

TESTIMONY OF
BONNIE STEWART
VICE PRESIDENT OF GOVERNMENT AFFAIRS
CONNECTICUT BUSINESS & INDUSTRY ASSOCIATION
BEFORE THE
FINANCE, REVENUE AND BONDING COMMITTEE
MARCH 28, 2011

My name is Bonnie Stewart. I am vice president of government affairs for the Connecticut Business and Industry Association (CBIA). CBIA represents approximately 10,000 member companies in virtually every industry. They range from large, global corporations to small, family owned businesses. The vast majority of our member companies have fewer than 50 employees.

Before the Finance Committee today is **SB 1218 An Act Concerning Various Changes to Title 12**, as requested by the Department of Revenue Services (DRS). Last week the business liaison group met with DRS and shared our thoughts regarding some possible modifications to the bill. We will continue to work with DRS but would also like you to be aware of some of the issues we have raised with the department regarding **SB 1218**.

While we understand DRS' desire to institute a tax clearance process to secure the payment of outstanding taxes, we are concerned that such a program, as included in Section 1 of this bill, could delay economic activity. Both the Governor and legislators have expressed their wish to reduce barriers to economic development. One top desire of legislators last year, and is at the top of many legislators' agendas again this year, is the streamlining of regulatory review processes. However, the new process proposed here will likely require the coordination of multiple agencies and numerous approvals. This seems quite burdensome, and the benefits don't appear to outweigh the likely cost of the proposed program. Instead, we are recommending to DRS a more careful approach, such as a more rigorous taxpayer registration application/renewal process.

Three specific areas of concerns that we have just shared with DRS concern “License”/“Issuance of License,” treatment of “Principals,” and appeals.

As for “License”/“Issuance of License”, our primary concerns are as follows:

- The definition of “license” is broad enough to include any state governmental approval.
- The definition of “Issuance” is also quite broad, in that it is defined to include the grant, renewal, amendment or supplement of a license, which significantly increases the number of instances when a business would have to secure a tax clearance.
- The lack of a set procedure for the handling or coordination of multiple license issuances involving multiple state agencies. The timing and coordination of multiple licenses and clearances could prove difficult, especially if a clearance has to be obtained for any renewal or modification.

Next, we are concerned with how **SB 1218** requires a tax clearance from all principals connected with a business. Our specific concern is that when you have a business with numerous principals, partners, stockholders or members, this process could be a nightmare, especially if required for more than one license at multiple times. Our major concern is that if a license can be denied on the basis of one owner not having paid his or her taxes, the business entity may not know how to address the situation because the identity of that owner may not be known to the business entity, and [DRS would only notify the business entity that a tax clearance certificate cannot be provided.](#)

As for appeals, the bill provides for a right of an appeal to the Commissioner. Unfortunately the taxpayer may not have sufficient information to file an appeal (see previous comment). Furthermore, there should be a right to further appeal the Commissioner’s determination to court.

The next two areas we’ve reached out to DRS about include the collection of taxes of other jurisdictions contained in Section 3 of **SB 1218**, and the application of economic nexus to

foreign corporations included in Section 4 of the bill. At this time we have not asked DRS to modify the language in either of these sections.

As for Section 7 which concerns successor liability for withholding taxes, we identified two areas of concern. First, as written, the bill appears to require a final withholding tax return be filed within 30 days of an entity being sold, quitting business, or selling its stock of goods. The problem here is that the business may continue paying wages after the sale of its property for a variety of reasons. Two common reasons include deferred compensation arrangements, and installment sales payments. We are suggesting this section be modified to allow for a clearance procedure that allows for these situations and therefore isn't necessarily tied to the filing of a final return.

The second amendment we'd like to see would clarify that the successor employer only can be held liable for a predecessor employer's withholding taxes to the same extent as, and pursuant to the same statute of limitations applicable to, the predecessor employer. We noticed that the language in this bill does not have the same last sentence as the counterpart successor sales tax liability provision in Conn. Gen. Stat. §12-424(b). Furthermore, successor liability should not extend to wages paid after the closing, or to taxes to the extent paid by the employees to whom the wages were paid.

The last section of this bill we're speaking with DRS about is Section 8 concerning the statute of limitations. We've asked DRS to clarify that the language extending the applicable period of limitations to six years in the event of a 25% underreporting of Connecticut source income applies to only the composite return liability of the pass-through entity, because prior sections already address individual returns. We have also pointed out to DRS that if there are special allocations of specific streams of income under the terms of a partnership or operating agreement, this provision could have some potentially unfortunate results.

The last item of concern in Section 8 of this bill is the decision to extend the period of limitations based on a mechanical percentage test, because it can have unjust results. Instead, the decision to extend the period of limitations should be based upon fraud or intent to evade, especially given the complexity, for example, of the law governing the sourcing of income and worker classification.

Bonnie Stewart, CBIA

SB 1218

I'd like to thank the Department of Revenue Services for agreeing to hear and consider our concerns and recommended modifications. We will continue to work with DRS and hopefully will be able to come to agreement on adjustments to this bill. Once we're done, we will circle back to the Finance Committee so you are aware of the results of our discussions.

Thank you for the opportunity to share with you our thoughts and discussions on **SB 1218**.

