



General Assembly

Substitute Bill No. 421

February Session, 2004

* SB00421FIN__032904__ *

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 such other state or such district to collect such taxes
9 owed to this state and provides for the payment of such collected
10 amount to this 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 by the claimant state shall include the full
36 name and address of the taxpayer; the taxpayer's Social Security
37 number or federal employer identification number; the amount of
38 taxes owed to the claimant state, including a detailed statement for
39 each taxable period showing tax, interest and penalty; and a statement
40 that any administrative or judicial remedies, or both, have been
41 exhausted or have lapsed and that the amount of taxes is legally
42 enforceable under the laws of such 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. Section 12-475 of the general statutes is repealed and the

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

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

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

89 (c) The amount of any tax, penalty or interest due and unpaid under
90 the provisions of this chapter may be collected under the provisions of
91 section 12-35. The warrant therein provided for shall be signed by the
92 commissioner or his or her authorized agent. The amount of any such
93 tax, penalty and interest shall be a lien, from the last day of the month
94 next preceding the due date of such tax until discharged by payment,
95 against all real estate of the taxpayer within the state, and a certificate
96 of such lien signed by the commissioner may be filed for record in the
97 office of the clerk of any town in which such real estate is situated,
98 provided no such lien shall be effective as against any bona fide
99 purchaser or qualified encumbrancer of any interest in any such
100 property. When any tax with respect to which a lien has been recorded
101 under the provisions of this section has been satisfied, the
102 commissioner, upon request of any interested party, shall issue a
103 certificate discharging such lien, which certificate shall be recorded in
104 the same office in which the lien is recorded. Any action for the
105 foreclosure of such lien shall be brought by the Attorney General in the
106 name of the state in the superior court for the judicial district in which
107 the property subject to such lien is situated, or, if such property is
108 located in two or more judicial districts, in the superior court for any
109 one such judicial district, and the court may limit the time for
110 redemption or order the sale of such property or make such other or
111 further decree as it judges equitable.

112 (d) In carrying out the provisions of this chapter, the commissioner,
113 and any representative of the commissioner authorized to conduct any
114 inquiry, investigation or hearing, may administer oaths and take

115 testimony under oath in any inquiry or investigation related to the tax
116 imposed under this chapter. At any such hearing ordered by the
117 commissioner, the commissioner or the commissioner's representative
118 authorized to conduct such hearing and to issue such process as may
119 be necessary for such hearing may subpoena witnesses and require the
120 production of books, papers and documents pertinent to such inquiry.
121 No witness under subpoena shall be excused from testifying or from
122 producing books or other documentary evidence on the ground that
123 such testimony or the production of such books or other documentary
124 evidence would tend to incriminate the witness provided such
125 evidence or the books or other documentary evidence so produced
126 shall not be used in any criminal proceeding against the witness. If any
127 person disobeys such process or, having appeared in obedience to such
128 process, refuses to answer any pertinent question put to him or her by
129 the commissioner or the commissioner's authorized representative, or
130 to produce any books and other documentary evidence pursuant to
131 such questioning, the commissioner or such representative may apply
132 to the superior court for the judicial district in which the taxpayer
133 resides or in which the business has been conducted setting forth such
134 disobedience to process or refusal to answer. The court shall order
135 such person to appear before said court to answer such question or to
136 produce such books and documentary evidence and, upon such
137 person's refusal to do so, shall commit such person to a community
138 correctional center until such person testifies, but not for a longer
139 period than sixty days. Notwithstanding the serving of the term of
140 such commitment by any person, the commissioner may proceed in all
141 respects with such inquiry and examination as if the witness had not
142 previously been called upon to testify.

143 Sec. 3. Section 12-491 of the general statutes is repealed and the
144 following is substituted in lieu thereof (*Effective from passage*):

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

149 (b) In carrying out the provisions of this chapter, the commissioner,
150 and any representative of the commissioner authorized to conduct any
151 inquiry, investigation or hearing, may administer oaths and take
152 testimony under oath in any inquiry or investigation related to the tax
153 imposed under this chapter. At any such hearing ordered by the
154 commissioner, the commissioner or the commissioner's representative
155 authorized to conduct such hearing and to issue such process as may
156 be necessary for such hearing may subpoena witnesses and require the
157 production of books, papers and documents pertinent to such inquiry.
158 No witness under subpoena shall be excused from testifying or from
159 producing books or other documentary evidence on the ground that
160 such testimony or the production of such books or other documentary
161 evidence would tend to incriminate the witness provided such
162 evidence or the books or other documentary evidence so produced
163 shall not be used in any criminal proceeding against the witness. If any
164 person disobeys such process or, having appeared in obedience to such
165 process, refuses to answer any pertinent question put to him or her by
166 the commissioner or the commissioner's authorized representative, or
167 to produce any books and other documentary evidence pursuant to
168 such questioning, the commissioner or such representative may apply
169 to the superior court for the judicial district in which the taxpayer
170 resides or in which the business has been conducted setting forth such
171 disobedience to process or refusal to answer. The court shall order
172 such person to appear before said court to answer such question or to
173 produce such books and documentary evidence and, upon such
174 person's refusal to do so, shall commit such person to a community
175 correctional center until such person testifies, but not for a longer
176 period than sixty days. Notwithstanding the serving of the term of
177 such commitment by any person, the commissioner may proceed in all
178 respects with such inquiry and examination as if the witness had not
179 previously been called upon to testify.

180 Sec. 4. Subsection (b) of section 12-494 of the general statutes, as
181 amended by section 40 of public act 03-2, is repealed and the following
182 is substituted in lieu thereof (*Effective from passage*):

183 (b) The rate of tax imposed under subdivision (1) of subsection (a) of
184 this section shall, in lieu of the rate under said subdivision (1), be
185 imposed on certain conveyances as follows: (1) In the case of any
186 conveyance of real property which at the time of such conveyance is
187 used for any purpose other than residential use, except unimproved
188 land, the tax under said subdivision (1) shall be imposed at the rate of
189 one per cent of the consideration for the interest in real property
190 conveyed; [and] (2) in the case of any conveyance in which the real
191 property conveyed is a residential estate, including a primary dwelling
192 and any auxiliary housing or structures, regardless of the number of
193 deeds, instruments or writings used to convey such residential estate,
194 for which the consideration or aggregate consideration, as the case
195 may be, in such conveyance is eight hundred thousand dollars or
196 more, the tax under said subdivision (1) shall be imposed (A) at the
197 rate of one-half of one per cent on that portion of such consideration
198 up to and including the amount of eight hundred thousand dollars,
199 and (B) at the rate of one per cent on that portion of such consideration
200 in excess of eight hundred thousand dollars; and (3) in the case of any
201 conveyance in which real property on which mortgage payments have
202 been delinquent for not less than six months is conveyed to a financial
203 institution or its subsidiary which holds such a delinquent mortgage
204 on such property, the tax under said subdivision (1) shall be imposed
205 at the rate of one-half of one per cent of the consideration for the
206 interest in real property conveyed.

207 Sec. 5. Section 12-707 of the general statutes, as amended by section
208 4 of public act 03-107, is repealed and the following is substituted in
209 lieu thereof (*Effective January 1, 2005, and applicable to wages and*
210 *nonpayroll amounts paid on or after January 1, 2005*):

211 (a) (1) Each employer required to deduct and withhold tax under
212 this chapter from the wages of employees shall be liable for such tax
213 and shall file a withholding return as prescribed by the Commissioner
214 of Revenue Services and pay over to the commissioner, or to a
215 depository designated by the commissioner, the taxes so required to be
216 deducted and withheld at the [same] times [that such employer is

217 required, under federal law and regulations, to pay over federal taxes
218 that are required to be deducted and withheld from wages of
219 employees, except if the amount of taxes required to be deducted and
220 withheld in a calendar quarter is less than five hundred dollars and if
221 the employer is required, under federal law and regulations, to pay
222 over federal taxes that are required to be deducted and withheld from
223 wages of employees on or before the last day of the month next
224 succeeding such calendar quarter, the employer shall file a
225 withholding return and pay over such taxes on or before the last day of
226 the month next succeeding the calendar quarter for which the taxes
227 were deducted and withheld] specified in subsection (b) of this section.

228 (2) Each payer of nonpayroll amounts shall deduct and withhold tax
229 under this chapter from the nonpayroll amounts of payees, shall be
230 liable for such tax, and shall file a withholding return as prescribed by
231 the commissioner and pay over to the commissioner, or to a depository
232 designated by the commissioner, the taxes so required to be deducted
233 and withheld at the times specified in subsection (b) of this section.

234 (b) (1) (A) With respect to the tax required to be deducted and
235 withheld under this chapter from wages paid during any calendar year
236 beginning on or after January 1, 2005, and in accordance with an
237 annual determination described in subdivision (2) of this subsection,
238 each employer shall be either a weekly remitter, monthly remitter or
239 quarterly remitter for the calendar year. If an employer is a weekly
240 remitter, the employer shall pay over to the commissioner the tax
241 required to be deducted and withheld under this chapter in
242 accordance with subdivision (3) of this subsection. If an employer is a
243 monthly remitter, the employer shall pay over to the commissioner the
244 tax required to be deducted and withheld under this chapter in
245 accordance with subdivision (4) of this subsection. If an employer is a
246 quarterly remitter, the employer shall pay over to the commissioner
247 the tax required to be deducted and withheld under this chapter in
248 accordance with subdivision (5) of this subsection. Notwithstanding
249 any provision of this subsection, if an employer is a household
250 employer, the employer shall pay over to the commissioner the tax

251 required to be deducted and withheld under this chapter in
252 accordance with subdivision (6) of this subsection.

253 (B) With respect to the tax required to be deducted and withheld
254 under this chapter from nonpayroll amounts paid during any calendar
255 year beginning on or after January 1, 2005, and in accordance with an
256 annual determination described in subdivision (2) of this subsection,
257 each payer shall be either a weekly remitter, monthly remitter or
258 quarterly remitter for the calendar year. If a payer is a weekly remitter,
259 the payer shall pay over to the commissioner the tax required to be
260 deducted and withheld under this chapter in accordance with
261 subdivision (3) of this subsection. If a payer is a monthly remitter, the
262 payer shall pay over to the commissioner the tax required to be
263 deducted and withheld under this chapter in accordance with
264 subdivision (4) of this subsection. If a payer is a quarterly remitter, the
265 payer shall pay over to the commissioner the tax required to be
266 deducted and withheld under this chapter in accordance with
267 subdivision (5) of this subsection.

268 (2) (A) The annual determination for an employer required to
269 deduct and withhold tax under this chapter shall be based on the
270 employer's reported liability for the tax required to be deducted and
271 withheld under this chapter during the twelve-month look-back
272 period, provided, if any employer fails timely to file one or more
273 required withholding tax returns for the four quarterly periods within
274 the twelve-month look-back period, the commissioner may base the
275 annual determination for the employer on any information available to
276 the commissioner. If an employer's reported liability for the tax
277 required to be deducted and withheld under this chapter during the
278 twelve-month look-back period was more than ten thousand dollars,
279 the employer is a weekly remitter for the calendar year next
280 succeeding such twelve-month period. If an employer's reported
281 liability for the tax required to be deducted and withheld under this
282 chapter during the twelve-month look-back period was more than two
283 thousand dollars but not more than ten thousand dollars, the employer
284 is a monthly remitter for the calendar year next succeeding such

285 twelve-month period. If an employer's reported liability for the tax
286 required to be deducted and withheld under this chapter during the
287 twelve-month look-back period was two thousand dollars or less, the
288 employer is a quarterly remitter for the calendar year next succeeding
289 such twelve-month period. Notwithstanding any provision of this
290 section, if an employer is a seasonal employer, the annual
291 determination shall be based on the seasonal employer's reported
292 liability for the tax required to be deducted and withheld under this
293 chapter during the twelve-month look-back period multiplied by a
294 fraction, the numerator of which is four, and the denominator of which
295 is the number of quarterly periods during such twelve-month period
296 that the employer paid wages to employees.

297 (B) The annual determination for a payer required to deduct and
298 withhold tax under this chapter shall be based on the payer's reported
299 liability for the tax required to be deducted and withheld under this
300 chapter during the look-back calendar year, provided, if any payer
301 fails timely to file the required withholding tax return for the look-back
302 calendar year, the commissioner may base the annual determination
303 for the payer on any information available to the commissioner. If a
304 payer's reported liability for the tax required to be deducted and
305 withheld under this chapter during the look-back calendar year was
306 more than ten thousand dollars, the payer is a weekly remitter for the
307 calendar year for which the annual determination is being made. If a
308 payer's reported liability for the tax required to be deducted and
309 withheld under this chapter during the look-back calendar year was
310 more than two thousand dollars but not more than ten thousand
311 dollars, the payer is a monthly remitter for the calendar year for which
312 the annual determination is being made. If a payer's reported liability
313 for the tax required to be deducted and withheld under this chapter
314 during the look-back calendar year was two thousand dollars or less,
315 the payer is a quarterly remitter for the calendar year for which the
316 annual determination is being made.

317 (3) (A) An employer that is a weekly remitter shall pay over to the
318 department the tax required to be deducted and withheld from wages

319 under this chapter on or before the Wednesday next succeeding the
320 weekly period during which the wages from which the tax was
321 required to be deducted and withheld were paid to employees.

322 (B) A payer that is a weekly remitter shall pay over to the
323 department the tax required to be deducted and withheld from
324 nonpayroll amounts under this chapter on or before the Wednesday
325 next succeeding the weekly period during which the nonpayroll
326 amounts from which the tax was required to be deducted and
327 withheld were paid to payees.

328 (4) (A) An employer that is a monthly remitter shall pay over to the
329 department the tax required to be deducted and withheld from wages
330 under this chapter on or before the fifteenth day of the month next
331 succeeding the month during which the wages from which the tax was
332 required to be deducted and withheld were paid to employees.

333 (B) A payer that is a monthly remitter shall pay over to the
334 department the tax required to be deducted and withheld from
335 nonpayroll amounts under this chapter on or before the fifteenth day
336 of the month next succeeding the month during which the nonpayroll
337 amounts from which the tax was required to be deducted and
338 withheld were paid to payees.

339 (5) (A) An employer that is a quarterly remitter shall pay over to the
340 department the tax required to be deducted and withheld from wages
341 under this chapter on or before the last day of the month next
342 succeeding the quarterly period during which the wages from which
343 the tax was required to be deducted and withheld were paid to
344 employees.

345 (B) A payer that is a quarterly remitter shall pay over to the
346 department the tax required to be deducted and withheld from
347 nonpayroll amounts under this chapter on or before the last day of the
348 month next succeeding the quarterly period during which the
349 nonpayroll amounts from which the tax was required to be deducted
350 and withheld were paid to payees.

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

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

360 [(b)] (d) The amount of tax required to be deducted and withheld
361 and paid over to the commissioner under this chapter, when so
362 deducted and withheld, shall be held to be a special fund in trust for
363 the state. No employee or other person shall have any right of action
364 against the employer in respect to any moneys deducted and withheld
365 from wages and paid over to the commissioner in compliance or in
366 intended compliance with this chapter.

367 (e) As used in this section:

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

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

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

374 (4) "Nonpayroll amounts" includes (A) gambling winnings, other
375 than Connecticut lottery winnings, that are paid to a resident, or to a
376 person receiving payment on behalf of a resident, and that are subject
377 to federal income tax withholding; (B) Connecticut lottery winnings
378 that are required to be reported by the Connecticut Lottery
379 Corporation to the Internal Revenue Service, whether or not subject to
380 federal income tax withholding, whether paid to a resident,

381 nonresident or a part-year resident, and whether paid to an individual,
382 trust or estate; (C) pension and annuity distributions, where the
383 recipient is a resident individual and has requested that tax be
384 deducted and withheld under this chapter; (D) military retired pay,
385 where the payee is a resident individual and has requested that tax be
386 deducted and withheld under this chapter; (E) unemployment
387 compensation, where the recipient has requested that tax be deducted
388 and withheld under this chapter; and (F) payments made to an athlete
389 or entertainer, where the payments are not wages for federal income
390 tax withholding purposes and where the commissioner requires the
391 payer to deduct and withhold tax under this chapter;

392 (5) "Reported liability" means, in the case of an employer, the
393 liability for the tax required to be deducted and withheld under this
394 chapter, as shown on the employer's withholding tax returns for the
395 four quarterly periods within the twelve-month look-back period, and,
396 in the case of a payer, the liability for the tax required to be deducted
397 and withheld under this chapter, as shown on the payer's withholding
398 tax return for the look-back calendar year;

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

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

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

409 (9) "Household employee" means an employee whose services of a
410 household nature in or about a private home of an employer constitute
411 domestic service in a private home of the employer, as the phrase is
412 used in Section 3121(a)(7) of the Internal Revenue Code or in

413 regulations adopted thereunder;

414 (10) "Household employer" means an employer of a household
415 employee;

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

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

420 Sec. 6. Subsections (b) and (c) of section 12-719 of the general
421 statutes are repealed and the following is substituted in lieu thereof
422 (*Effective from passage and applicable to taxable years commencing on or after*
423 *January 1, 2004, and applicable to estimated composite income tax payments*
424 *required to be made on or after said effective date):*

425 [(b) In lieu of filing a return pursuant to this section, the
426 commissioner may, pursuant to requirements and conditions set forth
427 in forms and instructions, provide for the filing of a group return for
428 electing nonresident partners by a partnership doing business in this
429 state or having income derived from or connected with sources within
430 this state. As required by the commissioner, the partnership as agent
431 for the electing partners shall make the payments of tax, estimated tax,
432 additions to tax, interest and penalties otherwise required to be paid
433 by the electing partners. The provisions of this subsection shall also
434 apply to trusts and estates, and to S corporations, and wherever
435 reference is made in this subsection to partnerships and partners, such
436 reference shall be construed as including trusts and estates and
437 beneficiaries thereof, and S corporations and shareholders thereof.]

438 (b) (1) With respect to each of its nonresident partners, each
439 partnership doing business in this state or having income derived from
440 or connected with sources within this state shall, for each taxable year,
441 either timely file with the commissioner a group return, as provided in
442 subdivision (2) of this subsection, or make payment to the
443 commissioner as provided in subdivision (3) of this subsection.

444 (2) (A) (i) A partnership with two or more qualified electing
445 nonresident partners for a taxable year may file a group return. A
446 group return under this subdivision shall be considered a group of
447 separate returns and shall satisfy the filing requirements otherwise
448 separately imposed on each qualified electing nonresident partner
449 included in the group return by this chapter.

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

454 (iii) Nothing in this subdivision shall be construed as excusing a
455 partner on whose behalf income tax has been paid under this
456 subdivision by a partnership from the obligation to file his or her own
457 separate tax return under this chapter if the conditions enumerated in
458 subparagraph (B) of this subdivision are not met by such partner. In
459 such event, such partner shall receive credit for the income tax paid
460 under this subdivision by the partnership on his or her behalf,
461 provided no overpayment attributable to such tax having been paid at
462 the highest marginal tax rate in effect under section 12-700 for the
463 taxable year shall be refunded or credited to the partner.

464 (B) As used in this subsection, a "qualified electing nonresident
465 partner" means a partner who meets all of the following conditions: (i)
466 The partner was a nonresident individual for the entire taxable year;
467 (ii) the partner did not maintain a permanent place of abode in
468 Connecticut at any time during the taxable year; (iii) the only source of
469 income derived from or connected with Connecticut sources of the
470 partner, or the partner and his or her spouse if a joint federal income
471 tax return is or shall be made, is from one or more pass-through
472 entities, as defined in subparagraph (C) of subdivision (3) of this
473 subsection; (iv) the partner waives the right to claim any Connecticut
474 personal exemption under section 12-702 and any Connecticut
475 personal credit under section 12-703; (v) the partner does not have
476 Connecticut alternative minimum tax liability under section 12-700a

477 for the taxable year; (vi) the partner has the same taxable year as the
478 other qualified electing nonresident partners; and (vii) the partner
479 elects to be included in a group return by completing and delivering to
480 the partnership a form prescribed by the commissioner for such
481 purpose prior to the filing of the group return by the partnership. By
482 making such election, which shall be binding upon the partner's heirs,
483 representatives, assigns, successors, executors and administrators, the
484 partner expressly consents to personal jurisdiction in Connecticut for
485 Connecticut income tax purposes and waives his or her right to
486 request, on his or her own behalf or with others making such election,
487 an extension of time to pay Connecticut income tax. A qualified
488 electing nonresident partner may neither revoke an election after
489 delivering to the partnership an election form nor make an election
490 after the fifteenth day of the fourth month following the close of such
491 partner's taxable year. The election form shall be maintained on file by
492 the partnership and shall be subject to inspection by the department.

493 (C) A partnership filing a group return on behalf of its qualified
494 electing nonresident partners shall show the exact name and address
495 of the partnership as shown on its informational return under section
496 12-726, as amended by this act, the taxable year of the partnership and
497 the taxable year of the qualified electing nonresident partners. A group
498 return shall be signed by a partner having the authority to act as an
499 agent for all qualified electing nonresident partners. The election form,
500 as described in subparagraph (B) of this subdivision, shall constitute
501 written evidence of such authority and of the election by the partner to
502 be included in the group return. The due date of the group return is
503 the fifteenth day of the fourth month following the close of the taxable
504 year of the qualified electing nonresident partners. In addition, the
505 partnership shall include with the group return a schedule showing
506 each qualified electing nonresident partner's name and address; Social
507 Security number; distributive share of such partnership's separately
508 and nonseparately computed items, as described in Section 702(a) of
509 the Internal Revenue Code, to the extent derived from or connected
510 with sources within this state, as determined under this chapter;

511 distributive share of any modification described in section 12-701
512 which relates to an item of such partnership's income, gain, loss or
513 deduction, to the extent derived from or connected with sources within
514 this state, as determined under this chapter; income tax under this
515 chapter, as computed by multiplying the partner's distributive share of
516 (i) such partnership's separately and nonseparately computed items, as
517 described in Section 702(a) of the Internal Revenue Code, to the extent
518 derived from or connected with sources within this state, and (ii) any
519 modification described in section 12-701 which relates to an item of
520 such partnership's income, gain, loss or deduction, to the extent
521 derived from or connected with sources within this state, by the
522 highest marginal tax rate in effect under section 12-700 for the taxable
523 year; and estimated tax paid, if any, under section 12-722. As required
524 by the commissioner, the partnership as agent for the qualified electing
525 nonresident partners shall make the payments of tax, estimated tax,
526 additions to tax, interest and penalties otherwise required to be paid
527 by such partners.

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

533 (3) (A) Any payment under this subdivision shall be in an amount
534 equal to the highest marginal tax rate in effect under section 12-700 for
535 the taxable year multiplied by the subject partner's distributive share
536 of (i) such partnership's separately and nonseparately computed items,
537 as described in Section 702(a) of the Internal Revenue Code, to the
538 extent derived from or connected with sources within this state, as
539 determined under this chapter, and (ii) any modification described in
540 section 12-701 which relates to an item of such partnership's income,
541 gain, loss or deduction, to the extent derived from or connected with
542 sources within this state, as determined under this chapter. Any
543 amount paid by a partnership to this state with respect to any taxable
544 year pursuant to this subdivision shall be considered to be a payment

545 by the partner on account of the income tax imposed on the partner for
546 such taxable year pursuant to this chapter. A partnership shall not be
547 liable to, and shall be entitled to recover a payment made pursuant to
548 this subdivision from, the partner on whose behalf the payment was
549 made. Any estimated tax installment shall be made on or before the
550 due date of such installment pursuant to section 12-722, and any other
551 payment for a taxable year shall be made on or before the date the
552 annual return for such taxable year is required to be filed pursuant to
553 section 12-726, as amended by this act. The partnership shall furnish,
554 on a form prescribed by the commissioner, to each partner on whose
555 behalf payment was made under this subdivision no later than the
556 fifteenth day of the third month following the close of the partnership's
557 taxable year a record of the amount of the tax paid on behalf of such
558 partner by the partnership with respect to the taxable year.

559 (B) Notwithstanding any provision of subparagraph (A) of this
560 subdivision, a partnership shall not be required to make a payment on
561 account of the income tax imposed on a partner for a taxable year
562 pursuant to this chapter if (i) the partner's distributive share of
563 partnership income, to the extent derived from or connected with
564 sources within this state, as reflected on the partnership's annual
565 return for the taxable year under section 12-726, as amended by this
566 act, is less than one thousand dollars; (ii) the department has
567 determined by regulation, ruling or instruction that the partner's
568 income is not subject to the provisions of this subdivision; (iii) the
569 partner has elected to be included in a group return being filed by the
570 partnership under subdivision (2) of this subsection; or (iv) the
571 partnership is a publicly traded partnership, as defined in Section
572 7704(b) of the Internal Revenue Code, that is treated as a partnership
573 for federal income tax purposes and that has agreed to file the annual
574 return pursuant to section 12-726, as amended by this act, and to report
575 therewith the name, address, Social Security number or federal
576 employer identification number, and other information required by the
577 department concerning each unitholder whose distributive share of
578 partnership income, to the extent derived from or connected with

579 sources within this state, as reflected on such annual return, is more
580 than five hundred dollars.

581 (C) If a member of a pass-through entity, referred to in this
582 subparagraph as an "upper-tier pass-through entity", is itself a pass-
583 through entity, the member, referred to in this subparagraph as a
584 "lower-tier pass-through entity", shall be subject to the same
585 requirements to make payment, on behalf of its members, of the
586 income tax imposed on those members pursuant to this chapter that
587 apply to the upper-tier pass-through entity under this subdivision. The
588 department shall apply the income tax paid by the upper-tier pass-
589 through entity, on behalf of the lower-tier pass-through entity, to the
590 income tax required to paid by the lower-tier pass-through entity, on
591 behalf of its members. For purposes of this subdivision, "pass-through
592 entity" means an S corporation, general partnership, limited
593 partnership, limited liability partnership or limited liability company
594 that is treated as a partnership for federal income tax purposes; and
595 "member" means a shareholder of an S corporation, a partner in a
596 general partnership, a limited partnership, or a limited liability
597 partnership and a member of a limited liability company that is treated
598 as a partnership for federal income tax purposes.

599 (c) (1) With respect to each of its nonresident shareholders, each S
600 corporation doing business in this state or having income derived from
601 or connected with sources within this state shall, for each taxable
602 [period] year, either [(A)] timely file with the commissioner [an
603 agreement] a group return on behalf of its qualified electing
604 nonresident shareholders, as provided in subdivision (2) of this
605 subsection, or [(B)] make payment to the commissioner as provided in
606 subdivision (3) of this subsection. [Any S corporation which timely
607 files an agreement as provided in said subdivision (2) with respect to a
608 nonresident shareholder for a taxable period shall be considered to
609 have timely filed such an agreement for each subsequent taxable
610 period. Any S corporation which does not timely file such an
611 agreement for a taxable period shall not be precluded from timely
612 filing such an agreement for subsequent taxable periods.]

613 [(2) An agreement under this subdivision shall be an agreement by a
614 nonresident shareholder of the S corporation (A) to file a return in
615 accordance with the provisions of this chapter and to make timely
616 payment of all taxes imposed on the shareholder by this state with
617 respect to the income of the S corporation and (B) to be subject to
618 personal jurisdiction in this state for purposes of the collection of
619 income taxes, together with related additions to tax, interest and
620 penalties, imposed on the shareholder by this state with respect to the
621 income of the S corporation. Such an agreement shall be considered to
622 be timely filed for a taxable period and for all subsequent taxable
623 periods if it is filed on or before the date the annual return for such
624 taxable period is required to be filed pursuant to section 12-726.]

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

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

635 (iii) Nothing in this subdivision shall be construed as excusing a
636 shareholder on whose behalf income tax has been paid under this
637 subdivision by an S corporation from the obligation to file his or her
638 own separate tax return under this chapter if the conditions
639 enumerated in subparagraph (B) of this subdivision are not met by the
640 shareholder. In such event, the shareholder shall receive credit for the
641 income tax paid under this subdivision by the S corporation on his or
642 her behalf, provided no overpayment attributable to such tax having
643 been paid at the highest marginal tax rate in effect under section 12-700
644 for the taxable year shall be refunded or credited to the shareholder.

645 (B) As used in this subsection, "qualified electing nonresident
646 shareholder" means a shareholder who meets all of the following
647 conditions: (i) The shareholder was a nonresident individual for the
648 entire taxable year; (ii) the shareholder did not maintain a permanent
649 place of abode in Connecticut at any time during the taxable year; (iii)
650 the only source of income derived from or connected with Connecticut
651 sources of the shareholder, or the shareholder and his or her spouse if
652 a joint federal income tax return is or shall be made, is from one or
653 more pass-through entities, as defined in subparagraph (C) of
654 subdivision (3) of subsection (b) of this section; (iv) the shareholder
655 waives the right to claim any Connecticut personal exemption under
656 section 12-702 and any Connecticut personal credit under section 12-
657 703; (v) the shareholder does not have Connecticut alternative
658 minimum tax liability under section 12-700a for the taxable year; (vi)
659 the shareholder has the same taxable year as the other qualified
660 electing nonresident shareholders; and (vii) the shareholder elects to be
661 included in a group return by completing and delivering to the S
662 corporation an election form prescribed by the commissioner for such
663 purpose prior to the filing of the group return by the S corporation. By
664 making such election, which shall be binding upon the shareholder's
665 heirs, representatives, assigns, successors, executors and
666 administrators, the shareholder expressly consents to personal
667 jurisdiction in Connecticut for Connecticut income tax purposes and
668 waives his or her right to request, on his or her own behalf or with
669 others making such election, an extension of time to pay Connecticut
670 income tax. A qualified electing nonresident shareholder may neither
671 revoke an election after delivering to the S corporation an election form
672 nor make an election after the fifteenth day of the fourth month
673 following the close of such shareholder's taxable year. The election
674 form shall be maintained on file by the S corporation and shall be
675 subject to inspection by the department.

676 (C) An S corporation filing a group return on behalf of its qualified
677 electing nonresident shareholders shall show the exact name and
678 address of the S corporation as shown on its informational return

679 under section 12-726, as amended by this act, the taxable year of the S
680 corporation and the taxable year of the qualified electing nonresident
681 shareholders. A group return shall be signed by a shareholder having
682 the authority to act as an agent for all qualified electing nonresident
683 shareholders. The election form, as described in subparagraph (B) of
684 this subdivision, shall constitute written evidence of such authority
685 and of the election by the shareholder to be included in the group
686 return. The due date of the group return is the fifteenth day of the
687 fourth month following the close of the taxable year of the qualified
688 electing nonresident shareholders. In addition, the S corporation shall
689 include with the group return a schedule showing each qualified
690 electing nonresident shareholder's name and address; Social Security
691 number; pro rata share of such S corporation's separately and
692 nonseparately computed items, as described in Section 1366 of the
693 Internal Revenue Code, to the extent derived from or connected with
694 sources within this state, as determined under this chapter; pro rata
695 share of any modification described in section 12-701 which relates to
696 an item of such S corporation's income, gain, loss or deduction, to the
697 extent derived from or connected with sources within this state, as
698 determined under this chapter; income tax under this chapter, as
699 computed by multiplying the shareholder's pro rata share of (i) such S
700 corporation's separately and nonseparately computed items, as
701 described in Section 1366 of the Internal Revenue Code, to the extent
702 derived from or connected with sources within this state, and (ii) any
703 modification described in section 12-701 which relates to an item of
704 such S corporation's income, gain, loss or deduction, to the extent
705 derived from or connected with sources within this state, by the
706 highest marginal tax rate in effect under section 12-700 for the taxable
707 year; and estimated tax paid, if any, under section 12-722. As required
708 by the commissioner, the S corporation as agent for the qualified
709 electing nonresident shareholders shall make the payments of tax,
710 estimated tax, additions to tax, interest and penalties otherwise
711 required to be paid by such shareholders.

712 (3) (A) Any payment under this subdivision shall be in an amount

713 equal to the highest marginal tax rate in effect under section 12-700, as
714 amended, for the taxable year multiplied by [the sum of (A) to the
715 extent derived from or connected with sources within this state as
716 reflected on the S corporation's annual return for the taxable period
717 under section 12-726, the amount of the subject shareholder's pro rata
718 share of such corporation's separately computed items, as defined in
719 Section 1366 of the Internal Revenue Code, and (B) to the extent
720 derived from or connected with sources within this state as reflected
721 on the S corporation's annual return for the taxable period under
722 section 12-726, the amount of such shareholder's pro rata share of such
723 corporation's nonseparately computed items, as defined in Section
724 1366 of the Internal Revenue Code, to the extent includable, if the
725 shareholder is an individual, in such shareholder's Connecticut
726 adjusted gross income or, if the shareholder is a trust or estate, in such
727 shareholder's Connecticut taxable income] the subject shareholder's
728 pro rata share of (i) such S corporation's separately and nonseparately
729 computed items, as described in Section 1366 of the Internal Revenue
730 Code, to the extent derived from or connected with sources within this
731 state, as determined under this chapter, and (ii) any modification
732 described in section 12-701 which relates to an item of such S
733 corporation's income, gain, loss or deduction, to the extent derived
734 from or connected with sources within this state, as determined under
735 this chapter. Any amount paid by an S corporation to this state with
736 respect to any taxable [period] year pursuant to this subdivision shall
737 be considered to be a payment by the shareholder on account of the
738 income tax imposed on the shareholder for such taxable [period] year
739 pursuant to this chapter. An S corporation shall not be liable to, and
740 shall be entitled to recover a payment made pursuant to this
741 subdivision from, the shareholder on whose behalf the payment was
742 made. Any estimated tax installment shall be made on or before the
743 due date of such installment pursuant to section 12-722, and any other
744 payment for a taxable [period] year shall be made at or before the date
745 the annual return for such taxable [period] year is required to be filed
746 pursuant to section 12-726, as amended by this act. The S corporation
747 shall furnish, on a form prescribed by the department, to each

748 shareholder on whose behalf payment was made under this
749 subdivision no later than the fifteenth day of the third month following
750 the close of the S corporation's taxable year a record of the amount of
751 the tax paid on behalf of such shareholder by the S corporation with
752 respect to the taxable year.

753 (B) Notwithstanding the provisions of subparagraph (A) of this
754 subdivision, an S corporation shall not be required to make a payment
755 on account of the income tax imposed on a shareholder for a taxable
756 year pursuant to this chapter if (i) the shareholder's distributive share
757 of S corporation income, to the extent derived from or connected with
758 sources within this state, as reflected on the S corporation's annual
759 return for the taxable year under section 12-726, as amended by this
760 act, is less than one thousand dollars; (ii) the department has
761 determined by regulation, ruling or instruction that the shareholder's
762 income is not subject to the provisions of this subdivision; or (iii) the
763 shareholder has elected to be included in a group return being filed by
764 the S corporation under subdivision (2) of this subsection.

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

767 Sec. 7. Section 12-726 of the general statutes is repealed and the
768 following is substituted in lieu thereof (*Effective from passage and*
769 *applicable to taxable years commencing on or after January 1, 2004*):

770 (a) Each partnership having any income derived from or connected
771 with sources [in] within this state, determined in accordance with the
772 provisions of this chapter, shall make a return for the taxable year
773 setting forth all items of income, gain, loss and deduction, and the
774 name, address and social security or federal employer identification
775 number of each partner, whether or not a resident of this state, [who
776 would be entitled to share in the net income if distributed and the
777 amount of the distributive share of each partner derived from or
778 connected with sources within this state, the amount of the distributive
779 share of each partner derived from or connected with sources without

780 this state] the amount of each partner's distributive share of (i) such
781 partnership's separately and nonseparately computed items, as
782 described in Section 702(a) of the Internal Revenue Code, (ii) any
783 modification described in section 12-701 which relates to an item of
784 such partnership's income, gain, loss or deduction, (iii) such
785 partnership's separately and nonseparately computed items, as
786 described in Section 702(a) of the Internal Revenue Code, to the extent
787 derived from or connected with sources within this state, as
788 determined under this chapter, and (iv) any modification described in
789 section 12-701 which relates to an item of such partnership's income,
790 gain, loss or deduction, to the extent derived from or connected with
791 sources within this state, as determined under this chapter, and such
792 other pertinent information as the Commissioner of Revenue Services
793 may prescribe by regulations and instructions. Such return shall be
794 filed on or before the fifteenth day of the fourth month following the
795 close of each taxable year. [The provisions of this subsection shall also
796 apply to trusts and estates, and their beneficiaries.] The partnership
797 shall, on or before the day on which such return is filed, furnish to each
798 person who was a partner during the taxable year a copy of such
799 information as shown on the return. [Wherever reference is made in
800 this subsection to partnerships and their partners, such reference shall
801 be construed as including trusts and estates and their beneficiaries,
802 respectively.] The partnership shall attach to its return a list showing
803 the name and Social Security number of each partner included in a
804 group return under subdivision (2) of subsection (b) of section 12-719,
805 as amended by this act, for the taxable year within or with which the
806 taxable year of the partnership ends.

807 (b) Each S corporation [carrying on or having the right to carry on
808 business in this state, as the term is used in section 12-214] having any
809 income derived from or connected with sources within this state,
810 determined in accordance with the provisions of this chapter, shall
811 make a return for the taxable year setting forth all items of income,
812 gain, loss and deduction, and the name, address and social security or
813 federal employer identification number of each shareholder, [the pro

814 rata share of each shareholder of S corporation income derived from or
815 connected with sources within this state, the pro rata share of each
816 shareholder of S corporation income derived from or connected with
817 sources without this state] whether or not a resident of this state, the
818 amount of each shareholder's pro rata share of (i) such S corporation's
819 separately and nonseparately computed items, as described in Section
820 1366 of the Internal Revenue Code, (ii) any modification described in
821 section 12-701 which relates to an item of such S corporation's income,
822 gain, loss or deduction, (iii) such S corporation's separately and
823 nonseparately computed items, as described in Section 1366 of the
824 Internal Revenue Code, to the extent derived from or connected with
825 sources within this state, as determined under this chapter, and (iv)
826 any modification described in section 12-701 which relates to an item
827 of such S corporation's income, gain, loss or deduction, to the extent
828 derived from or connected with sources within this state, as
829 determined under this chapter, and such other pertinent information
830 as the Commissioner of Revenue Services may prescribe by regulations
831 and instructions. Such return shall be filed on or before the fifteenth
832 day of the fourth month following the close of each taxable year. The S
833 corporation shall, on or before the day on which such return is filed,
834 furnish to each person who was a shareholder during the taxable year
835 a copy of such information as shown on the return. The S corporation
836 shall attach to its return a list showing the name and Social Security
837 number of each shareholder included in a group return under
838 subdivision (2) of subsection (c) of section 12-719, as amended by this
839 act, for the taxable year within or with which the taxable year of the S
840 corporation ends.

841 Sec. 8. Subdivision (1) of subsection (j) of section 12-722 of the
842 general statutes is repealed and the following is substituted in lieu
843 thereof (*Effective from passage and applicable to taxable years commencing*
844 *on or after January 1, 2004*):

845 (j) (1) No addition to tax shall be imposed under subsection (a) of
846 this section for any taxable year if the tax shown on the return for such
847 taxable year, or, if no return is filed, the tax, reduced by the tax

848 withheld under this chapter, is [five hundred dollars or] less than one
 849 thousand dollars.

850 Sec. 9. Subsection (b) of section 12-743 of the general statutes is
 851 repealed and the following is substituted in lieu thereof (*Effective from*
 852 *passage and applicable to taxable years beginning on or after January 1,*
 853 *2004*):

854 (b) The Commissioner of Revenue Services shall revise the tax
 855 return form to implement the provisions of subsection (a) of this
 856 section which form shall include spaces on the return in which
 857 taxpayers may indicate their intention to make a contribution, in a
 858 whole dollar amount, in accordance with this section. [The spaces shall
 859 include three boxes for each account with suggested whole dollar
 860 amounts, with the lowest suggested contribution being at least two
 861 dollars, and one additional box for other whole dollar amounts.] The
 862 commissioner shall include in the instructions accompanying the tax
 863 return a description of the purposes for which the organ transplant
 864 account, the AIDS research education account, the endangered species,
 865 natural area preserves and watchable wildlife account, the breast
 866 cancer research and education account and the safety net account were
 867 created.

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>January 1, 2005, and applicable to wages and nonpayroll amounts paid on or after January 1, 2005</i>
Sec. 6	<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. 7	<i>from passage and applicable to taxable years commencing on or after January 1, 2004</i>

Sec. 8	<i>from passage and applicable to taxable years commencing on or after January 1, 2004</i>
Sec. 9	<i>from passage and applicable to taxable years beginning on or after January 1, 2004</i>

FIN *Joint Favorable Subst.*