



House of Representatives

General Assembly

File No. 557

January Session, 2003

Substitute House Bill No. 6625

House of Representatives, April 28, 2003

The Committee on Finance, Revenue and Bonding reported through REP. STILLMAN of the 38th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

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. Subsections (a) and (b) of section 12-35a of the general
2 statutes are repealed and the following is substituted in lieu thereof
3 (*Effective July 1, 2003*):

4 (a) Whenever used in this section, unless the context otherwise
5 requires: (1) "Goods" means goods₂ as defined in subdivision (44) of
6 subsection (a) of section 42a-9-102; (2) "proceeds" means proceeds₂ as
7 defined in subdivision (64) of subsection (a) of section 42a-9-102; (3)
8 "debtor" means the taxpayer; (4) "secured party" means the state of
9 Connecticut; (5) "collateral" means property which is the subject of the
10 tax lien; (6) "obligations" means amount of tax and accrued penalties
11 and interest claimed to be due the state in relation to the tax lien; (7)
12 "person" means any individual, trust, partnership, association,

13 company, limited liability company or corporation; (8) "purchase
14 money security interest" means purchase money security interest, as
15 defined in section 42a-9-103a; (9) "commercial transactions financing
16 agreement" means an agreement entered into by a person in the course
17 of his trade or business to make loans to the taxpayer, part or all of the
18 security for repayment of any such loan being inventory acquired by
19 the taxpayer in the ordinary course of trade or business; (10) "qualified
20 property" when used with respect to a commercial transactions
21 financing agreement, means inventory; (11) "obligatory disbursement
22 agreement" means an agreement, entered into by a person in the
23 course of trade or business, to make disbursements but such an
24 agreement shall be considered within this term only to the extent of
25 disbursements which are required to be made by reason of the
26 intervention of the rights of a person other than the taxpayer; (12)
27 "qualified property" when used with respect to obligatory
28 disbursement agreement, means property subject to the lien imposed
29 in accordance with this section, at the time of tax lien filing and, to the
30 extent that the acquisition is directly traceable to the disbursements
31 under an obligatory disbursement agreement, property acquired by
32 the taxpayer after the time of tax lien filing; (13) "inventory" means
33 inventory, as defined in subdivision (48) of subsection (a) of section
34 42a-9-102; (14) "lien creditor" means lien creditor, as [that term is]
35 defined in subdivision (52) of subsection (a) of section 42a-9-102; (15)
36 "account" means account, as defined in subdivision (2) of subsection (a)
37 of section 42a-9-102; (16) "chattel paper" means chattel paper, as
38 defined in subdivision (11) of subsection (a) of section 42a-9-102; (17)
39 "commercial tort claim" means commercial tort claim, as defined in
40 subdivision (13) of subsection (a) of section 42a-9-102; (18) "deposit
41 account" means deposit account, as defined in subdivision (29) of
42 subsection (a) of section 42a-9-102; (19) "document" means document,
43 as defined in subdivision (30) of subsection (a) of section 42a-9-102;
44 (20) "general intangible" means general intangible, as defined in
45 subdivision (42) of subsection (a) of section 42a-9-102; (21) "instrument"
46 means instrument, as defined in subdivision (47) of subsection (a) of
47 section 42a-9-102; (22) "investment property" means investment

48 property, as defined in subdivision (49) of subsection (a) of section 42a-
49 9-102; (23) "filing office" means filing office, as defined in subdivision
50 (37) of subsection (a) of section 42a-9-102; and (24) "state" means state,
51 as defined in subdivision (76) of subsection (a) of section 42a-9-102,
52 except that "the state" or "this state" means the state of Connecticut.

53 (b) Upon failure of any person to pay any tax, except taxes under
54 chapter 216, due the state within thirty days from its due date, or if
55 before the due date of any tax, except taxes under [said] chapter 216,
56 the Commissioner of Revenue Services believes that the collection of
57 such tax will be jeopardized by delay, the state shall have a lien, upon
58 perfection as hereinafter provided, upon the goods, accounts, chattel
59 paper, instruments, documents, investment property, deposit
60 accounts, commercial tort claims and general intangibles situated in
61 this state and owned by the taxpayer upon the date of perfection, or
62 upon the goods, accounts, chattel paper, instruments, documents,
63 investment property, deposit accounts, commercial tort claims and
64 general intangibles thereafter acquired by the taxpayer. Such lien shall
65 attach and become perfected at the time when notice of such lien is
66 filed pursuant to the filing provisions of part 5 of article 9 of title 42a,
67 except that the signature of the taxpayer against whose property the
68 lien is claimed shall not be required on said notice of lien and, in each
69 case, the lien shall be filed as if the debtor were located in this state.
70 Nothing in this section shall be construed as prohibiting the
71 commissioner from filing both a notice of lien as if the debtor were
72 located in this state and a notice of lien with the filing office of a state
73 other than this state, if the commissioner determines that it would be
74 beneficial to this state to do so. Except as hereinafter provided, upon
75 perfection, such lien shall have priority over all subsequently perfected
76 liens and security interests.

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

79 The Commissioner of Revenue Services may allow the payment of
80 taxes, penalties, interest and fees by means of a credit card, charge card

81 or debit card and may charge the taxpayer a service fee for any such
82 payment made by [credit] any such card. The fee shall not exceed any
83 charge by the [credit] card issuer, including any discount rate.
84 Payments by [credit] any such card shall be made at such times and
85 under such conditions as said commissioner may prescribe. The debt
86 incurred through the payment of taxes by means of [a credit] any such
87 card shall not be considered a tax collectible pursuant to the provisions
88 of sections 12-35a, as amended by this act, and 12-35b.

89 Sec. 3. Section 12-497a of the general statutes is repealed and the
90 following is substituted in lieu thereof (*Effective from passage*):

91 [Neither the tax imposed by section 12-494 nor the requirement of
92 filing a return prescribed by the Commissioner of Revenue Services
93 imposed by section 12-497 shall apply to the transfer of burial rights
94 for a lot in a cemetery organized pursuant to chapter 368j.]

95 (a) The tax imposed by section 12-494 and the requirement of filing
96 a return pursuant to section 12-497 shall not apply to the transfer of
97 burial rights for a lot in a cemetery organized pursuant to chapter 368j.

98 (b) The requirement of filing a return pursuant to section 12-497
99 shall not apply to any deed, instrument or writing which is solely a
100 grant of easement and to which this state or any of its political
101 subdivisions or its or their respective agencies is a party.

102 Sec. 4. Section 12-707 of the general statutes is repealed and the
103 following is substituted in lieu thereof (*Effective for calendar years*
104 *commencing on or after January 1, 2003*):

105 (a) Each employer required to deduct and withhold tax under this
106 chapter shall be liable for such tax and shall file a withholding return
107 as prescribed by the Commissioner of Revenue Services and pay over
108 to the commissioner, or to a depository designated by the
109 commissioner, the taxes so required to be deducted and withheld at
110 the same times that such employer is required, under federal law and
111 regulations, to pay over federal taxes that are required to be deducted

112 and withheld from wages of employees, except if the amount of taxes
113 required to be deducted and withheld in a calendar quarter is less than
114 five hundred dollars and if the employer is required, under federal law
115 and regulations, to pay over federal taxes that are required to be
116 deducted and withheld from wages of employees on or before the last
117 day of the month next succeeding such calendar quarter, the employer
118 shall file a withholding return and pay over such taxes on or before the
119 last day of the month next succeeding the calendar quarter for which
120 the taxes were deducted and withheld. In the case of an overpayment
121 of tax under this chapter by an employer, refund or credit shall be
122 made to the employer only to the extent that the amount of such
123 overpayment was not deducted and withheld by the employer.

124 (b) [Such] The amount of tax required to be deducted and withheld
125 and paid over to the commissioner under this chapter, when so
126 deducted and withheld, shall be held to be a special fund in trust for
127 the state. No employee or other person shall have any right of action
128 against the employer in respect to any moneys deducted and withheld
129 from wages and paid over to the commissioner in compliance or in
130 intended compliance with this chapter.

131 Sec. 5. Section 12-730 of the general statutes is repealed and the
132 following is substituted in lieu thereof (*Effective from passage*):

133 Notwithstanding the provisions of chapter 54 to the contrary, any
134 taxpayer aggrieved because of any determination or disallowance by
135 the commissioner under section 12-729, 12-729a or 12-732 may, within
136 one month after notice of the commissioner's determination or
137 disallowance is mailed to the taxpayer, take an appeal therefrom to the
138 superior court for the judicial district of New Britain, which shall be
139 accompanied by a citation to the commissioner to appear before said
140 court. Such citation shall be signed by the same authority, and such
141 appeal shall be returnable at the same time and served and returned in
142 the same manner, as is required in case of a summons in a civil action.
143 The authority issuing the citation shall take from the appellant a bond
144 or recognizance to the state of Connecticut, with surety to prosecute

145 the appeal to effect and to comply with the orders and decrees of the
146 court in the premises. Such appeals shall be preferred cases, to be
147 heard unless cause appears to the contrary, at the first session by the
148 court or by a committee appointed by it. Said court may grant such
149 relief as may be equitable and, if such tax has been paid prior to the
150 granting of such relief, may order the Treasurer to pay the amount of
151 such relief, with interest at the rate of two-thirds of one per cent per
152 month or fraction thereof, to the aggrieved taxpayer. If the appeal has
153 been taken without probable cause, the court may charge double or
154 triple costs, as the case demands, and upon all such appeals which
155 may be denied, costs may be taxed against the appellant at the
156 discretion of the court but no costs shall be taxed against the state.

157 Sec. 6. (NEW) (*Effective from passage and applicable to tax returns first*
158 *required to be filed with the Commissioner of Revenue Services on or after*
159 *January 1, 2004*) (a) The Commissioner of Revenue Services may
160 require, with respect to any amount required to be shown on a form
161 prescribed for any return, statement or other document required to be
162 filed with the commissioner under authority of any provision of the
163 general statutes, that if such amount of such item is other than a
164 whole-dollar amount, either (1) the fractional part of a dollar shall be
165 disregarded; or (2) the fractional part of a dollar shall be disregarded
166 unless it amounts to one-half dollar or more, in which case the amount,
167 determined without regard to the fractional part of a dollar, shall be
168 increased by one dollar.

169 (b) The provisions of subsection (a) of this section shall not be
170 applicable to items which are required to be taken into account in
171 making the computations necessary to determine the amount required
172 to be shown on a form, but shall be applicable only to such final
173 amount.

174 Sec. 7. Section 12-478 of the general statutes is repealed and the
175 following is substituted in lieu thereof (*Effective from passage*):

176 Whenever used in this chapter:

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

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

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

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

191 [(5)] (4) "Qualified motor vehicle" means a motor vehicle that is
192 used, designed or maintained for transportation of persons or property
193 and that (A) has two axles and a gross vehicle weight or registered
194 gross vehicle weight exceeding twenty-six thousand pounds; or (B) has
195 three or more axles regardless of weight; or (C) is used in combination
196 and the combined gross vehicle weight or registered gross vehicle
197 weight exceeds twenty-six thousand pounds; but does not include a
198 recreation vehicle that is used exclusively for personal pleasure, and
199 not used in connection with any trade or business, by an individual.

200 Sec. 8. Subdivision (4) of section 52-350a of the general statutes is
201 repealed and the following is substituted in lieu thereof (*Effective from*
202 *passage*):

203 (4) "Disposable earnings" means that part of the earnings of an
204 individual remaining after the deduction from those earnings of
205 amounts required to be withheld for payment of federal income and
206 employment taxes, normal retirement contributions, union dues and
207 initiation fees, group life insurance premiums, health insurance

208 premiums, and federal tax levies. [, and state income tax deductions
209 authorized pursuant to section 12-34b.]

210 Sec. 9. Subsection (i) of section 52-361a of the general statutes is
211 repealed and the following is substituted in lieu thereof (*Effective from*
212 *passage*):

213 (i) Any assignment by an employee of his earnings shall be void
214 except (1) payments due for support in public welfare cases [,] and
215 payments pursuant to a family support judgment, [and assignments
216 provided for in section 12-34b,] and (2) deductions for union dues and
217 initiation fees in accordance with the terms of a duly executed contract
218 between an employer and his employees or a collective bargaining
219 agent or in accordance with a duly executed authorization signed by
220 the employee for the payment of such dues or initiation fees or both to
221 such collective bargaining agent.

222 Sec. 10. Subsection (a) of section 31-71b of the general statutes is
223 repealed and the following is substituted in lieu thereof (*Effective from*
224 *passage*):

225 (a) [Except as otherwise provided in section 12-34b, each] Each
226 employer, by himself, his agent or representative, shall pay weekly all
227 moneys due each employee on a regular pay day, designated in
228 advance by the employer, in cash, by negotiable checks or, upon an
229 employee's written request, by credit to such employee's account in
230 any bank which has agreed with the employer to accept such wage
231 deposits.

232 Sec. 11. (*Effective from passage*) Sections 12-34b and 12-484a of the
233 general statutes are repealed.

This act shall take effect as follows:	
Section 1	<i>July 1, 2003</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>

Sec. 4	<i>for calendar years commencing on or after January 1, 2003</i>
Sec. 5	<i>from passage</i>
Sec. 6	<i>from passage and applicable to tax returns first required to be filed with the Commissioner of Revenue Services on or after January 1, 2004</i>
Sec. 7	<i>from passage</i>
Sec. 8	<i>from passage</i>
Sec. 9	<i>from passage</i>
Sec. 10	<i>from passage</i>
Sec. 11	<i>from passage</i>

FIN *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note and OLR Bill Analysis

State Impact: See Explanation Below

Municipal Impact: None

Explanation

OFA FISCAL IMPACT

The fiscal impact of the bill has been provided before the description of each section.

OLR SUMMARY:

This bill:

1. gives the Department of Revenue Services (DRS) commissioner additional power to use tax liens,
2. allows taxpayers to use additional tax payment methods,
3. eliminates certain paperwork filings related to the real estate conveyance tax,
4. limits employer refunds for income tax withholding overpayments,
5. allows taxpayers to appeal DRS jeopardy assessments,
6. allows DRS to mandate use of rounded whole numbers on tax filings, and
7. eliminates several obsolete statutory provisions.

A section-by-section analysis follows.

EFFECTIVE DATE: Various. See below.

§ 1 - TAX LIENS ON INTANGIBLE PROPERTY

OFA Fiscal Impact

Currently, the Department of Revenues Services (DRS) has 1,400 Uniform Commercial Code tax liens. Under the provisions of the section the Commissioner of DRS will have an increased opportunity to file a lien, which ultimately could result in additional revenue.

OLR Analysis:

The bill authorizes the DRS commissioner to place tax liens against a delinquent taxpayer's Connecticut intangible property as well as on his "goods." Under the bill, the commissioner could place liens for unpaid taxes on accounts, chattel paper, instruments, documents, investment property, deposit, accounts, commercial tort claims, and general intangibles, as defined in the Uniform Commercial Code. Such items include security interests, certain rights or claims to monetary payments, bank accounts, security interests, and software.

The bill also expressly allows the commissioner to file a lien against a debtor in both this state and in another if she decides it would benefit Connecticut.

EFFECTIVE DATE: July 1, 2003

§ 2 - TAX PAYMENTS BY CHARGE AND DEBIT CARD

OFA Fiscal Impact

No fiscal impact

OLR Analysis:

The bill allows taxpayers to use debit and charge cards, as well as credit cards, to pay taxes and allows the DRS commissioner to charge a service fee, not exceeding the card issuer's charge, on payments with such cards.

EFFECTIVE DATE: Upon passage

§ 3 - REAL ESTATE CONVEYANCE TAX RETURNS FOR CERTAIN EASEMENTS

OFA Fiscal Impact

No fiscal impact

OLR Analysis:

The bill eliminates the requirement to file a real estate conveyance tax return with the appropriate town clerk when the state, a political subdivision, or any agency of the state or a political subdivision is a party to the conveyance and the only thing being conveyed is an easement. Such conveyances are already exempt from the tax.

The bill also makes a technical change.

EFFECTIVE DATE: Upon passage

§ 4 - REFUNDS OF EMPLOYER WITHHOLDING TAX PAYMENTS

OFA Fiscal Impact

This section has no fiscal impact because it conforms the law to current DRS practice.

OLR Analysis:

The bill limits an employer's refund or credit for overpayments of income tax withholding only to amounts he failed to withhold from employees' pay during the year. By law, an employer must withhold from employee wages and pay to DRS the amount of Connecticut income taxes the employer reasonably expects to be due on those wages. Employers are liable for the tax payments whether or not they withhold the correct amount.

EFFECTIVE DATE: Calendar years beginning on or after January 1, 2003

§ 5 - INCOME TAX JEOPARDY ASSESSMENT APPEALS**OFA Fiscal Impact**

This section has no fiscal impact because it conforms the law to current DRS practice.

OLR Analysis:

The bill allows taxpayers aggrieved by a DRS income tax jeopardy assessment to appeal the commissioner's determination or disallowance under the assessment to Superior Court within one month of receiving it, according to the same appeal procedures that already apply to deficiency assessment and refund determinations and disallowances. By law, the commissioner can demand immediate payment of personal income taxes when he believes a delay will jeopardize collection of the tax. Such a jeopardy assessment becomes final 10 days after notice is served on the taxpayer unless the taxpayer files a written protest with the commissioner within that time.

EFFECTIVE DATE: Upon passage

§ 6 - USE OF ROUNDED NUMBERS ON TAX FILINGS**OFA Fiscal Impact**

No fiscal impact

OLR Analysis:

The bill allows the revenue services commissioner to require taxpayers to use only rounded, whole numbers when entering amounts on any required tax returns, statements, and other documents. Under the bill, fractional amounts under 50 cents must be rounded down, and fractional amounts of 50 cents or more rounded up, to whole dollars. But these rounding provisions do not apply to figures used to compute amounts that must be entered on tax forms.

EFFECTIVE DATE: Upon passage and applicable to tax returns first filed on or after January 1, 2004.

§§ 7-11 - OBSOLETE PROVISIONS

OFA Fiscal Impact

No fiscal impact

OLR Analysis:

The bill eliminates obsolete provisions:

1. defining “charter” and “special operations” for purposes of the motor carrier road tax in conformity with 1995 changes of the definition of motor carriers subject to the tax (§ 7);
2. allowing DRS to establish and enforce information-sharing agreements with New York or other out-of-state tax jurisdictions if needed to secure tax advantages for Connecticut residents under the other jurisdictions’ laws (§ 8-11);
3. a redundant provision, also covered by CGS § 12-706, allowing Connecticut employers of out-of-state residents to withhold another state’s taxes from their wages according to specified procedures (§§ 8-11); and
4. allowing a passenger motor carrier subject to the tax that provides a small amount of special or charter services in addition to its regularly scheduled services to exclude the special services from its quarterly tax returns (§ 11).

EFFECTIVE DATE: Upon passage

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 44 Nay 0

OLR Bill Analysis

sHB 6625

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

SUMMARY:

The OLR analysis for sHB 6625 is incorporated into the fiscal note (see above).

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 44 Nay 0