



General Assembly

February Session, 2004

Raised Bill No. 421

LCO No. 1829

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Referred to Committee on Finance, Revenue and Bonding

Introduced by:
(FIN)

AN ACT CONCERNING ADMINISTRATION OF VARIOUS STATE TAXES.

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

1 Section 1. (NEW) (*Effective July 1, 2004*) (a) For purposes of this
2 section:

3 (1) "Taxpayer" means any person identified by a claimant state
4 under this section as owing taxes to such claimant state;

5 (2) "Claimant state" means any other state or the District of
6 Columbia that allows the commissioner, in cases where a taxpayer
7 owes taxes to this state, to certify that such tax is owed and to request
8 the tax officer of the claimant state to collect such taxes owed to this
9 state and provides for the payment of such collected amount to this
10 state.

11 (3) "Taxes" means any amount of tax imposed under the laws of the
12 claimant state, including additions to tax for penalties and interest,
13 which is finally due and payable to the claimant state by a taxpayer,
14 and with respect to which any administrative or judicial remedies, or

15 both, have been exhausted or have lapsed, and which is legally
16 enforceable under the laws of the claimant state against the taxpayer,
17 whether or not there is an outstanding judgment for such sum;

18 (4) "Tax officer" means a unit or official of a claimant state, or the
19 duly authorized agent of such unit or official, charged with the
20 imposition, assessment or collection of taxes of that state; and

21 (5) "Commissioner" means the Commissioner of Revenue Services.

22 (b) (1) Upon the request and certification of the tax officer of a
23 claimant state to the commissioner that a taxpayer owes taxes to such
24 claimant state, the commissioner may, through the exercise of the
25 commissioner's power and authority under section 12-35 of the general
26 statutes, collect such taxes in the same manner that the commissioner
27 would collect such taxes if they were due and payable to this state, and
28 shall pay over such collected amount to the claimant state in
29 accordance with the provisions of this section. The commissioner shall
30 not collect such taxes unless the laws of the claimant state (1) allow the
31 commissioner, in cases where a taxpayer owes taxes to this state, to
32 certify that such tax is owed and to request the tax officer of the
33 claimant state to collect such taxes owed to this state, and (2) provide
34 for the payment of such collected amount to this state.

35 (2) Such certification shall include the full name and address of the
36 taxpayer; the taxpayer's Social Security number or federal employer
37 identification number; the amount of taxes owed to the claimant state,
38 including a detailed statement for each taxable period showing tax,
39 interest and penalty; and a statement that any administrative or
40 judicial remedies, or both, have been exhausted or have lapsed and
41 that the amount of taxes is legally enforceable under the laws of such
42 state against the taxpayer.

43 (3) Upon receipt by the commissioner of the required certification,
44 he or she shall notify the taxpayer by first-class mail to the taxpayer's
45 last-known address that he or she has received a request from the

46 claimant state to collect taxes from the taxpayer, that the taxpayer has
47 the right to protest the collection of such taxes by the commissioner for
48 the claimant state, that failure to file a protest in accordance with
49 subdivision (4) of this subsection shall constitute a waiver of any
50 demand against this state on account of the collection of such taxes and
51 that the amount, upon collection, will be paid over to the claimant
52 state. The notice shall include a copy of the certification by the tax
53 officer of such claimant state. Thirty days after the date on which it is
54 mailed, a notice under this subdivision shall be final except only for
55 such amounts as to which the taxpayer has filed, as provided in
56 subdivision (4) of this subsection, a written protest with the
57 commissioner.

58 (4) Any taxpayer notified in accordance with subdivision (3) of this
59 subsection may, on or before the thirtieth day after the mailing of such
60 notice by the commissioner, protest the collection of all or a portion of
61 such taxes by filing with the commissioner a written protest in which
62 the taxpayer shall set forth the grounds on which the protest is based.
63 If a timely protest is filed, the commissioner shall refrain from
64 collecting such taxes and shall send a copy of the protest to the
65 claimant state for determination of the protest on its merits in
66 accordance with the laws of such state. If the claimant state fails, on or
67 before the forty-fifth day after the sending of the copy of the protest by
68 the commissioner to such claimant state, to certify to the commissioner
69 that the claimant state has reviewed the stated grounds on which the
70 protest is based, and to renew the certification described in subdivision
71 (2) of this subsection, the commissioner shall not collect such taxes. If
72 such certifications are made within such time period, the
73 commissioner shall collect such taxes.

74 (c) The commissioner may enter into agreements with the tax
75 officers of claimant states relating to: (1) Procedures and methods to be
76 employed by a claimant state with respect to the operation of this
77 section, (2) safeguards against the disclosure or inappropriate use of
78 any information that identifies, directly or indirectly, a particular

79 taxpayer obtained or maintained pursuant to this section, and (3) a
80 minimum threshold for the amount of taxes owed by a taxpayer to a
81 claimant state that would trigger the operation of this section.

82 Sec. 2. (NEW) (*Effective from passage*) (a) If the records of the
83 Department of Revenue Services show that tax, penalty or interest is
84 due and owing from any person, and the Commissioner of Revenue
85 Services determines that all or a portion of such tax, penalty or interest
86 has been paid by the person, said commissioner may cancel the portion
87 of such tax, penalty or interest that has been paid.

88 (b) The provisions of this section shall not be construed as (1)
89 creating or conferring any rights or remedies on any person, or (2)
90 authorizing any suit against the state by any person. This section shall
91 not be construed as a waiver of sovereign immunity.

92 Sec. 3. Subsection (a) of section 12-2 of the general statutes is
93 amended by adding subdivision (6) as follows (*Effective from passage*):

94 (NEW) (6) In administering the tax laws of this state, the
95 commissioner may, in his or her discretion, disallow the asserted tax
96 consequences of a transaction by asserting the application of
97 recognized federal tax doctrines, including, but not limited to, the
98 sham transaction doctrine, the step transaction doctrine and the
99 doctrine of substance over form. The taxpayer shall have the burden of
100 demonstrating by clear and convincing evidence as determined by the
101 commissioner that the transaction possessed both (A) a valid, good
102 faith business purpose other than tax avoidance, and (B) economic
103 substance apart from the asserted tax benefit. In all such cases, the
104 taxpayer shall also have the burden of demonstrating by clear and
105 convincing evidence as determined by the commissioner that the
106 asserted nontax business purpose is commensurate with the tax benefit
107 claimed. Nothing in this section shall be construed to limit or negate
108 the commissioner's authority to make tax adjustments as otherwise
109 permitted by law. Nothing in this section shall be construed as
110 authorizing any deduction or credit not otherwise expressly permitted

111 under this title.

112 Sec. 4. Subsection (b) of section 12-15 of the general statutes, as
113 amended by section 238 of public act 03-6 of the June 30 special
114 session, is repealed and the following is substituted in lieu thereof
115 (*Effective from passage*):

116 (b) The commissioner may disclose (1) returns or return information
117 to (A) an authorized representative of another state agency or office,
118 upon written request by the head of such agency or office, when
119 required in the course of duty or when there is reasonable cause to
120 believe that any state law is being violated, or (B) an authorized
121 representative of an agency or office of the United States, upon written
122 request by the head of such agency or office, when required in the
123 course of duty or when there is reasonable cause to believe that any
124 federal law is being violated, provided no such agency or office shall
125 disclose such returns or return information, other than in a judicial or
126 administrative proceeding to which such agency or office is a party
127 pertaining to the enforcement of state or federal law, as the case may
128 be, in a form which can be associated with, or otherwise identify,
129 directly or indirectly, a particular taxpayer except that the names and
130 addresses of jurors or potential jurors and the fact that the names were
131 derived from the list of taxpayers pursuant to chapter 884 may be
132 disclosed by the judicial branch; (2) returns or return information to
133 the Auditors of Public Accounts, when required in the course of duty
134 under chapter 23; (3) returns or return information to tax officers of
135 another state or of a Canadian province or of a political subdivision of
136 such other state or province or of the District of Columbia or to any
137 officer of the United States Treasury Department or the United States
138 Department of Health and Human Services, authorized for such
139 purpose in accordance with an agreement between this state and such
140 other state, province, political subdivision, the District of Columbia or
141 department, respectively, when required in the administration of taxes
142 imposed under the laws of such other state, province, political
143 subdivision, the District of Columbia or the United States, respectively,

144 and when a reciprocal arrangement exists; (4) returns or return
145 information in any action, case or proceeding in any court of
146 competent jurisdiction, when the commissioner or any other state
147 department or agency is a party, and when such information is directly
148 involved in such action, case or proceeding; (5) returns or return
149 information to a taxpayer or its authorized representative, upon
150 written request for a return filed by or return information on such
151 taxpayer; (6) returns or return information to a successor, receiver,
152 trustee, executor, administrator, assignee, guardian or guarantor of a
153 taxpayer, when such person establishes, to the satisfaction of the
154 commissioner, that such person has a material interest which will be
155 affected by information contained in such returns or return
156 information; (7) information to the assessor or an authorized
157 representative of the chief executive officer of a Connecticut
158 municipality, when the information disclosed is limited to (A) a list of
159 real or personal property that is or may be subject to property taxes in
160 such municipality, or (B) a list containing the name of each person who
161 is issued any license, permit or certificate which is required, under the
162 provisions of this title, to be conspicuously displayed and whose
163 address is in such municipality; (8) real estate conveyance tax return
164 information or controlling interest transfer tax return information to
165 the town clerk or an authorized representative of the chief executive
166 officer of a Connecticut municipality to which the information relates;
167 (9) estate tax returns and estate tax return information to the Probate
168 Court Administrator or to the court of probate for the district within
169 which a decedent resided at the date of the decedent's death, or within
170 which the commissioner contends that a decedent resided at the date
171 of the decedent's death or, if a decedent died a nonresident of this
172 state, in the court of probate for the district within which real estate or
173 tangible personal property of the decedent is situated, or within which
174 the commissioner contends that real estate or tangible personal
175 property of the decedent is situated; (10) returns or return information
176 to the Secretary of the Office of Policy and Management for purposes
177 of subsection (b) of section 12-7a; (11) return information to the Jury

178 Administrator, when the information disclosed is limited to the names,
179 addresses, federal Social Security numbers and dates of birth, if
180 available, of residents of this state, as defined in subdivision (1) of
181 subsection (a) of section 12-701, as amended; (12) pursuant to
182 regulations adopted by the commissioner, returns or return
183 information to any person to the extent necessary in connection with
184 the processing, storage, transmission or reproduction of such returns
185 or return information, and the programming, maintenance, repair,
186 testing or procurement of equipment, or the providing of other
187 services, for purposes of tax administration; (13) without written
188 request and unless the commissioner determines that disclosure would
189 identify a confidential informant or seriously impair a civil or criminal
190 tax investigation, returns and return information which may constitute
191 evidence of a violation of any civil or criminal law of this state or the
192 United States to the extent necessary to apprise the head of such
193 agency or office charged with the responsibility of enforcing such law,
194 in which event the head of such agency or office may disclose such
195 return information to officers and employees of such agency or office
196 to the extent necessary to enforce such law; (14) names and addresses
197 of operators, as defined in section 12-407, as amended, to tourism
198 districts, as defined in section 10-397; [and] (15) names of each licensed
199 dealer, as defined in section 12-285, as amended, and the location of
200 the premises covered by the dealer's license; and (16) return
201 information of a distributor licensed under the provisions of chapter
202 214 or chapter 214a to a tobacco product manufacturer that places
203 funds into escrow pursuant to the provisions of subsection (a) of
204 section 4-28i, when the information disclosed is limited to information
205 relating to such manufacturer's sales to consumers within this state,
206 whether directly or through a distributor, dealer or similar
207 intermediary or intermediaries, of cigarettes, as defined in section 4-
208 28h, and when there is reasonable cause to believe that such
209 manufacturer is not in compliance with section 4-28i.

210 Sec. 5. Section 12-37 of the general statutes is repealed and the
211 following is substituted in lieu thereof (*Effective July 1, 2004*):

212 (a) Wherever used in this section, "tax" includes not only the
213 principal of any tax but also includes the principal of any license,
214 permit and fee and also all interest, fees, penalties, forfeitures and
215 other charges which may be added by law to the principal of any such
216 tax, license, permit and fee. Each state collection agency may have a
217 suspense tax book. Any state collection agency may, at any time,
218 deliver to the Treasurer and Comptroller a statement showing: (1) The
219 amount of such uncollectible tax shown on the records of the agency;
220 (2) the date when each such tax became due and payable; (3) the name
221 and address of the person against whom each such tax was levied; [,
222 and (4) the reason why the agency believes each such tax to be
223 uncollectible. At the end of such statement, the agency head shall
224 certify that to the best of his or her knowledge and belief each tax
225 shown in such statement has not been paid and is uncollectible. Each
226 tax so designated and certified as uncollectible shall thereupon be
227 transferred by such state collection agency to its suspense tax book,
228 and its records shall be written up accordingly. Each tax so transferred
229 shall not thereafter be included as an asset of the state. The amount of
230 each tax so transferred during the last fiscal year and the name and
231 address of the person against whom each such tax was levied shall be
232 available to the public for inspection by any person. [Not less than
233 seven years after delivering such a statement to the Treasurer and the
234 Comptroller, the head of the collection agency may request the
235 Abatement Review Committee, as established by section 12-3b, to
236 approve the abatement of any tax designated on such statement as
237 uncollectible. Nothing herein contained] Nothing in this subsection
238 shall be construed as an abatement of any tax so transferred, but any
239 such tax, as it has been increased by interest, penalties, fees, fines,
240 forfeitures and other charges, may be collected by the state collection
241 agency then or subsequently in office.

242 (b) Not less than three years after delivering a statement, as
243 described in subsection (a) of this section, to the Treasurer and the
244 Comptroller, the collection agency may, in accordance with section 12-
245 39, as amended by this act, request the Secretary of the Office of Policy

246 and Management to approve the abatement of any tax designated on
247 such statement as uncollectible.

248 Sec. 6. Subsection (a) of section 12-39 of the general statutes is
249 repealed and the following is substituted in lieu thereof (*Effective July*
250 *1, 2004*):

251 (a) When any tax payable to the Commissioner of Revenue Services
252 by any person, as defined in section 12-1, has been found to be
253 uncollectible, said commissioner, upon the approval of the [Abatement
254 Review Committee, as established by section 12-3b, may,] Secretary of
255 the Office of Policy and Management, may, in accordance with section
256 12-37, as amended by this act, and except as otherwise provided by
257 law, abate, in whole or in part, such tax and any penalty or interest
258 payable in connection therewith to the state by such person. Upon
259 such approval, said commissioner shall certify such abatement to the
260 Treasurer and Comptroller.

261 Sec. 7. Section 12-475 of the general statutes is repealed and the
262 following is substituted in lieu thereof (*Effective from passage*):

263 (a) The Commissioner of Revenue Services shall prescribe
264 regulations for the enforcement of this chapter.

265 (b) The commissioner is authorized to avail himself or herself of the
266 services of the state police and the Commissioner of Motor Vehicles in
267 enforcing this chapter.

268 (c) The amount of any tax, penalty or interest due and unpaid under
269 the provisions of this chapter may be collected under the provisions of
270 section 12-35. The warrant therein provided for shall be signed by the
271 commissioner or his or her authorized agent. The amount of any such
272 tax, penalty and interest shall be a lien, from the last day of the month
273 next preceding the due date of such tax until discharged by payment,
274 against all real estate of the taxpayer within the state, and a certificate
275 of such lien signed by the commissioner may be filed for record in the

276 office of the clerk of any town in which such real estate is situated,
277 provided no such lien shall be effective as against any bona fide
278 purchaser or qualified encumbrancer of any interest in any such
279 property. When any tax with respect to which a lien has been recorded
280 under the provisions of this section has been satisfied, the
281 commissioner, upon request of any interested party, shall issue a
282 certificate discharging such lien, which certificate shall be recorded in
283 the same office in which the lien is recorded. Any action for the
284 foreclosure of such lien shall be brought by the Attorney General in the
285 name of the state in the superior court for the judicial district in which
286 the property subject to such lien is situated, or, if such property is
287 located in two or more judicial districts, in the superior court for any
288 one such judicial district, and the court may limit the time for
289 redemption or order the sale of such property or make such other or
290 further decree as it judges equitable.

291 (d) In carrying out the provisions of this chapter, the commissioner,
292 and any representative of the commissioner authorized to conduct any
293 inquiry, investigation or hearing, may administer oaths and take
294 testimony under oath in any inquiry or investigation related to the tax
295 imposed under this chapter. At any such hearing ordered by the
296 commissioner, the commissioner or the commissioner's representative
297 authorized to conduct such hearing and to issue such process as may
298 be necessary for such hearing may subpoena witnesses and require the
299 production of books, papers and documents pertinent to such inquiry.
300 No witness under subpoena shall be excused from testifying or from
301 producing books or other documentary evidence on the ground that
302 such testimony or the production of such books or other documentary
303 evidence would tend to incriminate the witness provided such
304 evidence or the books or other documentary evidence so produced
305 shall not be used in any criminal proceeding against the witness. If any
306 person disobeys such process or, having appeared in obedience to such
307 process, refuses to answer any pertinent question put to him or her by
308 the commissioner or the commissioner's authorized representative, or
309 to produce any books and other documentary evidence pursuant to

310 such questioning, the commissioner or such representative may apply
311 to the superior court for the judicial district in which the taxpayer
312 resides or in which the business has been conducted setting forth such
313 disobedience to process or refusal to answer. The court shall order
314 such person to appear before said court to answer such question or to
315 produce such books and documentary evidence and, upon such
316 person's refusal to do so, shall commit such person to a community
317 correctional center until such person testifies, but not for a longer
318 period than sixty days. Notwithstanding the serving of the term of
319 such commitment by any person, the commissioner may proceed in all
320 respects with such inquiry and examination as if the witness had not
321 previously been called upon to testify.

322 Sec. 8. Section 12-491 of the general statutes is repealed and the
323 following is substituted in lieu thereof (*Effective from passage*):

324 (a) The Commissioner of Revenue Services is authorized to avail
325 himself or herself of the services of the state police, the Commissioner
326 of Motor Vehicles and the Department of Public Utility Control in
327 enforcing the provisions of this chapter.

328 (b) In carrying out the provisions of this chapter, the commissioner,
329 and any representative of the commissioner authorized to conduct any
330 inquiry, investigation or hearing, may administer oaths and take
331 testimony under oath in any inquiry or investigation related to the tax
332 imposed under this chapter. At any such hearing ordered by the
333 commissioner, the commissioner or the commissioner's representative
334 authorized to conduct such hearing and to issue such process as may
335 be necessary for such hearing may subpoena witnesses and require the
336 production of books, papers and documents pertinent to such inquiry.
337 No witness under subpoena shall be excused from testifying or from
338 producing books or other documentary evidence on the ground that
339 such testimony or the production of such books or other documentary
340 evidence would tend to incriminate the witness provided such
341 evidence or the books or other documentary evidence so produced

342 shall not be used in any criminal proceeding against the witness. If any
343 person disobeys such process or, having appeared in obedience to such
344 process, refuses to answer any pertinent question put to him or her by
345 the commissioner or the commissioner's authorized representative, or
346 to produce any books and other documentary evidence pursuant to
347 such questioning, the commissioner or such representative may apply
348 to the superior court for the judicial district in which the taxpayer
349 resides or in which the business has been conducted setting forth such
350 disobedience to process or refusal to answer. The court shall order
351 such person to appear before said court to answer such question or to
352 produce such books and documentary evidence and, upon such
353 person's refusal to do so, shall commit such person to a community
354 correctional center until such person testifies, but not for a longer
355 period than sixty days. Notwithstanding the serving of the term of
356 such commitment by any person, the commissioner may proceed in all
357 respects with such inquiry and examination as if the witness had not
358 previously been called upon to testify.

359 Sec. 9. Subsection (b) of section 12-494 of the general statutes, as
360 amended by section 40 of public act 03-2, is repealed and the following
361 is substituted in lieu thereof (*Effective from passage*):

362 (b) The rate of tax imposed under subdivision (1) of subsection (a) of
363 this section shall, in lieu of the rate under said subdivision (1), be
364 imposed on certain conveyances as follows: (1) In the case of any
365 conveyance of real property which at the time of such conveyance is
366 used for any purpose other than residential use, except unimproved
367 land, the tax under said subdivision (1) shall be imposed at the rate of
368 one per cent of the consideration for the interest in real property
369 conveyed; [and] (2) in the case of any conveyance in which the real
370 property conveyed is a residential estate, including a primary dwelling
371 and any auxiliary housing or structures, regardless of the number of
372 deeds, instruments or writings used to convey such residential estate,
373 for which the consideration or aggregate consideration, as the case
374 may be, in such conveyance is eight hundred thousand dollars or

375 more, the tax under said subdivision (1) shall be imposed (A) at the
376 rate of one-half of one per cent on that portion of such consideration
377 up to and including the amount of eight hundred thousand dollars,
378 and (B) at the rate of one per cent on that portion of such consideration
379 in excess of eight hundred thousand dollars; and (3) in the case of any
380 conveyance in which real property on which mortgage payments have
381 been delinquent for not less than six months is conveyed to a financial
382 institution or its subsidiary which holds such a delinquent mortgage
383 on such property, the tax under said subdivision (1) shall be imposed
384 at the rate of one-half of one per cent of the consideration for the
385 interest in real property conveyed.

386 Sec. 10. Subsection (b) of section 12-690 of the general statutes, as
387 amended by section 16 of public act 03-225, is repealed and the
388 following is substituted in lieu thereof (*Effective from passage*):

389 (b) (1) The Commissioner of Revenue Services may require the
390 filing, by computer transmission or by employing new technology as it
391 is developed, of any return, statement or other document that is
392 required by law or regulation to be filed with said commissioner (A)
393 by any person who is required under the provisions of this chapter to
394 pay the tax, to which such return, statement or other document
395 pertains, by electronic funds transfer, or (B) by any other person who is
396 described in regulations adopted under this subsection by said
397 commissioner in accordance with the provisions of chapter 54.

398 (2) (A) Notwithstanding any provision of law, including, but not
399 limited to sections 12-30 and 12-419b, if the commissioner determines
400 that the enforcement of this section is being adversely affected, the
401 commissioner may impose a late filing penalty of fifty dollars on any
402 return, statement or other document required to be filed under this
403 subsection and treated under subparagraph (B) or (C) of this
404 subdivision as a return, statement or other document not filed in a
405 timely manner. Any such late filing penalty shall be in addition to any
406 other late payment penalty. For purposes of this subdivision, "any

407 return, statement or other document required to be filed under this
408 subsection" means any return, statement or other document required
409 under either subparagraph (A) or (B) of subdivision (1) of this
410 subsection to be filed with the commissioner by computer transmission
411 or by employing new technology specified by said commissioner.

412 (B) Any return, statement or other document required to be filed
413 under this subsection that is filed other than by computer transmission
414 or other than by employing new technology specified by said
415 commissioner shall be treated under this subdivision as a return,
416 statement or other document not filed in a timely manner.

417 (C) Any return, statement or other document required to be filed
418 under this subsection that is filed by computer transmission or by
419 employing new technology specified by said commissioner but that is
420 filed after its due date, determined with regard to any extension of
421 time for filing, shall be treated under this subdivision as a return,
422 statement or other document not filed in a timely manner.

423 (3) The commissioner may, upon application, if it is proven to the
424 satisfaction of the commissioner that the failure to file a return,
425 statement or other document required to be filed under this subsection
426 in a timely manner is due to reasonable cause and is not due to
427 negligence or intentional disregard of the provisions of this subsection,
428 waive all or any part of such penalty. If the commissioner does not,
429 upon application, waive all or any part of such penalty, any person
430 aggrieved by such action of the commissioner may, not later than
431 thirty days after notice of such action is mailed or delivered to such
432 person, appeal such action to the superior court for the judicial district
433 of New Britain. The appeal shall be accompanied by a citation to the
434 commissioner to appear before said court. Such citation shall be signed
435 by the same authority, and such appeal shall be returnable at the same
436 time and served and returned in the same manner as is required in
437 case of a summons in a civil action. The authority issuing the citation
438 shall take from the appellant a bond or recognizance to the state of

439 Connecticut with surety to prosecute the appeal to effect and to
440 comply with the orders and decrees of the court in the premises. Such
441 appeals shall be preferred cases, to be heard, unless cause appears to
442 the contrary, at the first session, by the court or by a committee
443 appointed by it. Such court may grant such relief as may be equitable.
444 If the appeal is without probable cause, the court may tax double or
445 triple costs, as the case demands; and, upon all such appeals which
446 may be denied, costs may be taxed against the appellant at the
447 discretion of the court, but no costs shall be taxed against the state.

448 Sec. 11. Section 12-707 of the general statutes, as amended by section
449 4 of public act 03-107, is repealed and the following is substituted in
450 lieu thereof (*Effective January 1, 2005, and applicable to wages and*
451 *nonpayroll amounts paid on or after January 1, 2005*):

452 (a) (1) Each employer required to deduct and withhold tax under
453 this chapter from the wages of employees shall be liable for such tax
454 and shall file a withholding return as prescribed by the Commissioner
455 of Revenue Services and pay over to the commissioner, or to a
456 depository designated by the commissioner, the taxes so required to be
457 deducted and withheld at the [same] times [that such employer is
458 required, under federal law and regulations, to pay over federal taxes
459 that are required to be deducted and withheld from wages of
460 employees, except if the amount of taxes required to be deducted and
461 withheld in a calendar quarter is less than five hundred dollars and if
462 the employer is required, under federal law and regulations, to pay
463 over federal taxes that are required to be deducted and withheld from
464 wages of employees on or before the last day of the month next
465 succeeding such calendar quarter, the employer shall file a
466 withholding return and pay over such taxes on or before the last day of
467 the month next succeeding the calendar quarter for which the taxes
468 were deducted and withheld] specified in subsection (b) of this section.

469 (2) Each payer of nonpayroll amounts shall deduct and withhold tax
470 under this chapter from the nonpayroll amounts of payees, shall be

471 liable for such tax, and shall file a withholding return as prescribed by
472 the commissioner and pay over to the commissioner, or to a depository
473 designated by the commissioner, the taxes so required to be deducted
474 and withheld at the times specified in subsection (b) of this section.

475 (b) (1) (A) With respect to the tax required to be deducted and
476 withheld under this chapter from wages paid during any calendar year
477 beginning on or after January 1, 2005, and in accordance with an
478 annual determination described in subdivision (2) of this subsection,
479 each employer shall be either a weekly remitter, monthly remitter or
480 quarterly remitter for the calendar year. If an employer is a weekly
481 remitter, the employer shall pay over to the commissioner the tax
482 required to be deducted and withheld under this chapter in
483 accordance with subdivision (3) of this subsection. If an employer is a
484 monthly remitter, the employer shall pay over to the commissioner the
485 tax required to be deducted and withheld under this chapter in
486 accordance with subdivision (4) of this subsection. If an employer is a
487 quarterly remitter, the employer shall pay over to the commissioner
488 the tax required to be deducted and withheld under this chapter in
489 accordance with subdivision (5) of this subsection. Notwithstanding
490 any provision of this subsection, if an employer is a household
491 employer, the employer shall pay over to the commissioner the tax
492 required to be deducted and withheld under this chapter in
493 accordance with subdivision (6) of this subsection.

494 (B) With respect to the tax required to be deducted and withheld
495 under this chapter from nonpayroll amounts paid during any calendar
496 year beginning on or after January 1, 2005, and in accordance with an
497 annual determination described in subdivision (2) of this subsection,
498 each payer shall be either a weekly remitter, monthly remitter or
499 quarterly remitter for the calendar year. If a payer is a weekly remitter,
500 the payer shall pay over to the commissioner the tax required to be
501 deducted and withheld under this chapter in accordance with
502 subdivision (3) of this subsection. If a payer is a monthly remitter, the
503 payer shall pay over to the commissioner the tax required to be

504 deducted and withheld under this chapter in accordance with
505 subdivision (4) of this subsection. If a payer is a quarterly remitter, the
506 payer shall pay over to the commissioner the tax required to be
507 deducted and withheld under this chapter in accordance with
508 subdivision (5) of this subsection.

509 (2) (A) The annual determination for an employer required to
510 deduct and withhold tax under this chapter shall be based on the
511 employer's reported liability for the tax required to be deducted and
512 withheld under this chapter during the twelve-month look-back
513 period, provided, if any employer fails timely to file one or more
514 required withholding tax returns for the four quarterly periods within
515 the twelve-month look-back period, the commissioner may base the
516 annual determination for the employer on any information available to
517 the commissioner. If an employer's reported liability for the tax
518 required to be deducted and withheld under this chapter during the
519 twelve-month look-back period was more than ten thousand dollars,
520 the employer is a weekly remitter for the calendar year next
521 succeeding such twelve-month period. If an employer's reported
522 liability for the tax required to be deducted and withheld under this
523 chapter during the twelve-month look-back period was more than two
524 thousand dollars but not more than ten thousand dollars, the employer
525 is a monthly remitter for the calendar year next succeeding such
526 twelve-month period. If an employer's reported liability for the tax
527 required to be deducted and withheld under this chapter during the
528 twelve-month look-back period was two thousand dollars or less, the
529 employer is a quarterly remitter for the calendar year next succeeding
530 such twelve-month period. Notwithstanding any provision of this
531 section, if an employer is a seasonal employer, the annual
532 determination shall be based on the seasonal employer's reported
533 liability for the tax required to be deducted and withheld under this
534 chapter during the twelve-month look-back period multiplied by a
535 fraction, the numerator of which is four, and the denominator of which
536 is the number of quarterly periods during such twelve-month period
537 that the employer paid wages to employees.

538 (B) The annual determination for a payer required to deduct and
539 withhold tax under this chapter shall be based on the payer's reported
540 liability for the tax required to be deducted and withheld under this
541 chapter during the look-back calendar year, provided, if any payer
542 fails timely to file the required withholding tax return for the look-back
543 calendar year, the commissioner may base the annual determination
544 for the payer on any information available to the commissioner. If a
545 payer's reported liability for the tax required to be deducted and
546 withheld under this chapter during the look-back calendar year was
547 more than ten thousand dollars, the payer is a weekly remitter for the
548 calendar year for which the annual determination is being made. If a
549 payer's reported liability for the tax required to be deducted and
550 withheld under this chapter during the look-back calendar year was
551 more than two thousand dollars but not more than ten thousand
552 dollars, the payer is a monthly remitter for the calendar year for which
553 the annual determination is being made. If a payer's reported liability
554 for the tax required to be deducted and withheld under this chapter
555 during the look-back calendar year was two thousand dollars or less,
556 the payer is a quarterly remitter for the calendar year for which the
557 annual determination is being made.

558 (3) (A) An employer that is a weekly remitter shall pay over to the
559 department the tax required to be deducted and withheld from wages
560 under this chapter on or before the Wednesday next succeeding the
561 weekly period during which the wages from which the tax was
562 required to be deducted and withheld were paid to employees.

563 (B) A payer that is a weekly remitter shall pay over to the
564 department the tax required to be deducted and withheld from
565 nonpayroll amounts under this chapter on or before the Wednesday
566 next succeeding the weekly period during which the nonpayroll
567 amounts from which the tax was required to be deducted and
568 withheld were paid to payees.

569 (4) (A) An employer that is a monthly remitter shall pay over to the

570 department the tax required to be deducted and withheld from wages
571 under this chapter on or before the fifteenth day of the month next
572 succeeding the month during which the wages from which the tax was
573 required to be deducted and withheld were paid to employees.

574 (B) A payer that is a monthly remitter shall pay over to the
575 department the tax required to be deducted and withheld from
576 nonpayroll amounts under this chapter on or before the fifteenth day
577 of the month next succeeding the month during which the nonpayroll
578 amounts from which the tax was required to be deducted and
579 withheld were paid to payees.

580 (5) (A) An employer that is a quarterly remitter shall pay over to the
581 department the tax required to be deducted and withheld from wages
582 under this chapter on or before the last day of the month next
583 succeeding the quarterly period during which the wages from which
584 the tax was required to be deducted and withheld were paid to
585 employees.

586 (B) A payer that is a quarterly remitter shall pay over to the
587 department the tax required to be deducted and withheld from
588 nonpayroll amounts under this chapter on or before the last day of the
589 month next succeeding the quarterly period during which the
590 nonpayroll amounts from which the tax was required to be deducted
591 and withheld were paid to payees.

592 (6) An employer that is a household employer shall pay over to the
593 department the tax required to be deducted and withheld under this
594 chapter on or before the April fifteenth next succeeding the calendar
595 year during which the wages from which the tax was required to be
596 deducted and withheld were paid to household employees.

597 (c) In the case of an overpayment of tax under this chapter by an
598 employer, refund or credit shall be made to the employer only to the
599 extent that the amount of such overpayment was not deducted and
600 withheld by the employer.

601 [(b)] (d) The amount of tax required to be deducted and withheld
602 and paid over to the commissioner under this chapter, when so
603 deducted and withheld, shall be held to be a special fund in trust for
604 the state. No employee or other person shall have any right of action
605 against the employer in respect to any moneys deducted and withheld
606 from wages and paid over to the commissioner in compliance or in
607 intended compliance with this chapter.

608 (e) As used in this section:

609 (1) "Employer" means an employer, as defined in Section 3401 of the
610 Internal Revenue Code;

611 (2) "Payer" means a person making a payment of nonpayroll
612 amounts to one or more payees;

613 (3) "Payee" means a person receiving a payment of nonpayroll
614 amounts from a payer;

615 (4) "Nonpayroll amounts" means and includes (A) gambling
616 winnings, other than Connecticut lottery winnings, that are paid to a
617 resident, or to someone receiving payment on behalf of a resident, and
618 that are subject to federal income tax withholding; (B) Connecticut
619 lottery winnings that are required to be reported by the Connecticut
620 Lottery Corporation to the Internal Revenue Service, whether or not
621 subject to federal income tax withholding, whether paid to a resident,
622 nonresident or a part-year resident, and whether paid to an individual,
623 trust or estate; (C) pension and annuity distributions, where the
624 recipient is a resident individual and has requested that tax be
625 deducted and withheld under this chapter; (D) military retired pay,
626 where the payee is a resident individual and has requested that tax be
627 deducted and withheld under this chapter; (E) unemployment
628 compensation, where the recipient has requested that tax be deducted
629 and withheld under this chapter; and (F) payments made to an athlete
630 or entertainer, where the payments are not wages for federal income
631 tax withholding purposes and where the commissioner requires the

632 payer to deduct and withhold tax under this chapter;

633 (5) "Reported liability" means, in the case of an employer, the
634 liability for the tax required to be deducted and withheld under this
635 chapter, as shown on the employer's withholding tax returns for the
636 four quarterly periods within the twelve-month look-back period, and,
637 in the case of a payer, the liability for the tax required to be deducted
638 and withheld under this chapter, as shown on the payer's withholding
639 tax return for the look-back calendar year;

640 (6) "Twelve-month look-back period" means the twelve-month
641 period that ended on the June thirtieth next preceding the calendar
642 year for which the annual determination for an employer is made by
643 the commissioner;

644 (7) "Look-back calendar year" means the calendar year preceding by
645 two years the calendar year for which the annual determination for a
646 payer is made by the commissioner;

647 (8) "Seasonal employer" means an employer that regularly in the
648 same one or more quarterly periods of each calendar year pays no
649 wages to employees;

650 (9) "Household employee" means an employee whose services of a
651 household nature in or about a private home of an employer constitute
652 domestic service in a private home of the employer, as the phrase is
653 used in Section 3121(a)(7) of the Internal Revenue Code or in
654 regulations adopted thereunder;

655 (10) "Household employer" means an employer of a household
656 employee;

657 (11) "Weekly period" means the seven-day period beginning on a
658 Saturday and ending on the following Friday; and

659 (12) "Quarterly period" means the period of three full months
660 beginning on the first day of January, April, July or October.

661 Sec. 12. Section 12-687 of the general statutes is repealed and the
662 following is substituted in lieu thereof (*Effective January 1, 2005, and*
663 *applicable to payments required to be made on or after said date*):

664 (a) Any electronic funds transfer shall be initiated in a timely
665 fashion in order to ensure that the bank account designated by the
666 department is credited by electronic funds transfer for the amount of
667 the tax payment required to be made by such method on or before the
668 due date thereof. [, or, in the case of the payment over by an employer
669 of income tax deducted and withheld from employee wages, the next
670 succeeding day that is not a Saturday, Sunday or legal holiday, as
671 defined in section 12-39a.]

672 (b) (1) Where a tax payment is required to be made by electronic
673 funds transfer, any payment made by other than electronic funds
674 transfer shall be treated as a tax payment not made in a timely manner,
675 and any payment made by electronic funds transfer, where the bank
676 account designated by the department is not credited for the amount
677 of the tax payment on or before the due date thereof [, or in the case of
678 the payment over by an employer of income tax deducted and
679 withheld from employee wages, the next succeeding day that is not a
680 Saturday, Sunday or legal holiday, as defined in section 12-39a,] shall
681 be treated as a tax payment not made in a timely manner. Any tax
682 payment treated under this subsection as a tax payment not made in a
683 timely manner shall be subject to penalty and interest in accordance
684 with the applicable provisions of the general statutes.

685 (2) Where any tax payment is treated under this subsection as a tax
686 payment not made in a timely manner because it is made by other than
687 electronic funds transfer, there shall be imposed a penalty equal to ten
688 per cent of the tax payment required to be made by electronic funds
689 transfer. Where any tax payment made by electronic funds transfer is
690 treated under this subsection as a tax payment not made in a timely
691 manner because the bank account designated by the department is not
692 credited by electronic funds transfer for the amount of the tax payment

693 on or before the due date thereof, there shall be imposed a penalty
694 equal to two per cent of the tax payment required to be made by
695 electronic funds transfer, if such failure to pay by electronic funds
696 transfer is for not more than five days, five per cent of the tax payment
697 required to be made by electronic funds transfer, if such failure to pay
698 by electronic funds transfer is for more than five days but not more
699 than fifteen days, and ten per cent of the tax payment required to be
700 made by electronic funds transfer, if such failure to pay by electronic
701 funds transfer is for more than fifteen days.

702 Sec. 13. Subsections (b) and (c) of section 12-719 of the general
703 statutes are repealed and the following is substituted in lieu thereof
704 (*Effective from passage and applicable to taxable years commencing on or after*
705 *January 1, 2004, and applicable to estimated composite income tax payments*
706 *required to be made on or after said effective date*):

707 [(b) In lieu of filing a return pursuant to this section, the
708 commissioner may, pursuant to requirements and conditions set forth
709 in forms and instructions, provide for the filing of a group return for
710 electing nonresident partners by a partnership doing business in this
711 state or having income derived from or connected with sources within
712 this state. As required by the commissioner, the partnership as agent
713 for the electing partners shall make the payments of tax, estimated tax,
714 additions to tax, interest and penalties otherwise required to be paid
715 by the electing partners. The provisions of this subsection shall also
716 apply to trusts and estates, and to S corporations, and wherever
717 reference is made in this subsection to partnerships and partners, such
718 reference shall be construed as including trusts and estates and
719 beneficiaries thereof, and S corporations and shareholders thereof.]

720 (b) (1) With respect to each of its nonresident partners, each
721 partnership doing business in this state or having income derived from
722 or connected with sources within this state shall, for each taxable year,
723 either timely file with the commissioner a group return, as provided in
724 subdivision (2) of this subsection, or make payment to the

725 commissioner as provided in subdivision (3) of this subsection.

726 (2) (A) (i) A partnership with two or more qualified electing
727 nonresident partners for a taxable year may file a group return. A
728 group return under this subdivision shall be considered a group of
729 separate returns and shall satisfy the filing requirements otherwise
730 separately imposed on each qualified electing nonresident partner
731 included in the group return by this chapter.

732 (ii) Nothing in this subdivision shall be construed as precluding the
733 commissioner, in his or her sole discretion, from requiring the filing of
734 a separate tax return under this chapter by a qualified electing
735 nonresident partner.

736 (iii) Nothing in this subdivision shall be construed as excusing a
737 partner on whose behalf income tax has been paid under this
738 subdivision by a partnership from the obligation to file his or her own
739 separate tax return under this chapter if the conditions enumerated in
740 subparagraph (B) of this subdivision are not met by such partner. In
741 such event, such partner shall receive credit for the income tax paid
742 under this subdivision by the partnership on his or her behalf,
743 provided no overpayment attributable to such tax having been paid at
744 the highest marginal tax rate in effect under section 12-700 for the
745 taxable year shall be refunded or credited to the partner.

746 (B) A "qualified electing nonresident partner" is one who meets all
747 of the following conditions: (i) The partner was a nonresident
748 individual for the entire taxable year; (ii) the partner did not maintain
749 a permanent place of abode in Connecticut at any time during the
750 taxable year; (iii) the only source of income derived from or connected
751 with Connecticut sources of the partner, or the partner and his or her
752 spouse if a joint federal income tax return is or shall be made, is from
753 one or more pass-through entities, as defined in subparagraph (C) of
754 subdivision (3) of this subsection; (iv) the partner waives the right to
755 claim any Connecticut personal exemption under section 12-702 and
756 any Connecticut personal credit under section 12-703; (v) the partner

757 does not have Connecticut alternative minimum tax liability under
758 section 12-700a for the taxable year; (vi) the partner has the same
759 taxable year as the other qualified electing nonresident partners; and
760 (vii) the partner elects to be included in a group return by completing
761 and delivering to the partnership a form prescribed by the
762 commissioner for such purpose prior to the filing of the group return
763 by the partnership. By making such election, which shall be binding
764 upon the partner's heirs, representatives, assigns, successors, executors
765 and administrators, the partner expressly consents to personal
766 jurisdiction in Connecticut for Connecticut income tax purposes and
767 waives his or her right to request, on his or her own behalf or with
768 others making such election, an extension of time to pay Connecticut
769 income tax. A qualified electing nonresident partner may neither
770 revoke an election after delivering to the partnership an election form
771 nor make an election after the fifteenth day of the fourth month
772 following the close of such partner's taxable year. The election form
773 shall be maintained on file by the partnership and shall be subject to
774 inspection by the department.

775 (C) A partnership filing a group return on behalf of its qualified
776 electing nonresident partners shall show the exact name and address
777 of the partnership as shown on its informational return under section
778 12-726, as amended by this act, the taxable year of the partnership and
779 the taxable year of the qualified electing nonresident partners. A group
780 return shall be signed by a partner having the authority to act as an
781 agent for all qualified electing nonresident partners. The election form,
782 as described in subparagraph (B) of this subdivision, shall constitute
783 written evidence of such authority and of the election by the partner to
784 be included in the group return. The due date of the group return is
785 the fifteenth day of the fourth month following the close of the taxable
786 year of the qualified electing nonresident partners. In addition, the
787 partnership shall include with the group return a schedule showing
788 each qualified electing nonresident partner's name and address; Social
789 Security number; distributive share of partnership income, gain, loss or
790 deduction derived from or connected with sources within this state, as

791 determined under this chapter; distributive share of partnership
792 income, gain, loss or deduction derived from or connected with
793 sources without this state, as determined under this chapter; income
794 tax under this chapter, as computed by multiplying the partner's
795 distributive share of partnership income, gain, loss or deduction
796 derived from or connected with sources within this state by the highest
797 marginal tax rate in effect under section 12-700 for the taxable year;
798 and estimated tax paid, if any, under section 12-722. As required by the
799 commissioner, the partnership as agent for the qualified electing
800 nonresident partners shall make the payments of tax, estimated tax,
801 additions to tax, interest and penalties otherwise required to be paid
802 by such partners.

803 (D) The provisions of this subdivision shall also apply to a trust or
804 estate with two or more qualified electing nonresident beneficiaries,
805 and wherever reference is made in this subdivision to a partnership
806 and its partners, such reference shall be construed as including a trust
807 or estate and the beneficiaries thereof.

808 (3) (A) Any payment under this subdivision shall be in an amount
809 equal to the highest marginal tax rate in effect under section 12-700 for
810 the taxable year multiplied by the subject partner's distributive share
811 of such partnership's separately and nonseparately stated items, as
812 described in Section 702(a) of the Internal Revenue Code, to the extent
813 derived from or connected with sources within this state, as reflected
814 on the partnership's annual return for the taxable year under section
815 12-726, as amended by this act. Any amount paid by a partnership to
816 this state with respect to any taxable year pursuant to this subdivision
817 shall be considered to be a payment by the partner on account of the
818 income tax imposed on the partner for such taxable year pursuant to
819 this chapter. A partnership shall not be liable to, and shall be entitled
820 to recover a payment made pursuant to this subdivision from, the
821 partner on whose behalf the payment was made. Any estimated tax
822 installment shall be made on or before the due date of such installment
823 pursuant to section 12-722, and any other payment for a taxable year

824 shall be made on or before the date the annual return for such taxable
825 year is required to be filed pursuant to section 12-726, as amended by
826 this act. The partnership shall furnish, on a form prescribed by the
827 commissioner, to each partner on whose behalf payment was made
828 under this subdivision no later than the fifteenth day of the third
829 month following the close of the partnership's taxable year a record of
830 the amount of the tax paid on behalf of such partner by the partnership
831 with respect to the taxable year.

832 (B) Notwithstanding any provision of subparagraph (A) of this
833 subdivision, a partnership shall not be required to make a payment on
834 account of the income tax imposed on a partner for a taxable year
835 pursuant to this chapter if (i) the partner's distributive share of
836 partnership income, to the extent derived from or connected with
837 sources within this state, as reflected on the partnership's annual
838 return for the taxable year under section 12-726, as amended by this
839 act, is less than one thousand dollars; (ii) the department has
840 determined by regulation, ruling or instruction that the partner's
841 income is not subject to the provisions of this subdivision; (iii) the
842 partner has elected to be included in a group return being filed by the
843 partnership under subdivision (2) of this subsection; or (iv) the
844 partnership is a publicly traded partnership, as defined in Section
845 7704(b) of the Internal Revenue Code, that is treated as a partnership
846 for federal income tax purposes and that has agreed to file the annual
847 return pursuant to section 12-726, as amended by this act, and to report
848 therewith the name, address, Social Security number or federal
849 employer identification number, and other information required by the
850 department concerning each unitholder whose distributive share of
851 partnership income, to the extent derived from or connected with
852 sources within this state, as reflected on such annual return, is more
853 than five hundred dollars.

854 (C) If a member of a pass-through entity, referred to in this
855 subparagraph as an "upper-tier pass-through entity", is itself a pass-
856 through entity, the member, referred to in this subparagraph as a

857 "lower-tier pass-through entity", shall be subject to the same
858 requirements to make payment, on behalf of its members, of the
859 income tax imposed on those members pursuant to this chapter that
860 apply to the upper-tier pass-through entity under this subdivision. The
861 department shall apply the income tax paid by the upper-tier pass-
862 through entity, on behalf of the lower-tier pass-through entity, to the
863 income tax required to paid by the lower-tier pass-through entity, on
864 behalf of its members. For purposes of this subdivision, "pass-through
865 entity" means an S corporation, general partnership, limited
866 partnership, limited liability partnership or limited liability company
867 that is treated as a partnership for federal income tax purposes; and
868 "member" means a shareholder of an S corporation, a partner in a
869 general partnership, a limited partnership, or a limited liability
870 partnership and a member of a limited liability company that is treated
871 as a partnership for federal income tax purposes.

872 (c) (1) With respect to each of its nonresident shareholders, each S
873 corporation doing business in this state or having income derived from
874 or connected with sources within this state shall, for each taxable
875 [period] year, either [(A)] timely file with the commissioner [an
876 agreement] a group return on behalf of its qualified electing
877 nonresident shareholders, as provided in subdivision (2) of this
878 subsection, or [(B)] make payment to the commissioner as provided in
879 subdivision (3) of this subsection. [Any S corporation which timely
880 files an agreement as provided in said subdivision (2) with respect to a
881 nonresident shareholder for a taxable period shall be considered to
882 have timely filed such an agreement for each subsequent taxable
883 period. Any S corporation which does not timely file such an
884 agreement for a taxable period shall not be precluded from timely
885 filing such an agreement for subsequent taxable periods.]

886 [(2) An agreement under this subdivision shall be an agreement by a
887 nonresident shareholder of the S corporation (A) to file a return in
888 accordance with the provisions of this chapter and to make timely
889 payment of all taxes imposed on the shareholder by this state with

890 respect to the income of the S corporation and (B) to be subject to
891 personal jurisdiction in this state for purposes of the collection of
892 income taxes, together with related additions to tax, interest and
893 penalties, imposed on the shareholder by this state with respect to the
894 income of the S corporation. Such an agreement shall be considered to
895 be timely filed for a taxable period and for all subsequent taxable
896 periods if it is filed on or before the date the annual return for such
897 taxable period is required to be filed pursuant to section 12-726.]

898 (2) (A) (i) An S corporation with two or more qualified electing
899 nonresident shareholders for a taxable year may file a group return. A
900 group return under this subdivision shall be considered a group of
901 separate returns and shall satisfy the filing requirements otherwise
902 separately imposed on each qualified electing nonresident shareholder
903 included in the group return by this chapter.

904 (ii) Nothing in this subdivision shall be construed as precluding the
905 commissioner, in his or her sole discretion, from requiring the filing of
906 a separate tax return under this chapter by a qualified electing
907 nonresident shareholder.

908 (iii) Nothing in this subdivision shall be construed as excusing a
909 shareholder on whose behalf income tax has been paid under this
910 subdivision by an S corporation from the obligation to file his or her
911 own separate tax return under this chapter if the conditions
912 enumerated in subparagraph (B) of this subdivision are not met by the
913 shareholder. In such event, the shareholder shall receive credit for the
914 income tax paid under this subdivision by the S corporation on his or
915 her behalf, provided no overpayment attributable to such tax having
916 been paid at the highest marginal tax rate in effect under section 12-700
917 for the taxable year shall be refunded or credited to the shareholder.

918 (B) As used in this subsection, "qualified electing nonresident
919 shareholder" is one who meets all of the following conditions: (i) the
920 shareholder was a nonresident individual for the entire taxable year;
921 (ii) the shareholder did not maintain a permanent place of abode in

922 Connecticut at any time during the taxable year; (iii) the only source of
923 income derived from or connected with Connecticut sources of the
924 shareholder, or the shareholder and his or her spouse if a joint federal
925 income tax return is or shall be made, is from one or more pass-
926 through entities, as defined in subparagraph (C) of subdivision (3) of
927 subsection (b) of this section; (iv) the shareholder waives the right to
928 claim any Connecticut personal exemption under section 12-702 and
929 any Connecticut personal credit under section 12-703; (v) the
930 shareholder does not have Connecticut alternative minimum tax
931 liability under section 12-700a for the taxable year; (vi) the shareholder
932 has the same taxable year as the other qualified electing nonresident
933 shareholders; and (vii) the shareholder elects to be included in a group
934 return by completing and delivering to the S corporation an election
935 form prescribed by the commissioner for such purpose prior to the
936 filing of the group return by the S corporation. By making such
937 election, which shall be binding upon the shareholder's heirs,
938 representatives, assigns, successors, executors and administrators, the
939 shareholder expressly consents to personal jurisdiction in Connecticut
940 for Connecticut income tax purposes and waives his or her right to
941 request, on his or her own behalf or with others making such election,
942 an extension of time to pay Connecticut income tax. A qualified
943 electing nonresident shareholder may neither revoke an election after
944 delivering to the S corporation an election form nor make an election
945 after the fifteenth day of the fourth month following the close of such
946 shareholder's taxable year. The election form shall be maintained on
947 file by the S corporation and shall be subject to inspection by the
948 department.

949 (C) An S corporation filing a group return on behalf of its qualified
950 electing nonresident shareholders shall show the exact name and
951 address of the S corporation as shown on its informational return
952 under section 12-726, as amended by this act, the taxable year of the S
953 corporation and the taxable year of the qualified electing nonresident
954 shareholders. A group return shall be signed by a shareholder having
955 the authority to act as an agent for all qualified electing nonresident

956 shareholders. The election form, as described in subparagraph (B) of
957 this subdivision, shall constitute written evidence of such authority
958 and of the election by the shareholder to be included in the group
959 return. The due date of the group return is the fifteenth day of the
960 fourth month following the close of the taxable year of the qualified
961 electing nonresident shareholders. In addition, the S corporation shall
962 include with the group return a schedule showing each qualified
963 electing nonresident shareholder's name and address; Social Security
964 number; pro rata share of S corporation income, gain, loss or deduction
965 derived from or connected with sources within this state, as
966 determined under this chapter; pro rata share of S corporation income,
967 gain, loss or deduction derived from or connected with sources
968 without this state, as determined under this chapter; income tax under
969 this chapter, as computed by multiplying the shareholder's pro rata
970 share of S corporation income, gain, loss or deduction derived from or
971 connected with sources within this state by the highest marginal tax
972 rate in effect under section 12-700 for the taxable year; and estimated
973 tax paid, if any, under section 12-722. As required by the
974 commissioner, the S corporation as agent for the qualified electing
975 nonresident shareholders shall make the payments of tax, estimated
976 tax, additions to tax, interest and penalties otherwise required to be
977 paid by such shareholders.

978 (3) (A) Any payment under this subdivision shall be in an amount
979 equal to the highest marginal tax rate in effect under section 12-700, as
980 amended, multiplied by [the sum of (A) to the extent derived from or
981 connected with sources within this state as reflected on the S
982 corporation's annual return for the taxable period under section 12-726,
983 the amount of] the subject shareholder's pro rata share of such
984 corporation's separately computed items, as defined in Section 1366 of
985 the Internal Revenue Code, [and (B)] to the extent derived from or
986 connected with sources within this state as reflected on the S
987 corporation's annual return for the taxable [period] year under section
988 12-726, as amended by this act. [the amount of such shareholder's pro
989 rata share of such corporation's nonseparately computed items, as

990 defined in Section 1366 of the Internal Revenue Code, to the extent
991 includable, if the shareholder is an individual, in such shareholder's
992 Connecticut adjusted gross income or, if the shareholder is a trust or
993 estate, in such shareholder's Connecticut taxable income.] Any amount
994 paid by an S corporation to this state with respect to any taxable
995 [period] year pursuant to this subdivision shall be considered to be a
996 payment by the shareholder on account of the income tax imposed on
997 the shareholder for such taxable [period] year pursuant to this chapter.
998 An S corporation shall be entitled to recover a payment made pursuant
999 to this subdivision from the shareholder on whose behalf the payment
1000 was made. Any estimated tax installment shall be made on or before
1001 the due date of such installment pursuant to section 12-722, and any
1002 other payment for a taxable [period] year shall be made at or before the
1003 date the annual return for such taxable [period] year is required to be
1004 filed pursuant to section 12-726.

1005 (B) Notwithstanding the provisions of subparagraph (A) of this
1006 subdivision, an S corporation shall not be required to make a payment
1007 on account of the income tax imposed on a shareholder for a taxable
1008 year pursuant to this chapter if (i) the shareholder's distributive share
1009 of S corporation income, to the extent derived from or connected with
1010 sources within this state, as reflected on the S corporation's annual
1011 return for the taxable year under section 12-726, as amended by this
1012 act, is less than one thousand dollars; (ii) the department has
1013 determined by regulation, ruling or instruction that the shareholder's
1014 income is not subject to the provisions of this subdivision; or (iii) the
1015 shareholder has elected to be included in a group return being filed by
1016 the S corporation under subdivision (2) of this subsection.

1017 (C) For purposes of this subdivision, the provisions of subparagraph
1018 (C) of subdivision (3) of subsection (b) of this section apply.

1019 Sec. 14. Section 12-726 of the general statutes is repealed and the
1020 following is substituted in lieu thereof (*Effective from passage and*
1021 *applicable to taxable years commencing on or after January 1, 2004*):

1022 (a) Each partnership having any income derived from or connected
1023 with sources [in] within this state, determined in accordance with the
1024 provisions of this chapter, shall make a return for the taxable year
1025 setting forth all items of income, gain, loss and deduction, and the
1026 name, address and social security or federal employer identification
1027 number of each partner, whether or not a resident of this state, who
1028 would be entitled to share in the net income if distributed and the
1029 amount of the distributive share of each partner derived from or
1030 connected with sources within this state, the amount of the distributive
1031 share of each partner derived from or connected with sources without
1032 this state and such other pertinent information as the Commissioner of
1033 Revenue Services may prescribe by regulations and instructions. Such
1034 return shall be filed on or before the fifteenth day of the fourth month
1035 following the close of each taxable year. [The provisions of this
1036 subsection shall also apply to trusts and estates, and their
1037 beneficiaries.] The partnership shall, on or before the day on which
1038 such return is filed, furnish to each person who was a partner during
1039 the taxable year a copy of such information as shown on the return.
1040 [Wherever reference is made in this subsection to partnerships and
1041 their partners, such reference shall be construed as including trusts
1042 and estates and their beneficiaries, respectively.] The partnership shall
1043 attach to its return a list showing the name and Social Security number
1044 of each partner included in a group return under subdivision (2) of
1045 subsection (b) of section 12-719, as amended by this act, for the taxable
1046 year within or with which the taxable year of the partnership ends.

1047 (b) Each S corporation [carrying on or having the right to carry on
1048 business in this state, as the term is used in section 12-214] having any
1049 income derived from or connected with sources within this state,
1050 determined in accordance with the provisions of this chapter, shall
1051 make a return for the taxable year setting forth all items of income,
1052 gain, loss and deduction, and the name, address and social security or
1053 federal employer identification number of each shareholder, the pro
1054 rata share of each shareholder of S corporation income derived from or
1055 connected with sources within this state, the pro rata share of each

1056 shareholder of S corporation income derived from or connected with
1057 sources without this state, and such other pertinent information as the
1058 Commissioner of Revenue Services may prescribe by regulations and
1059 instructions. Such return shall be filed on or before the fifteenth day of
1060 the fourth month following the close of each taxable year. The S
1061 corporation shall, on or before the day on which such return is filed,
1062 furnish to each person who was a shareholder during the taxable year
1063 a copy of such information as shown on the return. The S corporation
1064 shall attach to its return a list showing the name and Social Security
1065 number of each shareholder included in a group return under
1066 subdivision (2) of subsection (c) of section 12-719, as amended by this
1067 act, for the taxable year within or with which the taxable year of the S
1068 corporation ends.

1069 Sec. 15. Subdivision (1) of subsection (j) of section 12-722 of the
1070 general statutes is repealed and the following is substituted in lieu
1071 thereof (*Effective from passage and applicable to taxable years commencing*
1072 *on or after January 1, 2004*):

1073 (j) (1) No addition to tax shall be imposed under subsection (a) of
1074 this section for any taxable year if the tax shown on the return for such
1075 taxable year, or, if no return is filed, the tax, reduced by the tax
1076 withheld under this chapter, is [five hundred dollars or] less than one
1077 thousand dollars.

1078 Sec. 16. Subsection (b) of section 12-743 of the general statutes is
1079 repealed and the following is substituted in lieu thereof (*Effective from*
1080 *passage and applicable to taxable years beginning on or after January 1,*
1081 *2004*):

1082 (b) The Commissioner of Revenue Services shall revise the tax
1083 return form to implement the provisions of subsection (a) of this
1084 section which form shall include spaces on the return in which
1085 taxpayers may indicate their intention to make a contribution, in a
1086 whole dollar amount, in accordance with this section. [The spaces shall
1087 include three boxes for each account with suggested whole dollar

1088 amounts, with the lowest suggested contribution being at least two
 1089 dollars, and one additional box for other whole dollar amounts.] The
 1090 commissioner shall include in the instructions accompanying the tax
 1091 return a description of the purposes for which the organ transplant
 1092 account, the AIDS research education account, the endangered species,
 1093 natural area preserves and watchable wildlife account, the breast
 1094 cancer research and education account and the safety net account were
 1095 created.

1096 Sec. 17. (*Effective from passage*) Section 12-39s of the general statutes
 1097 is repealed.

1098 Sec. 18. (*Effective July 1, 2004*) Section 12-3b of the general statutes is
 1099 repealed.

This act shall take effect as follows:	
Section 1	<i>July 1, 2004</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>
Sec. 4	<i>from passage</i>
Sec. 5	<i>July 1, 2004</i>
Sec. 6	<i>July 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>January 1, 2005, and applicable to wages and nonpayroll amounts paid on or after January 1, 2005</i>
Sec. 12	<i>January 1, 2005, and applicable to payments required to be made on or after said date</i>
Sec. 13	<i>from passage and applicable to taxable years commencing on or after January 1, 2004, and applicable to estimated composite income tax payments required to be made on or after said effective date</i>
Sec. 14	<i>from passage and applicable to taxable years commencing on or after January 1, 2004</i>
Sec. 15	<i>from passage and applicable to taxable years commencing on or after January 1, 2004</i>

Sec. 16	<i>from passage and applicable to taxable years beginning on or after January 1, 2004</i>
Sec. 17	<i>from passage</i>
Sec. 18	<i>July 1, 2004</i>

Statement of Purpose:

To enable the Commissioner of Revenue Services to (1) enter into agreements with other states for the reciprocal collection of taxes, (2) cancel any tax, interest and penalty that a taxpayer is shown to owe, when said tax, interest and penalty has been paid, (3) limit tax avoidance, (4) permit disclosure of cigarette distributors' sales data for the purpose of enforcing the tobacco Master Settlement Agreement, (5) shorten the time to abate taxes by requiring fewer officials to approve those abatements, (6) take testimony under oath and avail herself of the ability to subpoena persons or other evidence in cases involving the Motor Vehicles Fuel and Motor Carrier Road Taxes, (7) ensure that the tax owed on residential property in excess of eight hundred thousand dollars will be properly assessed and collected, (8) impose a penalty for failure to file a return electronically, if so required, (9) establish due dates for paying over Connecticut income tax withholding by employers, (10) require a pass-through entity to pay income tax on behalf of its nonresident members on their distributive share of pass-through entity income, (11) provide that for income tax purposes, no addition to tax will be imposed if tax shown on the income tax return, reduced by the income tax withheld, is less than one thousand dollars, and (12) simplify the check-off contribution boxes on the state income tax form.

[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.]