



General Assembly

January Session, 2007

Raised Bill No. 1390

LCO No. 5148

05148_____FIN

Referred to Committee on Finance, Revenue and Bonding

Introduced by:
(FIN)

AN ACT CONCERNING THE ESTATE TAX.

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

1 Section 1. Section 12-391 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage and*
3 *applicable to the estates of decedents who die on or after January 1, 2007*):

4 (a) With respect to estates of decedents who die prior to January 1,
5 2005, and except as otherwise provided in section 59 of public act 03-1
6 of the June 30 special session*, a tax is imposed upon the transfer of the
7 estate of each person who at the time of death was a resident of this
8 state. The amount of the tax shall be the amount of the federal credit
9 allowable for estate, inheritance, legacy and succession taxes paid to
10 any state or the District of Columbia under the provisions of the
11 federal internal revenue code in force at the date of such decedent's
12 death in respect to any property owned by such decedent or subject to
13 such taxes as part of or in connection with the estate of such decedent.
14 If real or tangible personal property of such decedent is located outside
15 of this state and is subject to estate, inheritance, legacy, or succession
16 taxes by any state or states, other than the state of Connecticut, or by
17 the District of Columbia for which such federal credit is allowable, the

18 amount of tax due under this section shall be reduced by the lesser of:
19 (1) The amount of any such taxes paid to such other state or states or
20 said district and allowed as a credit against the federal estate tax; or (2)
21 an amount computed by multiplying such federal credit by a fraction,
22 (A) the numerator of which is the value of that part of the decedent's
23 gross estate over which such other state or states or said district have
24 jurisdiction for estate tax purposes to the same extent to which this
25 state would assert jurisdiction for estate tax purposes under this
26 chapter with respect to the residents of such other state or states or
27 said district, and (B) the denominator of which is the value of the
28 decedent's gross estate. Property of a resident estate over which this
29 state has jurisdiction for estate tax purposes includes real property
30 situated in this state, tangible personal property having an actual situs
31 in this state, and intangible personal property owned by the decedent,
32 regardless of where it is located. The amount of any estate tax imposed
33 under this subsection shall also be reduced, but not below zero, by the
34 amount of any tax that is imposed under chapter 216 and that is
35 actually paid to this state.

36 (b) With respect to the estates of decedents who die prior to January
37 1, 2005, and except as otherwise provided in section 59 of public act 03-
38 1 of the June 30 special session*, a tax is imposed upon the transfer of
39 the estate of each person who at the time of death was a nonresident of
40 this state, the amount of which shall be computed by multiplying (1)
41 the federal credit allowable for estate, inheritance, legacy, and
42 succession taxes paid to any state or states or the District of Columbia
43 under the provisions of the federal internal revenue code in force at the
44 date of such decedent's death in respect to any property owned by
45 such decedent or subject to such taxes as a part of or in connection
46 with the estate of such decedent by (2) a fraction, (A) the numerator of
47 which is the value of that part of the decedent's gross estate over which
48 this state has jurisdiction for estate tax purposes and (B) the
49 denominator of which is the value of the decedent's gross estate.
50 Property of a nonresident estate over which this state has jurisdiction
51 for estate tax purposes includes real property situated in this state and

52 tangible personal property having an actual situs in this state. The
53 amount of any estate tax imposed under this subsection shall also be
54 reduced, but not below zero, by the amount of any tax that is imposed
55 under chapter 216 and that is actually paid to this state.

56 (c) For purposes of this section:

57 (1) "Connecticut taxable estate" means (A) the gross estate less
58 allowable deductions, as determined under Chapter 11 of the Internal
59 Revenue Code, except as provided in subsection (f) of this section, plus
60 (B) the aggregate amount of all Connecticut taxable gifts, as defined in
61 section 12-643, made by the decedent for all calendar years beginning
62 on or after January 1, 2005, other than gifts that are includible in the
63 gross estate of the decedent. The deduction for state death taxes paid
64 under Section 2058 of said code shall be disregarded.

65 (2) "Internal Revenue Code" means the Internal Revenue Code of
66 1986, or any subsequent corresponding internal revenue code of the
67 United States, as from time to time amended, except in the event of
68 repeal of the federal estate tax, then all references to the Internal
69 Revenue Code in this section shall mean the Internal Revenue Code as
70 in force on the day prior to the effective date of such repeal.

71 (3) "Gross estate" means the gross estate, for federal estate tax
72 purposes.

73 (d) (1) With respect to the estates of decedents who die on or after
74 January 1, 2005, a tax is imposed upon the transfer of the estate of each
75 person who at the time of death was a resident of this state. The
76 amount of the tax shall be determined using the schedule in subsection
77 (g) of this section. A credit shall be allowed against such tax for any
78 taxes paid to this state pursuant to section 12-642 for Connecticut
79 taxable gifts made on or after January 1, 2005.

80 (2) If real or tangible personal property of such decedent is located
81 outside of this state, [and is subject to estate, inheritance, legacy or

82 succession taxes by any state or states, other than the state of
83 Connecticut, or by the District of Columbia,] the amount of tax due
84 under this section shall be reduced by [the lesser of: (A) The amount of
85 any taxes paid to such other state or states or said district; or (B)] an
86 amount computed by multiplying the tax otherwise due pursuant to
87 subdivision (1) of this subsection, without regard to the credit allowed
88 for any taxes paid to this state pursuant to section 12-642, by a fraction,
89 (i) the numerator of which is the value of that part of the decedent's
90 gross estate over which such other state or states or said district have
91 jurisdiction for estate tax purposes to the same extent to which this
92 state would assert jurisdiction for estate tax purposes under this
93 chapter, with respect to the residents of such other state or states or
94 said district, and (ii) the denominator of which is the value of the
95 decedent's gross estate.

96 (3) Property of a resident estate over which this state has jurisdiction
97 for estate tax purposes includes real property situated in this state,
98 tangible personal property having an actual situs in this state and
99 intangible personal property owned by the decedent, regardless of
100 where it is located.

101 (e) (1) With respect to the estates of decedents who die on or after
102 January 1, 2005, a tax is imposed upon the transfer of the estate of each
103 person who at the time of death was a nonresident of this state. The
104 amount of such tax shall be computed by multiplying (A) the amount
105 of tax determined using the schedule in subsection (g) of this section
106 by (B) a fraction, (i) the numerator of which is the value of that part of
107 the decedent's gross estate over which this state has jurisdiction for
108 estate tax purposes, and (ii) the denominator of which is the value of
109 the decedent's gross estate. A credit shall be allowed against such tax
110 for any taxes paid to this state pursuant to section 12-642, on or after
111 January 1, 2005.

112 (2) Property of a nonresident estate over which this state has
113 jurisdiction for estate tax purposes includes real property situated in

114 this state and tangible personal property having an actual situs in this
115 state.

116 [(f) (1) For purposes of the tax imposed under this section, the value
117 of the Connecticut taxable estate shall be determined taking into
118 account all of the deductions available under the Internal Revenue
119 Code of 1986, specifically including, but not limited to, the deduction
120 available under Section 2056(b)(7) of said code for a qualifying income
121 interest for life in a surviving spouse.

122 (2) An election under said Section 2056(b)(7) may be made for state
123 estate tax purposes regardless of whether any such election is made for
124 federal estate tax purposes. The value of the gross estate shall include
125 the value of any property in which the decedent had a qualifying
126 income interest for life for which an election was made under this
127 subsection.]

128 (f) For purposes of the tax imposed under this section, any federal
129 election under Section 2056(b)(7) of the Internal Revenue Code for a
130 qualifying income interest for life in a surviving spouse shall be
131 disregarded for purposes of determining the gross estate or any
132 available deduction, and a separate Connecticut election under said
133 Section 2056(b)(7) may be made for state estate tax purposes,
134 regardless of whether or not any such election is made with respect to
135 such property, or any other property, for federal estate tax purposes.
136 The term "election" shall be deemed to include any partial election or
137 nonelection. The value of the gross estate shall include the value of any
138 property in which the decedent had a qualifying income interest for
139 life for which a deduction was previously allowed with respect to the
140 transfer of such property to the decedent under this subsection for
141 Connecticut estate tax purposes, but shall not include the value of any
142 such property for which no Connecticut deduction was previously
143 allowed under this subsection, even if a federal deduction was
144 previously allowed with respect to the transfer of such property to the
145 decedent either before or after January 1, 2005.

146 (g) (1) With respect to the estates of decedents dying on or after
147 January 1, 2005, the tax based on the Connecticut taxable estate shall be
148 as provided in the following schedule:

T1	Amount of Connecticut	
T2	Taxable Estate	Rate of Tax
T3	Not over \$2,000,000	None
T4	Over \$2,000,000	
T5	but not over \$2,100,000	5.085% of the excess over \$0
T6	Over \$2,100,000	\$106,800 plus 8% of the excess
T7	but not over \$2,600,000	over \$2,100,000
T8	Over \$2,600,000	\$146,800 plus 8.8% of the excess
T9	but not over \$3,100,000	over \$2,600,000
T10	Over \$3,100,000	\$190,800 plus 9.6% of the excess
T11	but not over \$3,600,000	over \$3,100,000
T12	Over \$3,600,000	\$238,800 plus 10.4% of the excess
T13	but not over \$4,100,000	over \$3,600,000
T14	Over \$4,100,000	\$290,800 plus 11.2% of the excess
T15	but not over \$5,100,000	over \$4,100,000
T16	Over \$5,100,000	\$402,800 plus 12% of the excess
T17	but not over \$6,100,000	over \$5,100,000
T18	Over \$6,100,000	\$522,800 plus 12.8% of the excess
T19	but not over \$7,100,000	over \$6,100,000
T20	Over \$7,100,000	\$650,800 plus 13.6% of the excess
T21	but not over \$8,100,000	over \$7,100,000
T22	Over \$8,100,000	\$786,800 plus 14.4% of the excess
T23	but not over \$9,100,000	over \$8,100,000
T24	Over \$9,100,000	\$930,800 plus 15.2% of the excess

T25	but not over \$10,100,000	over \$9,100,000
T26	Over \$10,100,000	\$1,082,800 plus 16% of the excess
T27		over \$10,100,000

149 (2) With respect to the estates of decedents dying on or after January
 150 1, 2007, the tax based on the Connecticut taxable estate shall be as
 151 provided in the following schedule:

T28	<u>Amount of Connecticut</u>	
T29	<u>Taxable Estate</u>	<u>Rate of Tax</u>
T30	<u>Not over \$2,000,000</u>	<u>None</u>
T31	<u>Over \$2,000,000</u>	<u>5.085% of the excess over</u>
T32	<u>but not over \$2,100,000</u>	<u>\$2,000,000</u>
T33	<u>Over \$2,100,000</u>	<u>\$5,100 plus 10.0% of the excess</u>
T34	<u>but not over \$2,600,000</u>	<u>over \$2,100,000</u>
T35	<u>Over \$2,600,000</u>	<u>\$55,100 plus 11.0% of the excess</u>
T36	<u>but not over \$3,100,000</u>	<u>over \$2,600,000</u>
T37	<u>Over \$3,100,000</u>	<u>\$110,100 plus 12.0% of the excess</u>
T38	<u>but not over \$3,600,000</u>	<u>over \$3,100,000</u>
T39	<u>Over \$3,600,000</u>	<u>\$170,100 plus 13.0% of the excess</u>
T40	<u>but not over \$4,100,000</u>	<u>over \$3,600,000</u>
T41	<u>Over \$4,100,000</u>	<u>\$235,100 plus 14.0% of the excess</u>
T42	<u>but not over \$5,100,000</u>	<u>over \$4,100,000</u>
T43	<u>Over \$5,100,000</u>	<u>\$375,100 plus 15% of the excess</u>
T44	<u>but not over \$6,100,000</u>	<u>over \$5,100,000</u>
T45	<u>Over \$6,100,000</u>	<u>\$525,100 plus 16.0% of the excess</u>
T46	<u>but not over \$7,100,000</u>	<u>over \$6,100,000</u>
T47	<u>Over \$7,100,000</u>	<u>\$685,100 plus 17.0% of the excess</u>

T48	<u>but not over \$8,100,000</u>	<u>over \$7,100,000</u>
T49	<u>Over \$8,100,000</u>	<u>\$855,100 plus 18.0% of the excess</u>
T50	<u>but not over \$9,100,000</u>	<u>over \$8,100,000</u>
T51	<u>Over \$9,100,000</u>	<u>\$1,035,000 plus 19.0% of the</u>
T52	<u>but not over \$10,100,000</u>	<u>excess over \$9,100,000</u>
T53	<u>Over \$10,100,000</u>	<u>\$1,225,100 plus 20.0% of the</u>
T54		<u>excess over \$10,100,000</u>

152 (h) (1) For the purposes of this chapter, each decedent shall be
153 presumed to have died a resident of this state. The burden of proof in
154 an estate tax proceeding shall be upon any decedent's estate claiming
155 exemption by reason of the decedent's alleged nonresidency.

156 (2) Any person required to make and file a tax return under this
157 chapter, believing that the decedent died a nonresident of this state,
158 may file a request for determination of domicile in writing with the
159 Commissioner of Revenue Services, stating the specific grounds upon
160 which the request is founded provided (A) such person has filed such
161 return, (B) at least two hundred seventy days, but no more than three
162 years, has elapsed since the due date of such return or, if an
163 application for extension of time to file such return has been granted,
164 the extended due date of such return, (C) such person has not been
165 notified, in writing, by said commissioner that a written agreement of
166 compromise with the taxing authorities of another jurisdiction, under
167 section 12-395a, is being negotiated, and (D) the commissioner has not
168 previously determined whether the decedent died a resident of this
169 state. Not later than one hundred eighty days following receipt of such
170 request for determination, the commissioner shall determine whether
171 such decedent died a resident or a nonresident of this state. If the
172 commissioner commences negotiations over a written agreement of
173 compromise with the taxing authorities of another jurisdiction after a
174 request for determination of domicile is filed, the one-hundred-eighty-
175 day period shall be tolled for the duration of such negotiations. When,

176 before the expiration of such one-hundred-eighty-day period, both the
177 commissioner and the person required to make and file a tax return
178 under this chapter have consented in writing to the making of such
179 determination after such time, the determination may be made at any
180 time prior to the expiration of the period agreed upon. The period so
181 agreed upon may be extended by subsequent agreements in writing
182 made before the expiration of the period previously agreed upon. The
183 commissioner shall mail notice of his proposed determination to the
184 person required to make and file a tax return under this chapter. Such
185 notice shall set forth briefly the commissioner's findings of fact and the
186 basis of such proposed determination. Sixty days after the date on
187 which it is mailed, a notice of proposed determination shall constitute
188 a final determination unless the person required to make and file a tax
189 return under this chapter has filed, as provided in subdivision (3) of
190 this subsection, a written protest with the Commissioner of Revenue
191 Services.

192 (3) On or before the sixtieth day after mailing of the proposed
193 determination, the person required to make and file a tax return under
194 this chapter may file with the commissioner a written protest against
195 the proposed determination in which such person shall set forth the
196 grounds on which the protest is based. If such a protest is filed, the
197 commissioner shall reconsider the proposed determination and, if the
198 person required to make and file a tax return under this chapter has so
199 requested, may grant or deny such person or the authorized
200 representatives of such person an oral hearing.

201 (4) Notice of the commissioner's determination shall be mailed to
202 the person required to make and file a tax return under this chapter
203 and such notice shall set forth briefly the commissioner's findings of
204 fact and the basis of decision in each case decided adversely to such
205 person.

206 (5) The action of the commissioner on a written protest shall be final
207 upon the expiration of one month from the date on which he mails

208 notice of his action to the person required to make and file a tax return
209 under this chapter unless within such period such person seeks review
210 of the commissioner's determination pursuant to subsection (b) of
211 section 12-395.

212 (6) Nothing in this subsection shall be construed to relieve any
213 person filing a request for determination of domicile of the obligation
214 to pay the correct amount of tax on or before the due date of the tax.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage and applicable to the estates of decedents who die on or after January 1, 2007</i>	12-391

Statement of Purpose:

To clarify the operation of the estate tax by providing that property in which a federal Qualified Terminable Interest Property election had been made prior to January 1, 2005, is not part of the Connecticut taxable estate, and amending language to avoid possible double taxation of certain gifts and to clarify that Connecticut does not have jurisdiction over out-of-state property, to eliminate the "cliff" in the rate schedule, and to increase the tax rate.

[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.]