



General Assembly

January Session, 2013

***Raised Bill No. 1052***

LCO No. 4115



Referred to Committee on FINANCE, REVENUE AND BONDING

Introduced by:  
(FIN)

***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) "non-stamping 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 provisions of this chapter, whenever a

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

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

60 (ii) Whenever a licensed dealer purchases stamped packages of  
61 cigarettes from a non-stamping 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 non-stamping  
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 non-  
75 stamping 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) [To] (1) Except as provided in subdivision (2) or (3) of this  
81 subsection, to any refunds granted as a result of overpayments of any  
82 taxes under chapter 210, 211 or 212, except refunds due because of any  
83 intentional overpayment, there shall be added interest at the rate of  
84 two-thirds of one per cent for each month or fraction of a month which  
85 elapses between [(1)] (A) the later of [(A)] the due date of such taxes or  
86 [(B)] the date of making such overpayment, and [(2)] (B) the date of  
87 notice by the Commissioner of Revenue Services that such refunds are  
88 due.

89 (2) Notwithstanding the provisions of subdivision (1) of this  
90 subsection, in case of such overpayment pursuant to a tax return, no  
91 interest shall be allowed or paid under this subsection on such  
92 overpayment for any month or fraction thereof prior to (A) the ninety-  
93 first day after the last day prescribed for filing the tax return associated  
94 with such overpayment, or (B) the ninety-first day after the date such  
95 return was filed, whichever is later.

96 (3) Notwithstanding the provisions of subdivision (1) of this  
97 subsection, in case of such overpayment pursuant to an amended tax  
98 return, no interest shall be allowed or paid under this subsection on  
99 such overpayment for any month or fraction thereof prior to the  
100 ninety-first day after the date such amended tax return was filed.

101 Sec. 3. Subdivision (3) of subsection (a) of section 12-392 of the  
102 general statutes is repealed and the following is substituted in lieu  
103 thereof (*Effective July 1, 2013, and applicable to refunds issued on or after*  
104 *said date*):

105 (3) [Whenever] (A) Except as otherwise provided in subparagraph  
106 (B) or (C) of this subdivision, whenever there is an overpayment of the  
107 tax imposed by this chapter, the Commissioner of Revenue Services  
108 shall return to the fiduciary or transferee the overpayment which shall  
109 bear interest at the rate of two-thirds of one per cent per month or  
110 fraction thereof, said interest commencing, for the estates of decedents

111 dying prior to July 1, 2009, from the expiration of nine months after the  
112 death of the transferor or date of payment, whichever is later, or, for  
113 the estates of decedents dying on or after July 1, 2009, from the  
114 expiration of six months after the death of the transferor or date of  
115 payment, whichever is later.

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

124 (C) Notwithstanding the provisions of subparagraph (A) of this  
125 subdivision, in case of such overpayment pursuant to an amended tax  
126 return, no interest shall be allowed or paid under this subsection on  
127 such overpayment for any month or fraction thereof prior to the  
128 ninety-first day after the date such amended tax return was filed.

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

132 (2) Gross earnings derived from the first sale of the following  
133 petroleum products within this state shall be exempt from tax: (A) Any  
134 petroleum products sold for exportation from this state for sale or use  
135 outside this state; (B) the product designated by the American Society  
136 for Testing and Materials as "Specification for Heating Oil D396-69",  
137 commonly known as number 2 heating oil, to be used exclusively for  
138 heating purposes or to be used in a commercial fishing vessel, which  
139 vessel qualifies for an exemption pursuant to section 12-412; (C)  
140 kerosene, commonly known as number 1 oil, to be used exclusively for  
141 heating purposes, provided delivery is of both number 1 and number 2

142 oil, and via a truck with a metered delivery ticket to a residential  
143 dwelling or to a centrally metered system serving a group of  
144 residential dwellings; (D) the product identified as propane gas, to be  
145 used exclusively for heating purposes; (E) bunker fuel oil, intermediate  
146 fuel, marine diesel oil and marine gas oil to be used in any vessel  
147 having a displacement exceeding four thousand dead weight tons; (F)  
148 for any first sale occurring prior to July 1, 2008, propane gas to be used  
149 as a fuel for a motor vehicle; (G) for any first sale occurring on or after  
150 July 1, 2002, grade number 6 fuel oil, as defined in regulations adopted  
151 pursuant to section 16a-22c, to be used exclusively by a company  
152 which, in accordance with census data contained in the Standard  
153 Industrial Classification Manual, United States Office of Management  
154 and Budget, 1987 edition, is included in code classifications 2000 to  
155 3999, inclusive, or in Sector 31, 32 or 33 in the North American  
156 Industrial Classification System United States Manual, United States  
157 Office of Management and Budget, 1997 edition; (H) for any first sale  
158 occurring on or after July 1, 2002, number 2 heating oil to be used  
159 exclusively in a vessel primarily engaged in interstate commerce,  
160 which vessel qualifies for an exemption under section 12-412; (I) for  
161 any first sale occurring on or after July 1, 2000, paraffin or  
162 microcrystalline waxes; (J) for any first sale occurring prior to July 1,  
163 2008, petroleum products to be used as a fuel for a fuel cell, as defined  
164 in subdivision (113) of section 12-412; (K) a commercial heating oil  
165 blend containing not less than ten per cent of alternative fuels derived  
166 from agricultural produce, food waste, waste vegetable oil or  
167 municipal solid waste, including, but not limited to, biodiesel or low  
168 sulfur dyed diesel fuel; [or] (L) for any first sale occurring on or after  
169 July 1, 2007, diesel fuel other than diesel fuel to be used in an electric  
170 generating facility to generate electricity; or (M) for any first sale  
171 occurring on or after July 1, 2013, cosmetic grade mineral oil.

172 Sec. 5. Section 12-587a of the general statutes is repealed and the  
173 following is substituted in lieu thereof (*Effective July 1, 2015, and*  
174 *applicable to quarterly periods commencing on or after said date*):

175 (a) (1) Any company, as such term is used in section 12-587, as  
176 amended by this act, liable for the tax imposed under subsection (b) of  
177 said section 12-587, as amended by this act, on gross earnings from the  
178 first sale of petroleum products within this state, which products the  
179 purchaser thereof subsequently sells for exportation and sale or use  
180 outside this state, shall be allowed a credit against any tax for which  
181 such company is liable in accordance with subsection (b) of said  
182 section 12-587, in the amount of tax paid to the state with respect to the  
183 sale of such products, provided (A) such purchaser has submitted  
184 certification to such company, in such form as prescribed by the  
185 Commissioner of Revenue Services, that such products were sold or  
186 used outside this state, (B) such certification and any additional  
187 information related to such sale or use by such purchaser, which said  
188 commissioner may request, have been submitted to said commissioner,  
189 and (C) such company makes a payment to such purchaser, related to  
190 such products sold or used outside this state, in the amount equal to  
191 the tax imposed under said section 12-587 on gross earnings from the  
192 first sale to such purchaser within the state.

193 (2) The credit allowed pursuant to subdivision (1) of this subsection  
194 may also be claimed, in the same manner as provided in said  
195 subdivision (1), by any such company when the petroleum products  
196 sold in a first sale within this state by such company are incorporated  
197 by the purchaser thereof into a material that is included in U.S.  
198 industry group 3255 in the North American Industrial Classification  
199 System United States Manual, United States Office of Management and  
200 Budget, 2007 edition, and such products are subsequently exported for  
201 sale or use outside this state. Such company shall be allowed said  
202 credit in the amount of tax paid to the state with respect to the sale of  
203 such products.

204 [(2)] (3) In addition, such company shall be allowed such credit  
205 when there has been any sale of such products subsequent to the sale  
206 by such company but prior to sale or use outside this state, provided  
207 (A) each purchaser receives payment, related to such products sold or

208 used outside this state, equal to the tax imposed under said section 12-  
209 587, on gross earnings from the first sale of such products within this  
210 state, and (B) the purchaser selling or using such products outside this  
211 state complies with the requirements in this section related to a  
212 purchaser of such products from the company liable for such tax.

213 (b) (1) Any company liable for the tax imposed under subsection (c)  
214 of section 12-587 on the consideration given or contracted to be given  
215 for petroleum products which it imports or causes to be imported into  
216 this state for sale, use or consumption in this state, shall be allowed a  
217 credit against tax under subsection (c) of section 12-587 if the company  
218 subsequently exports such petroleum products for sale or use outside  
219 this state, in the amount of tax paid to the state with respect to the sale,  
220 use or consumption in this state of such products.

221 (2) The credit allowed pursuant to subdivision (1) of this subsection  
222 may also be claimed, in the same manner as provided in said  
223 subdivision (1), by any such company when the petroleum products  
224 which such company imports or causes to be imported into this state  
225 are incorporated by such company into a material that is included in  
226 U.S. industry group 3255 in the North American Industrial  
227 Classification System United States Manual, United States Office of  
228 Management and Budget, 2007 edition, and such company  
229 subsequently exports such products for sale or use outside this state.  
230 Such company shall be allowed said credit in the amount of tax paid to  
231 the state with respect to the sale, use or consumption in this state of  
232 such products.

233 Sec. 6. Subsection (b) of section 12-589 of the general statutes is  
234 repealed and the following is substituted in lieu thereof (*Effective July*  
235 *1, 2013, and applicable to refunds issued on or after said date*):

236 (b) [To] (1) Except as provided in subdivision (2) or (3) of this  
237 subsection, to any refund granted as a result of overpayments of any  
238 taxes imposed under section 12-587, as amended by this act, except

239 refunds due because of any intentional overpayment, there shall be  
240 added interest at the rate of two-thirds of one per cent for each month  
241 or fraction of a month which elapses between [(1)] (A) the later of the  
242 due date of such taxes or the date of making such overpayment, and  
243 [(2)] (B) the date of notice by the Commissioner of Revenue Services  
244 that any such refund is due.

245 (2) Notwithstanding the provisions of subdivision (1) of this  
246 subsection, in case of such overpayment pursuant to a tax return, no  
247 interest shall be allowed or paid under this subsection on such  
248 overpayment for any month or fraction thereof prior to (A) the ninety-  
249 first day after the last day prescribed for filing the tax return associated  
250 with such overpayment, or (B) the ninety-first day after the date such  
251 return was filed, whichever is later.

252 (3) Notwithstanding the provisions of subdivision (1) of this  
253 subsection, in case of such overpayment pursuant to an amended tax  
254 return, no interest shall be allowed or paid under this subsection on  
255 such overpayment for any month or fraction thereof prior to the  
256 ninety-first day after the date such amended tax return was filed.

257 Sec. 7. Subsection (d) of section 12-647 of the general statutes is  
258 repealed and the following is substituted in lieu thereof (*Effective July*  
259 *1, 2013, and applicable to refunds issued on or after said date*):

260 (d) [Whenever] (1) Except as provided in subdivision (2) or (3) of  
261 this subsection, whenever there is an overpayment of the tax imposed  
262 by this chapter, the commissioner shall return to the taxpayer the  
263 overpayment, which shall bear interest at the rate of two-thirds of one  
264 per cent per month or fraction thereof, said interest commencing from  
265 the due date of the return required under this chapter, or the date of  
266 payment, whichever is later.

267 (2) Notwithstanding the provisions of subdivision (1) of this  
268 subsection, in case of such overpayment pursuant to a tax return, no  
269 interest shall be allowed or paid under this subsection on such

270 overpayment for any month or fraction thereof prior to (A) the ninety-  
 271 first day after the last day prescribed for filing the tax return associated  
 272 with such overpayment, determined without regard to any extension  
 273 of time for filing, or (B) the ninety-first day after the date such return  
 274 was filed, whichever is later.

275 (3) Notwithstanding the provisions of subdivision (1) of this  
 276 subsection, in case of such overpayment pursuant to an amended tax  
 277 return, no interest shall be allowed or paid under this subsection on  
 278 such overpayment for any month or fraction thereof prior to the  
 279 ninety-first 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 refunds issued 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, 2015, and applicable to quarterly periods commencing on or after said date</i>	12-587a
Sec. 6	<i>July 1, 2013, and applicable to refunds issued on or after said date</i>	12-589(b)
Sec. 7	<i>July 1, 2013, and applicable to refunds issued on or after said date</i>	12-647(d)

***Statement of Purpose:***

To clarify that sales of cigarettes at the distributor level are deemed retail sales, and to allow the licensed dealer to recoup the sales tax it paid to the distributor; to provide that interest on an overpayment of the public services companies tax, estate tax, petroleum products gross earnings tax or gift tax will accrue beginning on the ninety-first day following the date of the return or amended return; and to amend the petroleum products gross earnings tax to exempt cosmetic grade mineral oil from the tax and to include as eligible for the credit against said tax a company importing a petroleum product into the state that uses or incorporates a petroleum product into a product that falls under the NAICS section of paint, coating and adhesive manufacturing.

*[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.]*