtainable and according to the form
88 prescribed. To the tax imposed upon the basis of such return, there
89 shall be added an amount equal to ten per cent of such tax, or fifty
90 dollars, whichever is greater. The tax shall bear interest at the rate of
91 one per cent per month or fraction thereof, from the due date of such
92 tax until the date of payment. No taxpayer shall be subject to a penalty
93 under both [subsections (a) and (b)] subsection (a) of this section and
94 this subsection in relation to the same tax [period] return.

95 Sec. 5. Subsection (b) of section 12-395 of the general statutes is
96 repealed and the following is substituted in lieu thereof (*Effective from*
97 *passage*):

98 (b) Any person aggrieved by any order, decision, determination or
99 disallowance of the Commissioner of Revenue Services under the
100 provisions of this chapter may, not later than one month after service
101 upon the person of notice of such order, decision, determination or
102 disallowance, make a written application for a hearing to the court of
103 probate for the district within which the decedent resided at the date
104 of his death, or within which the commissioner contends that the
105 decedent resided at the date of his death or, if the decedent died a
106 nonresident of this state, in the court of probate for the district within
107 which real estate or tangible personal property of the decedent is
108 situated, or within which the commissioner contends that real estate or
109 tangible personal property of the decedent is situated. Such application
110 shall set forth in detail the objection to the order, decision,
111 determination or disallowance of said commissioner and a copy of

112 same shall be mailed to said commissioner at the time of filing. The
113 court of probate shall assign a time and place for a hearing upon such
114 application not less than two nor more than four weeks after receipt
115 thereof and shall cause a copy of the order of hearing to be sent to said
116 commissioner and to the person aggrieved by said order, decision,
117 determination or disallowance at least ten days before the time of such
118 hearing. The commissioner or any person interested may appear
119 before the court at such hearing and be heard on any matter involved
120 in the determination of the tax. If there is no appearance on behalf of
121 the commissioner and it appears to the court that such determination
122 ought to be modified, such hearing shall be adjourned for not less than
123 ten days and notice of the time and place of such adjourned hearing
124 and of any proposed change in such determination shall be given to
125 the commissioner, who may appear and be heard on such change. At
126 [such] any hearing under this subsection, the court shall determine all
127 matters properly before it, including the amount of such tax and shall
128 enter upon its records a decree for such amount. A copy of the decree
129 of the court of probate shall be forwarded by the judge or clerk of such
130 court to the commissioner and to the person aggrieved because of such
131 order, decision, determination or disallowance of the commissioner.
132 The determination of the tax by the Commissioner of Revenue Services
133 shall be conclusive upon the state and any person aggrieved by any
134 order, decision, determination or disallowance of the commissioner
135 unless a hearing is held as provided in this subsection, in which case
136 the decree of the court of probate shall be conclusive upon the state
137 and any person aggrieved by such order, decision, determination or
138 disallowance of the commissioner unless an appeal is taken as
139 provided for appeals from other decrees and orders of such court.

140 Sec. 6. Section 12-497a of the general statutes is repealed and the
141 following is substituted in lieu thereof (*Effective from passage*):

142 (a) Neither the tax imposed by section 12-494 nor the [requirement
143 of] provision of section 12-497 for filing a return prescribed by the
144 Commissioner of Revenue Services [imposed by section 12-497] shall

145 apply to the transfer of burial rights for a lot in a cemetery organized
146 pursuant to chapter 368j.

147 (b) The provision of section 12-497 for filing a return prescribed by
148 the Commissioner of Revenue Services shall not apply to any deed,
149 instrument or writing which is solely a grant of easement and to which
150 this state, any agency of the state, any political subdivision of the state
151 or any agency of any such subdivision is a party.

152 Sec. 7. Section 12-730 of the general statutes is repealed and the
153 following is substituted in lieu thereof (*Effective from passage*):

154 Notwithstanding the provisions of chapter 54 to the contrary, any
155 taxpayer aggrieved because of any determination or disallowance by
156 the commissioner under section 12-729, 12-729a or 12-732 may, within
157 one month after notice of the commissioner's determination or
158 disallowance is mailed to the taxpayer, take an appeal therefrom to the
159 superior court for the judicial district of New Britain, which shall be
160 accompanied by a citation to the commissioner to appear before said
161 court. Such citation shall be signed by the same authority, and such
162 appeal shall be returnable at the same time and served and returned in
163 the same manner, as is required in case of a summons in a civil action.
164 The authority issuing the citation shall take from the appellant a bond
165 or recognizance to the state of Connecticut, with surety to prosecute
166 the appeal to effect and to comply with the orders and decrees of the
167 court in the premises. Such appeals shall be preferred cases, to be
168 heard unless cause appears to the contrary, at the first session by the
169 court or by a committee appointed by it. Said court may grant such
170 relief as may be equitable and, if such tax has been paid prior to the
171 granting of such relief, may order the Treasurer to pay the amount of
172 such relief, with interest at the rate of two-thirds of one per cent per
173 month or fraction thereof, to the aggrieved taxpayer. If the appeal has
174 been taken without probable cause, the court may charge double or
175 triple costs, as the case demands, and upon all such appeals which
176 may be denied, costs may be taxed against the appellant at the

177 discretion of the court but no costs shall be taxed against the state.

178 Sec. 8. Subsection (b) of section 12-735 of the general statutes is
179 repealed and the following is substituted in lieu thereof (*Effective from*
180 *passage and applicable to taxable years commencing on or after January 1,*
181 *2002*):

182 (b) If any person has not made a return within three months after
183 the time specified under the provisions of this chapter, the
184 commissioner may make such return at any time thereafter, according
185 to the best information obtainable and according to the form
186 prescribed. The making of a return by the commissioner pursuant to
187 the authority conferred under this section shall not constitute the filing
188 of a return by such person for purposes of subsection (c) of section 12-
189 733 or subsection (a) of section 12-737. To the tax imposed upon the
190 basis of such return, there shall be added an amount equal to ten per
191 cent of such tax or fifty dollars, whichever is greater. The tax shall bear
192 interest at the rate of one per cent per month or fraction thereof, from
193 the due date of such tax until the date of payment. No taxpayer shall
194 be subject to a penalty under both [subsections (a) and (b)] subsection
195 (a) of this section and this subsection in relation to the same tax
196 [period] return.

197 Sec. 9. (NEW) (*Effective from passage*) On and after January 1, 2002, an
198 erroneous refund made by the Department of Revenue Services shall
199 be considered an underpayment of tax as of the date made, and an
200 assessment of any deficiency attributable to an erroneous refund may
201 be made in the manner prescribed for making a deficiency assessment
202 under authority of the relevant provision of the general statutes by the
203 Commissioner of Revenue Services at any time within three years from
204 the making of the refund, except that the assessment may be made at
205 any time if it appears that any part of the refund was induced by fraud
206 or misrepresentation of a material fact.

207 Sec. 10. Section 12-478 of the general statutes is repealed and the
208 following is substituted in lieu thereof (*Effective from passage*):

209 Whenever used in this chapter:

210 (1) "Motor carrier" means every person, firm or corporation which
211 operates or causes to be operated on any highway in this state any
212 qualified motor vehicle;

213 (2) "Operations" means operations of all such vehicles, whether
214 loaded or empty, whether or not for compensation and whether
215 owned by or leased to the motor carrier which operates them or causes
216 them to be operated;

217 (3) "Motor fuel" means "fuels", as defined in section 12-455a; and

218 [(4) "Charter" or "special operations" means the transportation of a
219 group of persons who, pursuant to a common purpose and under a
220 single contract and at a fixed charge for the vehicle, have acquired the
221 exclusive use of a motor bus to travel together as a group to a specified
222 destination or for a particular itinerary, either agreed upon in advance
223 or modified by the charter group after leaving the place of origin; and]

224 [(5)] (4) "Qualified motor vehicle" means a motor vehicle that is
225 used, designed or maintained for transportation of persons or property
226 and that (A) has two axles and a gross vehicle weight or registered
227 gross vehicle weight exceeding twenty-six thousand pounds; or (B) has
228 three or more axles regardless of weight; or (C) is used in combination
229 and the combined gross vehicle weight or registered gross vehicle
230 weight exceeds twenty-six thousand pounds; but does not include a
231 recreation vehicle that is used exclusively for personal pleasure, and
232 not used in connection with any trade or business, by an individual.

233 Sec. 11. Subsection (a) of section 31-71b of the general statutes is
234 repealed and the following is substituted in lieu thereof (*Effective from*
235 *passage*):

236 (a) [Except as otherwise provided in section 12-34b, each] Each
237 employer, by himself, his agent or representative, shall pay weekly all
238 moneys due each employee on a regular pay day, designated in

239 advance by the employer, in cash, by negotiable checks or, upon an
240 employee's written request, by credit to such employee's account in
241 any bank which has agreed with the employer to accept such wage
242 deposits.

243 Sec. 12. Subsection (i) of section 52-361a of the general statutes is
244 repealed and the following is substituted in lieu thereof (*Effective from*
245 *passage*):

246 (i) Any assignment by an employee of his earnings shall be void
247 except (1) payments due for support in public welfare cases [,] and
248 payments pursuant to a family support judgment, [and assignments
249 provided for in section 12-34b,] and (2) deductions for union dues and
250 initiation fees in accordance with the terms of a duly executed contract
251 between an employer and his employees or a collective bargaining
252 agent or in accordance with a duly executed authorization signed by
253 the employee for the payment of such dues or initiation fees or both to
254 such collective bargaining agent.

255 Sec. 13. Subdivision (4) of section 52-350a of the general statutes is
256 repealed and the following is substituted in lieu thereof (*Effective from*
257 *passage*):

258 (4) "Disposable earnings" means that part of the earnings of an
259 individual remaining after the deduction from those earnings of
260 amounts required to be withheld for payment of federal income and
261 employment taxes, normal retirement contributions, union dues and
262 initiation fees, group life insurance premiums, health insurance
263 premiums [,] and federal tax levies. [, and state income tax deductions
264 authorized pursuant to section 12-34b.]

265 Sec. 14. (*Effective from passage*) Sections 12-34b and 12-484a of the
266 general statutes are repealed.

This act shall take effect as follows:	
Section 1	<i>from passage</i>

Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>
Sec. 4	<i>from passage and applicable to income years commencing on or after January 1, 2002</i>
Sec. 5	<i>from passage</i>
Sec. 6	<i>from passage</i>
Sec. 7	<i>from passage</i>
Sec. 8	<i>from passage and applicable to taxable years commencing on or after January 1, 2002</i>
Sec. 9	<i>from passage</i>
Sec. 10	<i>from passage</i>
Sec. 11	<i>from passage</i>
Sec. 12	<i>from passage</i>
Sec. 13	<i>from passage</i>
Sec. 14	<i>from passage</i>

Statement of Purpose:

To provide for payment of taxes by charge or debit cards; to clarify when interest is paid on certain corporation business tax refunds are paid; to prohibit taxpayers from being penalized twice for the same return in certain cases; to facilitate administration of the estate tax; to exempt certain conveyances involving the state from the requirement to file a tax return; to allow appeals of jeopardy assessment determinations; and to establish a procedure for recapture of erroneous tax refunds.

[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.]