



General Assembly

February Session, 2002

Raised Bill No. 564

LCO No. 2304

Referred to Committee on Finance, Revenue and Bonding

Introduced by:
(FIN)

AN ACT CONCERNING RECOMMENDATIONS OF THE DEPARTMENT OF REVENUE SERVICES FOR CHANGES TO THE SALES AND USE TAX.

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

1 Section 1. Subdivision (2) of section 12-407 of the general statutes, as
2 amended by section 2 of public act 01-109 and section 1 of public act
3 01-6 of the June special session, is repealed and the following is
4 substituted in lieu thereof (*Effective from passage*):

5 (2) "Sale" and "selling" mean and include: (a) Any transfer of title,
6 exchange or barter, conditional or otherwise, in any manner or by any
7 means whatsoever, of tangible personal property for a consideration;
8 (b) any withdrawal, except a withdrawal pursuant to a transaction in
9 foreign or interstate commerce, of tangible personal property from the
10 place where it is located for delivery to a point in this state for the
11 purpose of the transfer of title, exchange or barter, conditional or
12 otherwise, in any manner or by any means whatsoever, of the property
13 for a consideration; (c) the producing, fabricating, processing, printing
14 or imprinting of tangible personal property for a consideration for
15 consumers who furnish either directly or indirectly the materials used

16 in the producing, fabricating, processing, printing or imprinting,
17 including, but not limited to, sign construction, photofinishing,
18 duplicating and photocopying, except that "sale" and "selling" do not
19 include sales of such services to vessels rendered after June 30, 1999,
20 provided such vessels are in existence prior to the sales of such
21 services; (d) the furnishing and distributing of tangible personal
22 property for a consideration by social clubs and fraternal organizations
23 to their members or others; (e) the furnishing, preparing, or serving for
24 a consideration of food, meals or drinks; (f) a transaction whereby the
25 possession of property is transferred but the seller retains the title as
26 security for the payment of the price; (g) a transfer for a consideration
27 of the title of tangible personal property which has been produced,
28 fabricated or printed to the special order of the customer, or of any
29 publication, including, but not limited to, sign construction,
30 photofinishing, duplicating and photocopying, except that "sale" and
31 "selling" do not include sales of such services to vessels rendered after
32 June 30, 1999, provided such vessels are in existence prior to the sales
33 of such services; (h) a transfer for a consideration of the occupancy of
34 any room or rooms in a hotel or lodging house for a period of thirty
35 consecutive calendar days or less; (i) the rendering of certain services
36 for a consideration, exclusive of such services rendered by an
37 employee for the employer, as follows: (A) Computer and data
38 processing services, including, but not limited to, time, programming,
39 code writing, modification of existing programs, feasibility studies and
40 installation and implementation of software programs and systems
41 even where such services are rendered in connection with the
42 development, creation or production of canned or custom software or
43 the license of custom software, and exclusive of services rendered in
44 connection with the creation, development hosting or maintenance of
45 all or part of a web site which is part of the graphical, hypertext
46 portion of the Internet, commonly referred to as the World-Wide Web,
47 (B) credit information and reporting services, (C) services by
48 employment agencies and agencies providing personnel services, (D)
49 private investigation, protection, patrol work, watchman and armored

50 car services, exclusive of services of off-duty police officers and
51 off-duty firefighters, (E) painting and lettering services, (F)
52 photographic studio services, (G) telephone answering services, (H)
53 stenographic services, (I) services to industrial, commercial or
54 income-producing real property, including, but not limited to, such
55 services as management, electrical, plumbing, painting and carpentry
56 and excluding any such services rendered in the voluntary evaluation,
57 prevention, treatment, containment or removal of hazardous waste, as
58 defined in section 22a-115, or other contaminants of air, water or soil,
59 provided income-producing property shall not include property used
60 exclusively for residential purposes in which the owner resides and
61 which contains no more than three dwelling units, or a housing facility
62 for low and moderate income families and persons owned or operated
63 by a nonprofit housing organization, as defined in subsection (29) of
64 section 12-412, (J) business analysis, management, management
65 consulting and public relations services, excluding (i) any
66 environmental consulting services, [and] (ii) any training services
67 provided by an institution of higher education licensed or accredited
68 by the Board of Governors of Higher Education pursuant to section
69 10a-34, and (iii) any business analysis, management, management
70 consulting and public relations services rendered by a certificated air
71 carrier after December 31, 1993, (K) services providing "piped-in"
72 music to business or professional establishments, (L) flight instruction
73 and chartering services by a certificated air carrier on an aircraft, the
74 use of which for such purposes, but for the provisions of subsection (4)
75 of section 12-410 and subsection (12) of section 12-411, would be
76 deemed a retail sale and a taxable storage or use, respectively, of such
77 aircraft by such carrier, (M) motor vehicle repair services, including
78 any type of repair, painting or replacement related to the body or any
79 of the operating parts of a motor vehicle, (N) motor vehicle parking,
80 including the provision of space, other than metered space, in a lot
81 having thirty or more spaces, excluding (i) space in a seasonal parking
82 lot provided by a person who is exempt from taxation under this
83 chapter pursuant to subsection (1), (5) or (8) of section 12-412, (ii) space

84 in a parking lot owned or leased under the terms of a lease of not less
85 than ten years' duration and operated by an employer for the exclusive
86 use of its employees, (iii) valet parking provided at any airport, (iv)
87 space in municipally-operated railroad parking facilities in
88 municipalities located within an area of the state designated as a
89 severe nonattainment area for ozone under the federal Clean Air Act,
90 or space in a railroad parking facility in a municipality located within
91 an area of the state designated as a severe nonattainment area for
92 ozone under the federal Clean Air Act owned or operated by the state
93 on or after April 1, 2000, (O) radio or television repair services, (P)
94 furniture reupholstering and repair services, (Q) repair services to any
95 electrical or electronic device, including, but not limited to, equipment
96 used for purposes of refrigeration or air-conditioning, (R) lobbying or
97 consulting services for purposes of representing the interests of a client
98 in relation to the functions of any governmental entity or
99 instrumentality, (S) services of the agent of any person in relation to
100 the sale of any item of tangible personal property for such person,
101 exclusive of the services of a consignee selling works of art, as defined
102 in subsection (b) of section 12-376c, or articles of clothing or footwear
103 intended to be worn on or about the human body other than (i) any
104 special clothing or footwear primarily designed for athletic activity or
105 protective use and which is not normally worn except when used for
106 the athletic activity or protective use for which it was designed, and (ii)
107 jewelry, handbags, luggage, umbrellas, wallets, watches and similar
108 items carried on or about the human body but not worn on the body in
109 the manner characteristic of clothing intended for exemption under
110 subdivision (47) of section 12-412, under consignment, exclusive of
111 services provided by an auctioneer, (T) locksmith services, (U)
112 advertising or public relations services, including layout, art direction,
113 graphic design, mechanical preparation or production supervision, not
114 related to the development of media advertising or cooperative direct
115 mail advertising, (V) landscaping and horticulture services, (W)
116 window cleaning services, (X) maintenance services, (Y) janitorial
117 services, (Z) exterminating services, (AA) swimming pool cleaning and

118 maintenance services, (BB) renovation and repair services as set forth
119 in this subparagraph, to other than industrial, commercial or
120 income-producing real property: Paving of any sort, painting or
121 staining, wallpapering, roofing, siding and exterior sheet metal work,
122 except that "sale" and "selling" do not include sales of such renovation
123 and repair services rendered after June 30, 2002, (CC) miscellaneous
124 personal services included in industry group 729 in the Standard
125 Industrial Classification Manual, United States Office of Management
126 and Budget, 1987 edition, or U.S. industry 532220, 812191, 812199 or
127 812990 in the North American Industrial Classification System United
128 States Manual, United States Office of Management and Budget, 1997
129 edition, exclusive of (i) services rendered by massage therapists
130 licensed pursuant to chapter 384a, and (ii) services rendered by an
131 electrologist licensed pursuant to chapter 388, (DD) any repair or
132 maintenance service to any item of tangible personal property
133 including any contract of warranty or service related to any such item,
134 except that "sale" and "selling" do not include sales of such services to
135 vessels rendered after June 30, 1999, (EE) business analysis,
136 management or [managing] management consulting services rendered
137 by a general partner, or an affiliate thereof, to a limited partnership,
138 provided (i) that the general partner, or an affiliate thereof, is
139 compensated for the rendition of such services other than through a
140 distributive share of partnership profits or an annual percentage of
141 partnership capital or assets established in the limited partnership's
142 offering statement, and (ii) the general partner, or an affiliate thereof,
143 offers such services to others, including any other partnership. As used
144 in subparagraph (EE)(i) "an affiliate of a general partner" means an
145 entity which is directly or indirectly owned fifty per cent or more in
146 common with a general partner, and (FF) notwithstanding the
147 provisions of section 12-412, as amended, except subsection (87)
148 thereof, patient care services, as defined in subsection (29) of this
149 section by a hospital, except that "sale" and "selling" [does] do not
150 include sales of such patient care services rendered during the period
151 commencing July 1, 2001, and ending June 30, 2003; (j) the leasing or

152 rental of tangible personal property of any kind whatsoever, including,
153 but not limited to, motor vehicles, linen or towels, machinery or
154 apparatus, office equipment and data processing equipment, provided
155 for purposes of this subdivision and the application of sales and use
156 tax to contracts of lease or rental of tangible personal property, the
157 leasing or rental of any motion picture film by the owner or operator of
158 a motion picture theater for purposes of display at such theater shall
159 not constitute a sale within the meaning of this subsection; (k) the
160 rendering of telecommunications service, as defined in subsection (26)
161 of this section, for a consideration on or after January 1, 1990, exclusive
162 of any such service rendered by an employee for the employer of such
163 employee, subject to the provisions related to telecommunications
164 service in accordance with section 12-407a, as amended; (l) the
165 rendering of community antenna television service, as defined in
166 subsection (27) of this section, for a consideration on or after January 1,
167 1990, exclusive of any such service rendered by an employee for the
168 employer of such employee; (m) the transfer for consideration of space
169 or the right to use any space for the purpose of storage or mooring of
170 any noncommercial vessel, exclusive of dry or wet storage or mooring
171 of such vessel during the period commencing on the first day of
172 November in any year to and including the thirtieth day of April of the
173 next succeeding year; (n) the sale for consideration of naming rights to
174 any place of amusement, entertainment or recreation within the
175 meaning of subdivision (3) of section 12-540; (o) the transfer for
176 consideration of a prepaid telephone calling service, as defined in
177 subsection (34) of this section, and the recharge of a prepaid telephone
178 calling service, provided, if the sale or recharge of a prepaid telephone
179 calling service does not take place at the retailer's place of business and
180 an item is shipped by the retailer to the customer, the sale or recharge
181 shall be deemed to take place at the customer's shipping address, but,
182 if such sale or recharge does not take place at the retailer's place of
183 business and no item is shipped by the retailer to the customer, the sale
184 or recharge shall be deemed to take place at the customer's billing
185 address or the location associated with the customer's mobile

186 telephone number. Wherever in this chapter reference is made to the
187 sale of tangible personal property or services, it shall be construed to
188 include sales described in this subsection, except as may be specifically
189 provided to the contrary.

190 Sec. 2. Subdivision (1) of section 12-408 of the general statutes, as
191 amended by section 3 of public act 01-6 of the June special session, is
192 repealed and the following is substituted in lieu thereof (*Effective from*
193 *passage*):

194 (1) For the privilege of making any sales, as defined in subdivision
195 (2) of section 12-407, as amended by this act, at retail, in this state for a
196 consideration, a tax is hereby imposed on all retailers at the rate of six
197 per cent of the gross receipts of any retailer from the sale of all tangible
198 personal property sold at retail or from the rendering of any services
199 constituting a sale in accordance with subdivision (2) of section 12-407,
200 as amended by this act, except, in lieu of said rate of six per cent, (A) at
201 a rate of twelve per cent with respect to each transfer of occupancy,
202 from the total amount of rent received for such occupancy of any room
203 or rooms in a hotel or lodging house for the first period not exceeding
204 thirty consecutive calendar days, (B) with respect to the sale of a motor
205 vehicle to any individual who is a member of the armed forces of the
206 United States and is on full-time active duty in Connecticut and who is
207 considered, under 50 App USC 574, a resident of another state, or to
208 any such individual and the spouse thereof, at a rate of four and
209 one-half per cent of the gross receipts of any retailer from such sales,
210 provided such retailer requires and maintains a declaration by such
211 individual, prescribed as to form by the commissioner and bearing
212 notice to the effect that false statements made in such declaration are
213 punishable, or other evidence, satisfactory to the commissioner,
214 concerning the purchaser's state of residence under 50 App USC 574,
215 (C) (i) with respect to the sales of computer and data processing
216 services occurring on or after July 1, 1997, and prior to July 1, 1998, at
217 the rate of five per cent, on or after July 1, 1998, and prior to July 1,
218 1999, at the rate of four per cent, on or after July 1, 1999, and prior to

219 July 1, 2000, at the rate of three per cent, on or after July 1, 2000, and
220 prior to July 1, 2001, at the rate of two per cent, on or after July 1, 2001,
221 and prior to July 1, 2002, at the rate of one per cent and on and after
222 July 1, 2002, such services shall be exempt from such tax, (ii) with
223 respect to sales of Internet access services, on and after July 1, 2001,
224 such services shall be exempt from such tax, and [(D) with respect to
225 the sales of labor that is otherwise taxable under subdivision (c) or (g)
226 of subsection (2) of section 12-407 on existing vessels and repair or
227 maintenance services on vessels occurring on and after July 1, 1999,
228 such services shall be exempt from such tax, (E) with respect to sales of
229 the renovation and repair services of paving of any sort, painting or
230 staining, wallpapering, roofing, siding and exterior sheet metal work,
231 to other than industrial, commercial or income-producing real
232 property, occurring on or after July 1, 1999, and prior to July 1, 2000, at
233 the rate of four per cent, with respect to such sales occurring on or after
234 July 1, 2000, but prior to July 1, 2001, at the rate of two per cent, and on
235 and after July 1, 2001, sales of such renovation and repair services shall
236 be exempt from such tax, and (F)] (D) with respect to sales of patient
237 care services occurring on or after July 1, 1999, and prior to July 1,
238 2001, and with respect to sales of such services occurring on or after
239 July 1, 2003, at the rate of five and three-fourths per cent. The rate of
240 tax imposed by this chapter shall be applicable to all retail sales upon
241 the effective date of such rate, except that a new rate which represents
242 an increase in the rate applicable to the sale shall not apply to any sales
243 transaction wherein a binding sales contract without an escalator
244 clause has been entered into prior to the effective date of the new rate
245 and delivery is made within ninety days after the effective date of the
246 new rate. For the purposes of payment of the tax imposed under this
247 section, any retailer of services taxable under subdivision (2)(i) of
248 section 12-407, as amended by this act, who computes taxable income,
249 for purposes of taxation under the Internal Revenue Code of 1986, or
250 any subsequent corresponding internal revenue code of the United
251 States, as from time to time amended, on an accounting basis which
252 recognizes only cash or other valuable consideration actually received

253 as income and who is liable for such tax only due to the rendering of
254 such services may make payments related to such tax for the period
255 during which such income is received, without penalty or interest,
256 without regard to when such service is rendered.

257 Sec. 3. Subdivision (1) of section 12-411 of the general statutes, as
258 amended by sections 2 and 65 of public act 01-6 of the June special
259 session, is repealed and the following is substituted in lieu thereof
260 (*Effective from passage*):

261 (1) An excise tax is hereby imposed on the storage, acceptance,
262 consumption or any other use in this state of tangible personal
263 property purchased from any retailer for storage, acceptance,
264 consumption or any other use in this state, the acceptance or receipt of
265 any services constituting a sale in accordance with subdivision (2) of
266 section 12-407, as amended by this act, purchased from any retailer for
267 consumption or use in this state, or the storage, acceptance,
268 consumption or any other use in this state of tangible personal
269 property which has been manufactured, fabricated, assembled or
270 processed from materials by a person, either within or without this
271 state, for storage, acceptance, consumption or any other use by such
272 person in this state, to be measured by the sales price of materials, at
273 the rate of six per cent of the sales price of such property or services,
274 except, in lieu of said rate of six per cent, (A) at a rate of twelve per
275 cent of the rent paid for occupancy of any room or rooms in a hotel or
276 lodging house for the first period of not exceeding thirty consecutive
277 calendar days, (B) with respect to the storage, acceptance, consumption
278 or use in this state of a motor vehicle purchased from any retailer for
279 storage, acceptance, consumption or use in this state by any individual
280 who is a member of the armed forces of the United States and is on
281 full-time active duty in Connecticut and who is considered, under 50
282 App USC 574, a resident of another state, or to any such individual
283 and the spouse of such individual at a rate of four and one-half per
284 cent of the sales price of such vehicle, provided such retailer requires
285 and maintains a declaration by such individual, prescribed as to form

286 by the commissioner and bearing notice to the effect that false
287 statements made in such declaration are punishable, or other evidence,
288 satisfactory to the commissioner, concerning the purchaser's state of
289 residence under 50 App USC 574, [(C) with respect to the acceptance or
290 receipt in this state of labor that is otherwise taxable under subdivision
291 (c) or (g) of subsection (2) of section 12-407 on existing vessels and
292 repair or maintenance services on vessels occurring on and after July 1,
293 1999, such services shall be exempt from such tax, (D)] (C) (i) with
294 respect to the acceptance or receipt in this state of computer and data
295 processing services purchased from any retailer for consumption or
296 use in this state occurring on or after July 1, 1997, and prior to July 1,
297 1998, at the rate of five per cent of such services, on or after July 1,
298 1998, and prior to July 1, 1999, at the rate of four per cent of such
299 services, on or after July 1, 1999, and prior to July 1, 2000, at the rate of
300 three per cent of such services, on or after July 1, 2000, and prior to July
301 1, 2001, at the rate of two per cent of such services, on and after July 1,
302 2001, and prior to July 1, 2002, at the rate of one per cent of such
303 services and on and after July 1, 2002, such services shall be exempt
304 from such tax, and (ii) with respect to the acceptance or receipt in this
305 state of Internet access services, on or after July 1, 2001, such services
306 shall be exempt from tax, [(E)] and (D) with respect to the acceptance
307 or receipt in this state of patient care services purchased from any
308 retailer for consumption or use in this state occurring on or after July 1,
309 1999, and prior to July 1, 2001, and with respect to acceptance or
310 receipt in this state of such services occurring on or after July 1, 2003, at
311 the rate of five and three-fourths per cent.] and (F) with respect to
312 acceptance of the renovation and repair services of paving of any sort,
313 painting or staining, wallpapering, roofing, siding and exterior sheet
314 metal work, to other than industrial, commercial or income-producing
315 real property, occurring on or after July 1, 1999, and prior to July 1,
316 2000, at the rate of four per cent, with respect to such sales occurring
317 on or after July 1, 2000, and prior to July 1, 2001, at the rate of two per
318 cent, and on and after July 1, 2001, sales of such renovation and repair
319 services shall be exempt from such tax.]

320 Sec. 4. Subdivision (9) of section 12-412 of the general statutes is
321 repealed and the following is substituted in lieu thereof (*Effective from*
322 *passage*):

323 (9) Sales of (A) food products, meals, candy, confectionery and
324 beverages, except alcoholic beverages, in a student cafeteria, dining-
325 hall, dormitory, fraternity or sorority maintained in a private, public or
326 parochial school, college or university, to members of such institutions
327 or organizations, including all sales of such items to such members at
328 such institutions or organizations using prepaid meal plan cards or
329 arrangements; and [sales of] (B) food products, meals, candy,
330 confectionery and beverages to patients, residents or care recipients in
331 hospitals, residential care homes, assisted living facilities, senior
332 centers, day care centers, convalescent homes, nursing homes and rest
333 homes, and food preparation or food services or management of such
334 services to any hospital, residential care home, assisted living facility,
335 senior center, day care center, convalescent home, nursing home or
336 rest home.

337 Sec. 5. Subdivision (89) of section 12-412 of the general statutes is
338 repealed and the following is substituted in lieu thereof (*Effective from*
339 *passage*):

340 (89) Sales of and the storage, use or other consumption of
341 machinery, equipment, tools, materials, supplies and fuel used directly
342 in the biotechnology industry. For the purposes of this subsection,
343 "biotechnology" means the application of technologies, such as
344 recombinant DNA techniques, biochemistry, molecular and cellular
345 biology, genetics and genetic engineering, biological cell fusion
346 techniques, and new bioprocesses, using living organisms, or parts of
347 organisms, to produce or modify products, to improve plants or
348 animals, [to develop microorganisms for specific uses,] to identify
349 targets for small molecule pharmaceutical development, to transform
350 biological systems into useful processes and products or to develop
351 microorganisms for specific uses.

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</i>
Sec. 5	<i>from passage</i>

Statement of Purpose:

To provide an exemption from the sales tax for business analysis, management, management consulting and public relations services rendered by a certificated air carrier; to clarify that sales of meals to nursing home patients are exempt from sales tax; and to make technical changes and to delete 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.]