



General Assembly

January Session, 2003

Raised Bill No. 6625

LCO No. 3993

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. 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2 statutes are repealed and the following is substituted in lieu thereof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 interest₂ 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. Subsection (b) of section 12-229 of the general statutes is
90 repealed and the following is substituted in lieu thereof (*Effective from*
91 *passage for income years commencing on or after January 1, 2003*):

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

103 Sec. 4. Subsection (b) of section 12-395 of the general statutes is
104 repealed and the following is substituted in lieu thereof (*Effective from*
105 *passage*):

106 (b) Any person aggrieved by any order, decision, determination or
107 disallowance of the Commissioner of Revenue Services under the
108 provisions of this chapter may, not later than one month after service
109 upon the person of notice of such order, decision, determination or
110 disallowance, make a written application for a hearing to the court of
111 probate for the district within which the decedent resided at the date
112 of his death, or within which the commissioner contends that the
113 decedent resided at the date of his death or, if the decedent died a
114 nonresident of this state, in the court of probate for the district within

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

148 Sec. 5. Section 12-497a of the general statutes is repealed and the

149 following is substituted in lieu thereof (*Effective from passage*):

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

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

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

161 Sec. 6. Section 12-707 of the general statutes is repealed and the
162 following is substituted in lieu thereof (*Effective for calendar years*
163 *commencing on or after January 1, 2003*):

164 (a) Each employer required to deduct and withhold tax under this
165 chapter shall be liable for such tax and shall file a withholding return
166 as prescribed by the Commissioner of Revenue Services and pay over
167 to the commissioner, or to a depository designated by the
168 commissioner, the taxes so required to be deducted and withheld at
169 the same times that such employer is required, under federal law and
170 regulations, to pay over federal taxes that are required to be deducted
171 and withheld from wages of employees, except if the amount of taxes
172 required to be deducted and withheld in a calendar quarter is less than
173 five hundred dollars and if the employer is required, under federal law
174 and regulations, to pay over federal taxes that are required to be
175 deducted and withheld from wages of employees on or before the last
176 day of the month next succeeding such calendar quarter, the employer
177 shall file a withholding return and pay over such taxes on or before the
178 last day of the month next succeeding the calendar quarter for which
179 the taxes were deducted and withheld. In the case of an overpayment

180 of tax under this chapter by an employer, refund or credit shall be
181 made to the employer only to the extent that the amount of such
182 overpayment was not deducted and withheld by the employer.

183 (b) [Such] The amount of tax required to be deducted and withheld
184 and paid over to the commissioner under this chapter, when so
185 deducted and withheld, shall be held to be a special fund in trust for
186 the state. No employee or other person shall have any right of action
187 against the employer in respect to any moneys deducted and withheld
188 from wages and paid over to the commissioner in compliance or in
189 intended compliance with this chapter.

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

192 Notwithstanding the provisions of chapter 54 to the contrary, any
193 taxpayer aggrieved because of any determination or disallowance by
194 the commissioner under section 12-729, 12-729a or 12-732 may, within
195 one month after notice of the commissioner's determination or
196 disallowance is mailed to the taxpayer, take an appeal therefrom to the
197 superior court for the judicial district of New Britain, which shall be
198 accompanied by a citation to the commissioner to appear before said
199 court. Such citation shall be signed by the same authority, and such
200 appeal shall be returnable at the same time and served and returned in
201 the same manner, as is required in case of a summons in a civil action.
202 The authority issuing the citation shall take from the appellant a bond
203 or recognizance to the state of Connecticut, with surety to prosecute
204 the appeal to effect and to comply with the orders and decrees of the
205 court in the premises. Such appeals shall be preferred cases, to be
206 heard unless cause appears to the contrary, at the first session by the
207 court or by a committee appointed by it. Said court may grant such
208 relief as may be equitable and, if such tax has been paid prior to the
209 granting of such relief, may order the Treasurer to pay the amount of
210 such relief, with interest at the rate of two-thirds of one per cent per
211 month or fraction thereof, to the aggrieved taxpayer. If the appeal has

212 been taken without probable cause, the court may charge double or
213 triple costs, as the case demands, and upon all such appeals which
214 may be denied, costs may be taxed against the appellant at the
215 discretion of the court but no costs shall be taxed against the state.

216 Sec. 8. Subsection (b) of section 12-735 of the general statutes is
217 repealed and the following is substituted in lieu thereof (*Effective from*
218 *passage for taxable years commencing on or after January 1, 2003*):

219 (b) If any person has not made a return within three months after
220 the time specified under the provisions of this chapter, the
221 commissioner may make such return at any time thereafter, according
222 to the best information obtainable and according to the form
223 prescribed. The making of a return by the commissioner pursuant to
224 the authority conferred under this section shall not constitute the filing
225 of a return by such person for purposes of subsection (c) of section 12-
226 733 or subsection (a) of section 12-737. To the tax imposed upon the
227 basis of such return, there shall be added an amount equal to ten per
228 cent of such tax or fifty dollars, whichever is greater. The tax shall bear
229 interest at the rate of one per cent per month or fraction thereof, from
230 the due date of such tax until the date of payment. No taxpayer shall
231 be subject to a penalty under both subsections (a) and (b) of this section
232 in relation to the same tax [period] return.

233 Sec. 9. (NEW) (*Effective from passage*) On or after January 1, 2003, an
234 erroneous refund made by the Department of Revenue Services shall
235 be considered an underpayment of tax on the date made, and an
236 assessment of the deficiency arising out of an erroneous refund may be
237 made in the manner prescribed for making a deficiency assessment
238 under authority of any provision of the general statutes by the
239 Commissioner of Revenue Services at any time not later than three
240 years after the making of the refund, except that the assessment may
241 be made at any time if it appears that any part of the refund was
242 induced by fraud or misrepresentation of a material fact.

243 Sec. 10. (NEW) (*Effective from passage and applicable to tax returns first*

244 *required to be filed with the Commissioner of Revenue Services on or after*
245 *January 1, 2004)* (a) The Commissioner of Revenue Services may
246 require, with respect to any amount required to be shown on a form
247 prescribed for any return, statement or other document required to be
248 filed with the commissioner under authority of any provision of the
249 general statutes, that if such amount of such item is other than a
250 whole-dollar amount, either (1) the fractional part of a dollar shall be
251 disregarded; or (2) the fractional part of a dollar shall be disregarded
252 unless it amounts to one-half dollar or more, in which case the amount
253 shall be increased by one dollar.

254 (b) The provisions of subsection (a) of this section shall not be
255 applicable to items which are required to be taken into account in
256 making the computations necessary to determine the amount required
257 to be shown on a form, except that said provisions shall be applicable
258 to such amount.

259 (c) The provisions of subsection (a) of this section shall not be
260 applicable to tax returns that are required to be filed under chapter 229
261 of the general statutes by any taxpayer who is an individual.

262 Sec. 11. Section 12-478 of the general statutes is repealed and the
263 following is substituted in lieu thereof (*Effective from passage*):

264 Whenever used in this chapter:

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

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

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

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

279 [(5)] (4) "Qualified motor vehicle" means a motor vehicle that is
280 used, designed or maintained for transportation of persons or property
281 and that (A) has two axles and a gross vehicle weight or registered
282 gross vehicle weight exceeding twenty-six thousand pounds; or (B) has
283 three or more axles regardless of weight; or (C) is used in combination
284 and the combined gross vehicle weight or registered gross vehicle
285 weight exceeds twenty-six thousand pounds; but does not include a
286 recreation vehicle that is used exclusively for personal pleasure, and
287 not used in connection with any trade or business, by an individual.

288 Sec. 12. Subdivision (4) of section 52-350a of the general statutes is
289 repealed and the following is substituted in lieu thereof (*Effective from*
290 *passage*):

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

298 Sec. 13. Subsection (i) of section 52-361a of the general statutes is
299 repealed and the following is substituted in lieu thereof (*Effective from*
300 *passage*):

301 (i) Any assignment by an employee of his earnings shall be void
302 except (1) payments due for support in public welfare cases [,] and
303 payments pursuant to a family support judgment, [and assignments

304 provided for in section 12-34b,] and (2) deductions for union dues and
 305 initiation fees in accordance with the terms of a duly executed contract
 306 between an employer and his employees or a collective bargaining
 307 agent or in accordance with a duly executed authorization signed by
 308 the employee for the payment of such dues or initiation fees or both to
 309 such collective bargaining agent.

310 Sec. 14. Subsection (a) of section 31-71b of the general statutes is
 311 repealed and the following is substituted in lieu thereof (*Effective from*
 312 *passage*):

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

320 Sec. 15. (*Effective from passage*) Sections 12-34b and 12-484a of the
 321 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 for income years commencing on or after January 1, 2003</i>
Sec. 4	<i>from passage</i>
Sec. 5	<i>from passage</i>
Sec. 6	<i>for calendar years commencing on or after January 1, 2003</i>
Sec. 7	<i>from passage</i>
Sec. 8	<i>from passage for taxable years commencing on or after January 1, 2003</i>
Sec. 9	<i>from passage</i>

Sec. 10	<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. 11	<i>from passage</i>
Sec. 12	<i>from passage</i>
Sec. 13	<i>from passage</i>
Sec. 14	<i>from passage</i>
Sec. 15	<i>from passage</i>

Statement of Purpose:

To allow tax liens on intangibles; to provide for tax payments by debit cards and charge cards; to prohibit the imposition of two penalties for the same tax return; to provide for notice of certain Probate Court hearings; to eliminate the filing requirement for Real Estate Conveyance Tax purposes for conveyances of easements by or to the state or any political subdivision; to provide for a shorter statute of limitations in which an employer may claim a refund of Connecticut income tax withholding; to include jeopardy assessments in the scope of appeals available in the administration of the personal income tax; to establish a procedure by which the department may recoup refund dollars where a refund had been issued erroneously; to mandate that business taxpayers round to the nearest whole number in the calculation of their tax liability; and to repeal some 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.]