



# Senate

General Assembly

**File No. 555**

February Session, 2004

Substitute Senate Bill No. 592

*Senate, April 13, 2004*

The Committee on Finance, Revenue and Bonding reported through SEN. DAILY of the 33rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## ***AN ACT CONCERNING THE INCOME TAX AND THE ESTATE TAX.***

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

1 Section 1. Subdivisions (6) and (7) of subsection (a) of section 12-700  
2 of the general statutes, as amended by section 22 of public act 03-2, are  
3 repealed and the following is substituted in lieu thereof (*Effective from*  
4 *passage and applicable to taxable years commencing on or after January 1,*  
5 *2004*):

6 (6) For taxable years commencing on or after January 1, 2003, and  
7 prior to January 1, 2004, in accordance with the following schedule:

8 (A) For any person who files a return under the federal income tax  
9 for such taxable year as an unmarried individual or as a married  
10 individual filing separately:

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T1	Connecticut Taxable Income	Rate of Tax
T2	Not over \$10,000	3.0%
T3	Over \$10,000	\$300.00, plus 5.0% of the
T4		excess over \$10,000

11 (B) For any person who files a return under the federal income tax  
 12 for such taxable year as a head of household, as defined in Section 2(b)  
 13 of the Internal Revenue Code:

T5	Connecticut Taxable Income	Rate of Tax
T6	Not over \$16,000	3.0%
T7	Over \$16,000	\$480.00, plus 5.0% of the
T8		excess over \$16,000

14 (C) For any husband and wife who file a return under the federal  
 15 income tax for such taxable year as married individuals filing jointly or  
 16 any person who files a return under the federal income tax for such  
 17 taxable year as a surviving spouse, as defined in Section 2(a) of the  
 18 Internal Revenue Code:

T9	Connecticut Taxable Income	Rate of Tax
T10	Not over \$20,000	3.0%
T11	Over \$20,000	\$600.00, plus 5.0% of the
T12		excess over \$20,000

19 (D) For trusts or estates, the rate of tax shall be 5.0% of the  
 20 Connecticut taxable income.

21 (7) For taxable years commencing on or after January 1, 2004, in  
 22 accordance with the following schedule:

23 (A) For any person who files a return under the federal income tax  
 24 for such taxable year as an unmarried individual:

T13	<u>Connecticut Taxable Income</u>	<u>Rate of Tax</u>
T14	<u>Not over \$10,000</u>	<u>3.0%</u>
T15	<u>Over \$10,000 but not over</u>	<u>\$300.00, plus 5.0% of the</u>
T16	<u>\$531,500</u>	<u>excess over \$10,000</u>
T17	<u>Over \$531,500</u>	<u>\$26,375, plus 5.5% of the</u>
T18		<u>excess over \$531,500</u>

25 (B) For any person who files a return under the federal income tax  
 26 for such taxable year as a head of household, as defined in Section 2(b)  
 27 of the Internal Revenue Code:

T19	<u>Connecticut Taxable Income</u>	<u>Rate of Tax</u>
T20	<u>Not over \$16,000</u>	<u>3.0%</u>
T21	<u>Over \$16,000 but not over</u>	<u>\$480.00, plus 5.0% of the</u>
T22	<u>\$792,000</u>	<u>excess over \$16,000</u>
T23	<u>Over \$792,000</u>	<u>\$39,280, plus 5.5% of the</u>
T24		<u>excess over \$792,000</u>

28 (C) For any husband and wife who file a return under the federal  
 29 income tax for such taxable year as married individuals filing jointly or  
 30 any person who files a return under the federal income tax for such  
 31 taxable year as a surviving spouse, as defined in Section 2(a) of the  
 32 Internal Revenue Code:

T25	<u>Connecticut Taxable Income</u>	<u>Rate of Tax</u>
T26	<u>Not over \$20,000</u>	<u>3.0%</u>

T27	<u>Over \$20,000 but not over</u>	<u>\$600.00, plus 5.0% of the</u>
T28	<u>\$1,000,000</u>	<u>excess over \$20,000</u>
T29	<u>Over \$1,000,000</u>	<u>\$49,600, plus 5.5% of the</u>
T30		<u>excess over \$1,000,000</u>

33 (D) For any person who files a return under the federal income tax  
 34 for such taxable year as a married individual filing separately:

T31	<u>Connecticut Taxable Income</u>	<u>Rate of Tax</u>
T32	<u>Not over \$10,000</u>	<u>3.0%</u>
T33	<u>Over \$10,000 but not over</u>	<u>\$300.00, plus 5.0% of the</u>
T34	<u>\$500,000</u>	<u>excess over \$10,000</u>
T35	<u>Over \$500,000</u>	<u>\$24,800, plus 5.5% of the</u>
T36		<u>excess over \$500,000</u>

35 (E) For trusts or estates, the rate of tax shall be 5.5% of the  
 36 Connecticut taxable income.

37 [(7)] (8) The provisions of this subsection shall apply to resident  
 38 trusts and estates and, wherever reference is made in this subsection to  
 39 residents of this state, such reference shall be construed to include  
 40 resident trusts and estates, provided any reference to a resident's  
 41 Connecticut adjusted gross income derived from sources without this  
 42 state or to a resident's Connecticut adjusted gross income shall be  
 43 construed, in the case of a resident trust or estate, to mean the resident  
 44 trust or estate's Connecticut taxable income derived from sources  
 45 without this state and the resident trust or estate's Connecticut taxable  
 46 income, respectively.

47 Sec. 2. (Effective from passage) The Commissioner of Revenue Services  
 48 shall adjust the withholding tables issued for purposes of  
 49 administering the personal income tax imposed under chapter 229 of  
 50 the general statutes to take account of any changes in such tax made by

51 this act and, on or before June 1, 2004, shall issue new withholding  
52 tables applicable to taxable years commencing on or after January 1,  
53 2004, provided the tables applicable to the period from the effective  
54 date of this act to December 31, 2004, shall provide for the collection of  
55 a tax computed in such manner as to result, so far as practicable, in  
56 withholding from the employee's wages during such period an  
57 amount substantially equivalent to the tax reasonably estimated to be  
58 due from the employee under said chapter 229 with respect to the  
59 amount of such wages during a twelve-month period and further  
60 provided the tables applicable to any period after January 1, 2005, shall  
61 be prepared as provided in section 12-705 of the general statutes.

62 Sec. 3. (*Effective from passage*) Notwithstanding the provisions of  
63 section 12-722 of the general statutes, any taxpayer required to make  
64 an estimated payment in June, 2004, for the tax due under chapter 229  
65 of the general statutes shall make such payment in an amount which is  
66 adjusted for any change in the rate applicable to the current taxable  
67 year, as provided in section 12-700 of the general statutes, as amended  
68 by this act.

69 Sec. 4. Section 12-390a of the general statutes is repealed and the  
70 following is substituted in lieu thereof (*Effective from passage and*  
71 *applicable to transfers and distributions occurring on or after January 1,*  
72 *2005*):

73 [The] For purposes of this chapter, the terms "generation-skipping  
74 transfer", "taxable distribution", and "taxable termination" have the  
75 same meaning as defined in Chapter 13 of Subtitle B of the Internal  
76 Revenue Code of 1986, or any subsequent corresponding internal  
77 revenue code of the United States, [as from time to time amended] in  
78 effect as of January 1, 2001.

79 Sec. 5. Section 12-390b of the general statutes is repealed and the  
80 following is substituted in lieu thereof (*Effective from passage and*  
81 *applicable to transfers and distributions occurring on or after January 1,*  
82 *2005*):

83 (a) A tax is hereby imposed upon every generation-skipping  
84 transfer, where the original transferor is a resident of this state at the  
85 date of the original transfer. The amount of the tax shall be the amount  
86 of the federal credit allowable for generation-skipping transfer tax paid  
87 to any state under the provisions of the federal internal revenue code  
88 [in force at the date of such generation-skipping transfer] in effect as of  
89 January 1, 2001, in respect to any property included in the generation-  
90 skipping transfer. If any such property is real or tangible personal  
91 property located outside this state and is subject to generation-  
92 skipping transfer taxes by any state or states other than the state of  
93 Connecticut for which such federal credit is allowable, the amount of  
94 tax due under this section shall be reduced by the lesser of (1) the  
95 amount of any such taxes paid to such other state or states and  
96 [allowed] allowable as a credit against the federal generation-skipping  
97 transfer tax; or (2) an amount computed by multiplying such federal  
98 credit by a fraction, (A) the numerator of which is the value of all  
99 transferred real and tangible personal property which is subject to  
100 generation-skipping transfer taxes and over which such other state or  
101 states have jurisdiction for generation-skipping transfer tax purposes  
102 to the same extent to which this state would exert jurisdiction for  
103 generation-skipping transfer tax purposes under this chapter with  
104 respect to the residents of such other state or states, and (B) the  
105 denominator of which is the value of all transferred property which is  
106 subject to generation-skipping transfer taxes, wherever located.

107 (b) A tax is hereby imposed upon every generation-skipping  
108 transfer, where the original transferor is not a resident of this state at  
109 the date of the original transfer but where the generation-skipping  
110 transfer includes real or tangible personal property located in this  
111 state. The amount of the tax shall be computed by multiplying (1) the  
112 federal credit allowable for generation-skipping transfer tax paid to  
113 any state or states under the provisions of the federal internal revenue  
114 code [in force at the date of such generation-skipping transfer] in effect  
115 as of January 1, 2001, in respect to any property included in the  
116 generation-skipping transfer by (2) a fraction, (A) the numerator of  
117 which is the value of all transferred real and tangible personal

118 property which is subject to generation-skipping transfer taxes, which  
119 is located in this state and over which this state has jurisdiction for  
120 generation-skipping transfer tax purposes, and (B) the denominator of  
121 which is the value of all transferred property which is subject to  
122 generation-skipping transfer taxes, wherever located.

123 (c) For purposes of subsections (a) and (b) of this section, (1) the  
124 provisions of the federal internal revenue code in effect as of January 1,  
125 2001, shall apply, and (2) property shall have the same value that it has  
126 for federal generation-skipping transfer tax purposes.

127 Sec. 6. Subsections (a) to (c), inclusive, of section 12-391 of the  
128 general statutes are repealed and the following is substituted in lieu  
129 thereof (*Effective from passage and applicable to estates of decedents who die*  
130 *on or after January 1, 2005*):

131 (a) A tax is imposed upon the transfer of the estate of each person  
132 who at the time of death was a resident of this state. The amount of the  
133 tax shall be the amount of the federal credit allowable for estate,  
134 inheritance, legacy and succession taxes paid to any state or the  
135 District of Columbia under the provisions of the federal internal  
136 revenue code [in force at the date of such decedent's death] in effect as  
137 of January 1, 2001, in respect to any property owned by such decedent  
138 or subject to such taxes as part of or in connection with the estate of  
139 such decedent. If real or tangible personal property of such decedent is  
140 located outside of this state and is subject to estate, inheritance, legacy,  
141 or succession taxes by any state or states, other than the state of  
142 Connecticut, or by the District of Columbia for which such federal  
143 credit is allowable, the amount of tax due under this section shall be  
144 reduced by the lesser of: (1) The amount of any such taxes paid to such  
145 other state or states or said district and [allowed] allowable as a credit  
146 against the federal estate tax; or (2) an amount computed by  
147 multiplying such federal credit by a fraction, (A) the numerator of  
148 which is the value of that part of the decedent's gross estate over which  
149 such other state or states or said district have jurisdiction for estate tax  
150 purposes to the same extent to which this state would assert

151 jurisdiction for estate tax purposes under this chapter with respect to  
152 the residents of such other state or states or said district, and (B) the  
153 denominator of which is the value of the decedent's gross estate.  
154 Property of a resident estate over which this state has jurisdiction for  
155 estate tax purposes includes real property situated in this state,  
156 tangible personal property having an actual situs in this state, and  
157 intangible personal property owned by the decedent, regardless of  
158 where it is located. The amount of any estate tax imposed under this  
159 subsection shall also be reduced, but not below zero, by the amount of  
160 any tax that is imposed under chapter 216 and that is actually paid to  
161 this state.

162 (b) A tax is imposed upon the transfer of the estate of each person  
163 who at the time of death was a nonresident of this state, the amount of  
164 which shall be computed by multiplying (1) the federal credit  
165 allowable for estate, inheritance, legacy, and succession taxes paid to  
166 any state or states or the District of Columbia under the provisions of  
167 the federal internal revenue code [in force at the date of such  
168 decedent's death] in effect as of January 1, 2001, in respect to any  
169 property owned by such decedent or subject to such taxes as a part of  
170 or in connection with the estate of such decedent by (2) a fraction, (A)  
171 the numerator of which is the value of that part of the decedent's gross  
172 estate over which this state has jurisdiction for estate tax purposes, and  
173 (B) the denominator of which is the value of the decedent's gross  
174 estate. Property of a nonresident estate over which this state has  
175 jurisdiction for estate tax purposes includes real property situated in  
176 this state and tangible personal property having an actual situs in this  
177 state. The amount of any estate tax imposed under this subsection shall  
178 also be reduced, but not below zero, by the amount of any tax that is  
179 imposed under chapter 216 and that is actually paid to this state.

180 (c) For purposes of subsections (a) and (b) of this section, (1) the  
181 provisions of the federal internal revenue code in effect as of January 1,  
182 2001, shall apply, except that the applicable exclusion amount under  
183 Section 2010(c) of the federal internal revenue code shall be one million  
184 dollars; and (2) "gross estate" means the gross estate, for federal estate

185 tax purposes.

This act shall take effect as follows:	
Section 1	<i>from passage, and applicable to taxable years commencing on or after January 1, 2004</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>
Sec. 4	<i>from passage and applicable to transfers and distributions occurring on or after January 1, 2005</i>
Sec. 5	<i>from passage and applicable to transfers and distributions occurring on or after January 1, 2005</i>
Sec. 6	<i>from passage and applicable to estates of decedents who die on or after January 1, 2005</i>

**Statement of Legislative Commissioners:**

Section 6 was added to carry out the intent of the bill.

**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**

**sSB-592  
AN ACT CONCERNING THE INCOME TAX AND THE ESTATE TAX.**

**OFA FISCAL IMPACT:**

**State Impact:**

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$	FY 07 \$
Revenue Serv., Dept.	GF - Revenue Gain	127.5 million	243.0 million	275.0 million

Note: GF=General Fund

**Municipal Impact:** None

**OLR SUMMARY:**

This bill:

1. adds a third bracket to the state income tax and increases the tax rate from 5% to 5.5% on taxable incomes over \$1 million for married couples and on corresponding incomes for other types of taxpayers, and
2. permanently decouples Connecticut’s estate and generation-skipping transfer tax rates and the estate tax threshold from those of the corresponding federal taxes, sets the tax rates at 2001 levels, and establishes a \$1 million threshold for taxable estates.

EFFECTIVE DATE: Various, see below

**§§ 1-3—INCOME TAX**

**OFA Fiscal Impact:**

The bill is anticipated to result in a General Fund revenue gain to the personal income tax of \$127.5 million in FY 05 and \$85 million in FY 06

and each year thereafter. The estimate for FY 05 assumes that taxpayers will not adjust their payments prior to the end of FY 04. Therefore, the FY 05 estimate includes tax liability incurred from January 2004 through July 2005.

The bill is anticipated to affect approximately 6,400 taxpayers. It should be noted, that because historical data shows that the number of taxpayers that report income greater than \$1 million for joint filers, \$531,500 for single filers, \$792,000 for heads of household, and \$500,000 for married but filing separately can fluctuate considerably, collections may vary significantly over time.

### OLR Analysis

#### ***New Bracket and Rate (§1)***

The bill adds a third bracket to the state income tax and increases the tax rate from 5% to 5.5% on taxable income over \$1 million for joint filers and surviving spouses; \$792,000 for heads of household; \$531,500 for single filers; and \$500,000 for married people filing separately (see Table 1). It also increases the flat tax rate on trusts and estates from 5% to 5.5%.

**TABLE 1: CURRENT AND PROPOSED (FOR 2004 AND AFTER) TAX RATES AND BRACKETS**

TAX RATE		CT. TAXABLE INCOME (Income Exceeding Applicable Exemption)			
		Married Filing Jointly or as Surviving Spouse		Single	
<i>Current</i>	<i>Bill</i>	<i>From</i>	<i>To</i>	<i>From</i>	<i>To</i>
3.0%	3.0%	\$1	\$20,000	\$1	\$10,000
5.0%	5.0%	20,001	1,000,000	10,001	531,500
	5.5%	Over \$1,000,000		Over \$531,500	
TAX RATE		Head of Household		Married Filing Separately	
<i>Current</i>	<i>Bill</i>	<i>From</i>	<i>To</i>	<i>From</i>	<i>To</i>
3.0%	3.0%	\$1	\$16,000	\$1	\$10,000
5.0%	5.0%	16,001	792,000	10,001	500,000
	5.5%	Over \$792,000		Over \$500,000	

EFFECTIVE DATE: Upon passage and applicable to tax years starting on or after January 1, 2004.

#### ***Withholding Tables (§ 2)***

The bill requires DRS to issue special withholding tables by June 1, 2004 that reflect the bill's income tax changes and that result, as far as practicable, in a year's withholding under the new rates by December 31, 2004. The commissioner must reissue withholding tables under the usual procedures for tax years starting on or after January 1, 2005.

EFFECTIVE DATE: Upon passage

### ***Estimated Tax Payments (§ 3)***

The bill requires taxpayers who must pay estimated tax through the year to adjust their June 2004 payments for any increase that applies to them under the bill for the 2004 tax year. It overrides a "safe-harbor" provision, which ordinarily requires estimated taxpayers to make quarterly payments equal to 25% of their tax liability for the preceding year and total annual payments of 90% of their liability for the current year.

EFFECTIVE DATE: Upon passage

## **§§ 4-6—ESTATE AND GENERATION-SKIPPING TRANSFER TAXES**

### **OFA Fiscal Impact:**

The bill is anticipated to result in a General fund revenue gain from the estate tax of approximately \$158.0 million in FY 06 and \$190 million in FY 07 and each year thereafter.

It should be noted, that because the number and value of estates in excess of \$1 million can fluctuate considerably, actual collections may vary significantly over time.

### **OLR Analysis**

#### ***Rates***

The bill establishes separate tax rates for Connecticut's estate and generation-skipping transfer (GST) taxes rather than linking them to federal law.

Under current law, Connecticut's estate and GST taxes equal 100% of the maximum federal credit for such state taxes at the time of the

transfer or death. A 2001 federal law phased out the federal credit for state taxes from 2002 through 2004 at the rate of 25% per year. Thus, in 2004, Connecticut's taxes are only 25% of the 2001 federal credit (although a temporary state estate tax could apply to deaths occurring between July 1, 2004 and January 1, 2005 – see BACKGROUND). As of January 1, 2005, when the federal credit expires, Connecticut's taxes will be eliminated (IRC 2011 (2) (B)).

This bill, instead, sets the tax rates for deaths and transfers occurring on or after January 1, 2005 at 100% of the maximum federal credit available on January 1, 2001, before enactment of the federal phase-out.

### ***Thresholds***

The bill establishes a threshold of \$1 million for Connecticut's estate tax instead of using the federal thresholds in effect on the death date. For taxable generation-skipping transfers, it continues to apply the federal threshold in effect on the transfer date

Under current law, the federal thresholds in effect on the death or transfer date apply to the Connecticut taxes. The 2001 federal law is gradually increasing federal thresholds for taxable estates and transfers (see BACKGROUND). The federal tax threshold for 2004 is \$1,500,000.

EFFECTIVE DATE: Upon passage and applicable to transfers and the estates of people who die on or after January 1, 2005.

## **BACKGROUND**

### ***Temporary Contingent Estate Tax***

Connecticut already has a temporary estate tax separate from the federal one that applies to estates valued at over \$1 million of people who die between July 1, 2004 and January 1, 2005. For these estates the tax is 1.3 times the maximum federal estate tax credit, excluding the 75% federal credit reduction applicable in 2004. But this temporary tax does not apply if, by July 1, 2004, the Office of Policy and Management secretary certifies that the state will receive at least \$110 million in extra federal assistance for FY 2005.

### ***Generation-Skipping Transfer Tax***

Connecticut's generation-skipping transfer tax applies to transfers to beneficiaries two or more generations below that of the transferor, whether made directly or through a trust or similar arrangement. Connecticut's tax applies to every such transfer when the original transferor is a state resident on the date of the original transfer or the transfer includes real or tangible personal property located in Connecticut.

### **Federal Tax Thresholds**

The federal Economic Growth and Tax Relief Recovery Act of 2001 (P.L. 107-134), which took effect in June 2001, gradually eliminates the federal estate and GST taxes between 2001 and 2009. The law applies the taxes only to estates and transfers above the thresholds shown in Table 2 for the years shown. Although both federal taxes will be eliminated completely in 2010, under current federal law, the elimination is temporary and the taxes are scheduled to return to 2001 levels in 2011.

**TABLE 2: FEDERAL ESTATE AND GST TAX THRESHOLDS**

<b>Year of Death or Transfer</b>	<b>Tax Threshold</b>
2001	\$675,000
2002 and 2003	\$1,000,000
2004 and 2005	\$1,500,000
2006, 2007, 2008	\$2,000,000
2009	\$3,500,000

### **COMMITTEE ACTION**

Finance, Revenue and Bonding Committee

Joint Favorable Substitute  
Yea 27 Nay 17