



Senate

General Assembly

File No. 655

January Session, 2013

Substitute Senate Bill No. 1052

Senate, May 1, 2013

The Committee on Finance, Revenue and Bonding reported through SEN. FONFARA of the 1st Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING IMPROVED TAX COLLECTION.

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

1 Section 1. Section 12-430 of the general statutes is amended by
2 adding subdivision (8) as follows (*Effective January 1, 2014, and*
3 *applicable to sales occurring on or after said date*):

4 (NEW) (8) (A) For purposes of this subdivision, (i) "stamped
5 package of cigarettes" means a package of cigarettes to which
6 Connecticut cigarette tax stamps, as prescribed by section 12-298, have
7 been affixed; (ii) "stamper" means a person who, under chapter 214,
8 may lawfully purchase unstamped packages of cigarettes and who,
9 before such packages are transferred out of such person's possession, is
10 required to affix Connecticut cigarette tax stamps to such packages;
11 (iii) "nonstamping distributor" means a distributor that is licensed
12 under chapter 214, other than a stamper; and (iv) "licensed dealer" has
13 the same meaning as provided in section 12-285.

14 (B) (i) Notwithstanding any other provisions of this chapter,
15 whenever a stamper sells stamped packages of cigarettes to a licensed
16 dealer, every such sale by the stamper to the licensed dealer shall be
17 treated as a retail sale, and not as a sale for resale. The stamper shall be
18 subject to the tax imposed by this chapter on its gross receipts from
19 such sales, and shall be required to collect reimbursement for said tax
20 from the licensed dealer. The amount of the tax reimbursement
21 required to be collected shall be separately stated on the stamper's
22 invoice to the licensed dealer. The presentation of a valid resale
23 certificate by a licensed dealer shall not relieve the stamper of its
24 obligations under this subdivision. Except as otherwise provided in
25 this subdivision, every stamper shall file the returns required by this
26 chapter and shall pay the taxes imposed by this chapter in the same
27 manner as other sellers.

28 (ii) Whenever a licensed dealer purchases stamped packages of
29 cigarettes from a stamper, the subsequent sale of such stamped
30 packages of cigarettes by the licensed dealer shall be treated as a retail
31 sale, and not as a sale for resale. The licensed dealer shall be subject to
32 the tax imposed by this chapter on its gross receipts from such sales,
33 and shall be required to collect reimbursement for said tax from each
34 customer. The licensed dealer, in computing, for purposes of this
35 chapter its gross receipts and the sales price of stamped packages of
36 cigarettes, shall not include the amount of the tax reimbursement
37 required to be paid by the licensed dealer to the stamper pursuant to
38 subparagraph (B)(i) of this subdivision. The licensed dealer shall be
39 allowed a credit against the tax imposed by this chapter on its retail
40 sales of stamped packages of cigarettes during a reporting period in an
41 amount equal to the amount of tax reimbursement required to be paid
42 by the licensed dealer to the stamper during the same reporting period
43 pursuant to subparagraph (B)(i) of this subdivision.

44 (C) (i) Notwithstanding any other provisions of this chapter,
45 whenever a stamper sells stamped packages of cigarettes to a
46 nonstamping distributor, the subsequent sale of such stamped
47 packages of cigarettes by the nonstamping distributor to a licensed

48 dealer shall be treated as a retail sale, and not as a sale for resale. The
49 nonstamping distributor shall be subject to the tax imposed by this
50 chapter on its gross receipts from such sales, and shall be required to
51 collect reimbursement for said tax from the licensed dealer. The
52 amount of the tax reimbursement required to be collected shall be
53 separately stated on the nonstamping distributor's invoice to the
54 licensed dealer. The presentation of a valid resale certificate by a
55 licensed dealer shall not relieve the nonstamping distributor of its
56 obligations under this subdivision. Except as otherwise provided in
57 this subdivision, every nonstamping distributor shall file the returns
58 required by this chapter and shall pay the taxes imposed by this
59 chapter in the same manner as other sellers.

60 (ii) Whenever a licensed dealer purchases stamped packages of
61 cigarettes from a nonstamping distributor, the subsequent sale of such
62 stamped packages of cigarettes by the licensed dealer shall be treated
63 as a retail sale, and not as a sale for resale. The licensed dealer shall be
64 subject to the tax imposed by this chapter on its gross receipts from
65 such sales, and shall be required to collect reimbursement for said tax
66 from each customer. The licensed dealer, in computing, for purposes of
67 this chapter, its gross receipts and the sales price of stamped packages
68 of cigarettes, shall not include the amount of the tax reimbursement
69 required to be paid by the licensed dealer to the nonstamping
70 distributor pursuant to subparagraph (C)(i) of this subdivision. The
71 licensed dealer shall be allowed a credit against the tax imposed by
72 this chapter on its retail sales of stamped packages of cigarettes during
73 a reporting period, in an amount equal to the amount of tax
74 reimbursement required to be paid by the licensed dealer to the
75 nonstamping distributor during the same reporting period pursuant to
76 subparagraph (C)(i) of this subdivision.

77 Sec. 2. Subsection (b) of section 12-268c of the general statutes is
78 repealed and the following is substituted in lieu thereof (*Effective July*
79 *1, 2013, and applicable to refunds issued on or after said date*):

80 (b) (1) To any refunds granted as a result of overpayments of any

81 taxes under chapter 210, 211 or 212, except refunds due because of any
82 intentional overpayment, there shall be added interest at the rate of
83 two-thirds of one per cent for each month or fraction of a month,
84 [which elapses between (1) the later of (A) the due date of such taxes or
85 (B) the date of making such overpayment and (2) the date of notice by
86 the Commissioner of Revenue Services that such refunds are due] as
87 provided in subdivisions (2) and (3) of this subsection.

88 (2) In case of such overpayment pursuant to a tax return, no interest
89 shall be allowed or paid under this subsection on such overpayment
90 for any month or fraction thereof prior to (A) the ninety-first day after
91 the last day prescribed for filing the tax return associated with such
92 overpayment, or (B) the ninety-first day after the date such return was
93 filed, whichever is later.

94 (3) In case of such overpayment pursuant to an amended tax return,
95 no interest shall be allowed or paid under this subsection on such
96 overpayment for any month or fraction thereof prior to the ninety-first
97 day after the date such amended tax return was filed.

98 Sec. 3. Subdivision (3) of subsection (a) of section 12-392 of the
99 general statutes is repealed and the following is substituted in lieu
100 thereof (*Effective July 1, 2013, and applicable to estates of decedents dying on*
101 *or after said date*):

102 (3) (A) Whenever there is an overpayment of the tax imposed by
103 this chapter, the Commissioner of Revenue Services shall return to the
104 fiduciary or transferee the overpayment which shall bear interest at the
105 rate of two-thirds of one per cent per month or fraction thereof, said
106 interest commencing, for the estates of decedents dying prior to July 1,
107 2009, from the expiration of nine months after the death of the
108 transferor or date of payment, whichever is later, [or,] for the estates of
109 decedents dying on or after July 1, 2009, from the expiration of six
110 months after the death of the transferor or date of payment, whichever
111 is later or, for the estates of decedents dying on or after July 1, 2013, as
112 provided in subparagraphs (B) and (C) of this subdivision.

113 (B) In case of such overpayment pursuant to a tax return, no interest
114 shall be allowed or paid under this subdivision on such overpayment
115 for any month or fraction thereof prior to (i) the ninety-first day after
116 the last day prescribed for filing the tax return associated with such
117 overpayment, determined without regard to any extension of time for
118 filing, or (ii) the ninety-first day after the date such return was filed,
119 whichever is later.

120 (C) In case of such overpayment pursuant to an amended tax return,
121 no interest shall be allowed or paid under this subdivision on such
122 overpayment for any month or fraction thereof prior to the ninety-first
123 day after the date such amended tax return was filed.

124 Sec. 4. Subdivision (2) of subsection (b) of section 12-587 of the
125 general statutes is repealed and the following is substituted in lieu
126 thereof (*Effective July 1, 2013*):

127 (2) Gross earnings derived from the first sale of the following
128 petroleum products within this state shall be exempt from tax: (A) Any
129 petroleum products sold for exportation from this state for sale or use
130 outside this state; (B) the product designated by the American Society
131 for Testing and Materials as "Specification for Heating Oil D396-69",
132 commonly known as number 2 heating oil, to be used exclusively for
133 heating purposes or to be used in a commercial fishing vessel, which
134 vessel qualifies for an exemption pursuant to section 12-412; (C)
135 kerosene, commonly known as number 1 oil, to be used exclusively for
136 heating purposes, provided delivery is of both number 1 and number 2
137 oil, and via a truck with a metered delivery ticket to a residential
138 dwelling or to a centrally metered system serving a group of
139 residential dwellings; (D) the product identified as propane gas, to be
140 used exclusively for heating purposes; (E) bunker fuel oil, intermediate
141 fuel, marine diesel oil and marine gas oil to be used in any vessel
142 having a displacement exceeding four thousand dead weight tons; (F)
143 for any first sale occurring prior to July 1, 2008, propane gas to be used
144 as a fuel for a motor vehicle; (G) for any first sale occurring on or after
145 July 1, 2002, grade number 6 fuel oil, as defined in regulations adopted

146 pursuant to section 16a-22c, to be used exclusively by a company
147 which, in accordance with census data contained in the Standard
148 Industrial Classification Manual, United States Office of Management
149 and Budget, 1987 edition, is included in code classifications 2000 to
150 3999, inclusive, or in Sector 31, 32 or 33 in the North American
151 Industrial Classification System United States Manual, United States
152 Office of Management and Budget, 1997 edition; (H) for any first sale
153 occurring on or after July 1, 2002, number 2 heating oil to be used
154 exclusively in a vessel primarily engaged in interstate commerce,
155 which vessel qualifies for an exemption under section 12-412; (I) for
156 any first sale occurring on or after July 1, 2000, paraffin or
157 microcrystalline waxes; (J) for any first sale occurring prior to July 1,
158 2008, petroleum products to be used as a fuel for a fuel cell, as defined
159 in subdivision (113) of section 12-412; (K) a commercial heating oil
160 blend containing not less than ten per cent of alternative fuels derived
161 from agricultural produce, food waste, waste vegetable oil or
162 municipal solid waste, including, but not limited to, biodiesel or low
163 sulfur dyed diesel fuel; [or] (L) for any first sale occurring on or after
164 July 1, 2007, diesel fuel other than diesel fuel to be used in an electric
165 generating facility to generate electricity; or (M) for any first sale
166 occurring on or after July 1, 2013, cosmetic grade mineral oil.

167 Sec. 5. Subsection (b) of section 12-589 of the general statutes is
168 repealed and the following is substituted in lieu thereof (*Effective July*
169 *1, 2013, and applicable to refunds issued on or after said date*):

170 (b) (1) To any refund granted as a result of overpayments of any
171 taxes imposed under section 12-587, as amended by this act, except
172 refunds due because of any intentional overpayment, there shall be
173 added interest at the rate of two-thirds of one per cent for each month
174 or fraction of a month, [which elapses between (1) the later of the due
175 date of such taxes or the date of making such overpayment and (2) the
176 date of notice by the Commissioner of Revenue Services that any such
177 refund is due] as provided in subdivisions (2) and (3) of this
178 subsection.

179 (2) In case of such overpayment pursuant to a tax return, no interest
180 shall be allowed or paid under this subsection on such overpayment
181 for any month or fraction thereof prior to (A) the ninety-first day after
182 the last day prescribed for filing the tax return associated with such
183 overpayment, or (B) the ninety-first day after the date such return was
184 filed, whichever is later.

185 (3) In case of such overpayment pursuant to an amended tax return,
186 no interest shall be allowed or paid under this subsection on such
187 overpayment for any month or fraction thereof prior to the ninety-first
188 day after the date such amended tax return was filed.

189 Sec. 6. Subsection (d) of section 12-647 of the general statutes is
190 repealed and the following is substituted in lieu thereof (*Effective July*
191 *1, 2013, and applicable to refunds issued on or after said date*):

192 (d) (1) Whenever there is an overpayment of the tax imposed by this
193 chapter, the commissioner shall return to the taxpayer the
194 overpayment, which shall bear interest at the rate of two-thirds of one
195 per cent per month or fraction thereof, [said interest commencing from
196 the due date of the return required under this chapter, or the date of
197 payment, whichever is later] as provided in subdivisions (2) and (3) of
198 this subsection.

199 (2) In case of such overpayment pursuant to a tax return, no interest
200 shall be allowed or paid under this subsection on such overpayment
201 for any month or fraction thereof prior to (A) the ninety-first day after
202 the last day prescribed for filing the tax return associated with such
203 overpayment, determined without regard to any extension of time for
204 filing, or (B) the ninety-first day after the date such return was filed,
205 whichever is later.

206 (3) In case of such overpayment pursuant to an amended tax return,
207 no interest shall be allowed or paid under this subsection on such
208 overpayment for any month or fraction thereof prior to the ninety-first
209 day after the date such amended tax return was filed.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2014, and applicable to sales occurring on or after said date</i>	12-430
Sec. 2	<i>July 1, 2013, and applicable to refunds issued on or after said date</i>	12-268c(b)
Sec. 3	<i>July 1, 2013, and applicable to estates of decedents dying on or after said date</i>	12-392(a)(3)
Sec. 4	<i>July 1, 2013</i>	12-587(b)(2)
Sec. 5	<i>July 1, 2013, and applicable to refunds issued on or after said date</i>	12-589(b)
Sec. 6	<i>July 1, 2013, and applicable to refunds issued on or after said date</i>	12-647(d)

Statement of Legislative Commissioners:

In sections 2, 3, 5 and 6, the opening new language, "Except as provided in subdivision (2) or (3) of this subsection" (in the case of section 3, the reference is to "subparagraph (A) or (B) of this subdivision") was changed to "as provided in subdivisions (2) and (3) of this subsection" and moved to follow "each month or fraction of a month", for clarity and accuracy, and the existing language thereafter was deleted to avoid repetition.

FIN *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 14 \$	FY 15 \$
Revenue Serv., Dept.	GF - Net Revenue Gain	1.0-3.1 million	2.1-5.3 million
Revenue Serv., Dept.	GF - Cost	Up to 20,000	None
Revenue Serv., Dept.	GF - Savings	Minimal	Minimal

Municipal Impact: None

Explanation

The bill makes a number of revenue-related changes which result in a net revenue gain of \$1-\$3.1 million in FY 14 and \$2.1-\$5.3 million annually thereafter, a one-time cost of up to \$20,000 to the Department of Revenue Services (DRS) in FY 14, and a minimal savings to DRS annually beginning in FY 14.

Section 1 results in a potential revenue gain between \$1 million and \$2.2 million in FY 14 and \$2.1 and \$4.4 million annually thereafter, assuming sales tax non-compliance rates on cigarettes follow the same pattern as all taxable goods and services.

Section 1 also results in a one-time cost to the DRS of \$15,000 in FY 14 associated with form alteration and technical/programming changes to the Integrated Tax Administration System (ITAS) and the online Taxpayer Service Center (TSC). Additionally, there would be a minimal savings to the agency associated with a reduction in compliance costs for the Sales & Use Tax.

Sections 2, 3, 5, and 6 result in a revenue gain between \$300,000 and \$900,000 annually, as a result of lower refunds paid to certain tax filers

due to reduced periods of interest payments.

As an illustration, in FY 12 the DRS paid out \$6.4 million in total refunds for the affected tax types, of which \$3.7 million was calculated for a period beginning with the filing due date; it is estimated that \$900,000 of this would not have been paid if the interest calculation period was altered according to the bill.

Section 4 results in a revenue loss of less than \$300,000 annually beginning in FY 14, due to the exemption of cosmetic grade mineral oil from the Petroleum Products Gross Earnings Tax (PGET). There is also a one-time cost to the DRS in FY 14 of less than \$5,000 associated with form alteration and technical/programming changes to the ITAS and the TSC.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

Sources: Department of Revenue Services Fiscal Year 2011-2012 Annual Report

OLR Bill Analysis**sSB 1052*****AN ACT CONCERNING IMPROVED TAX COLLECTION.*****SUMMARY:**

This bill changes the point at which the sales tax on cigarettes is collected and remitted to the state.

Under current law, licensed cigarette dealers collect sales tax on cigarettes from customers at the point of purchase and remit the tax to the state. The bill instead requires “stampers” (i.e., anyone allowed to buy unstamped cigarettes and put cigarette tax stamps on them) and non-stamping licensed cigarette distributors to (1) collect sales tax on cigarettes they sell to licensed dealers and (2) remit the tax the same as other sellers (i.e., retailers). It requires licensed dealers to similarly collect the tax when selling cigarettes to a customer, but allows them to claim a credit against the sales tax equal to the amount of taxes they paid to the distributor or stamper.

The bill also (1) reduces the period during which the state must pay interest on overpayments of gift, estate, and gross earnings taxes and (2) exempts from the petroleum products gross earnings tax the first sale of cosmetic grade mineral oil sold on or after July 1, 2013.

EFFECTIVE DATE: July 1, 2013, except that the (1) cigarette sales tax provision is effective January 1, 2014 and applicable to sales occurring on or after that date; (2) estate tax overpayment provisions are effective July 1, 2013 and applicable to deaths occurring on or after that date; and (3) remaining tax overpayment provisions are effective July 1, 2013 and applicable to refunds issued on or after that date.

SALES TAX ON CIGARETTE SALES

The bill imposes the sales tax on gross receipts on sales of stamped

cigarette packages to licensed cigarette dealers by stampers and non-stamping licensed cigarette distributors. It applies to two transaction chains, both initiated by stampers.

Under the first transaction chain, when a stamper sells stamped packages of cigarettes to a licensed dealer, the sale must be treated as a retail sale and not a “sale for resale” (i.e., wholesale). The stamper must (1) collect sales tax from the dealer, even if the licensed dealer presents a valid resale certificate; (2) separately state the tax on its invoice; and (3) file sales tax returns and remit the tax to the state the same as retailers.

The licensed dealer similarly must collect the tax when it sells a stamped package of cigarettes to a customer, but when calculating the sales price, the dealer cannot include the tax amount it paid to the stamper. The bill allows the dealer to claim a credit against the sales tax due during a reporting period on its retail cigarette sales equal to the amount of tax it paid to the stamper during the same reporting period.

The second transaction chain starts when the stamper sells stamped cigarettes to a non-stamping distributor, who then sells them to a licensed dealer. The bill requires that the sale between the non-stamping distributor and the dealer be treated as a retail sale and not a sale for resale. The same requirements that apply to the stamper in the above transaction apply to the non-stamping distributor. Similarly, when the licensed dealer sells the cigarettes to customers, it must collect the tax and remit it the same way it does for cigarettes purchased directly from a stamper.

PERIOD FOR PAYING INTEREST ON TAX OVERPAYMENTS

By law, the state pays 0.66% per month or part of a month in interest to taxpayers when they overpay the gift tax; estate tax; or gross earnings taxes on railroad companies, cable and satellite television and video service providers, utility companies, and petroleum products distributors. Under current law, the period for paying interest on:

1. gift tax overpayments begins on the tax return's due date or the date the tax was paid, whichever is later;
2. gross earnings taxes overpayments is the period between the (a) later of the taxes' due date or the date they were overpaid and (b) date of the revenue services commissioner's notice that refunds are due (excluding refunds due to intentional overpayments); and
3. estate tax overpayments depends on the day a decedent died. For those who died before July 1, 2009, the state pays interest starting nine months after the transferor's death or the payment date, whichever is later. For those dying after that date, the period begins six months after the transferor's death or the payment date, whichever is later.

The bill shortens the period for paying interest for overpayments for these various taxes, depending on whether the overpayment was made pursuant to a tax return or amended tax return. For tax returns, the period for paying interest begins 91 days after the later of the (1) deadline for filing the return or (2) date the return was filed. In the case of gift and estate tax returns, the deadline for filing the return is determined regardless of any filing extension. For amended tax returns, the period begins 91 days after the amended tax returned was filed.

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 49 Nay 0 (04/12/2013)