SUMMARY

This bill:

1. expands the conditions under which certain out-of-state retailers must collect and remit Connecticut sales tax;

2. authorizes the Department of Revenue Services (DRS) commissioner to charge fees of up to $100 that are sufficient to cover the reasonable expenses the agency incurs in performing administrative functions and authorizes him to waive the fee under certain conditions;

3. decreases, from $5,000 to $2,000, the value of lottery prize claims above which the Connecticut Lottery Corporation (CLC) must deduct and withhold delinquent taxes.

EFFECTIVE DATE: July 1, 2018, except that the provision expanding the definition of a retailer is effective upon passage.

§§ 2 & 3 — SALES TAX NEXUS

Out-of-State Retailers Engaged in Business in Connecticut

State law requires “retailers” to collect Connecticut sales tax if they are “engaged in the business” of making retail sales in the state. If a retailer is engaged in business in Connecticut, it is said to have a significant presence (i.e., nexus) here (see BACKGROUND).

Under current law, out-of-state retailers that regularly or systematically solicit sales of tangible personal property in Connecticut by various means must collect and remit sales tax if their Connecticut
sales exceed a threshold of 100 transactions during the preceding twelve-month period (ending September 30). The bill expands the means by which such retailers are considered to be soliciting sales in Connecticut to include regular or systematic solicitation by Internet websites or communication, software, or other forms of electronic delivery for the purpose of making sales of tangible personal property. It also replaces the current 100 transaction sales threshold with a threshold of at least (1) 200 transactions or (2) gross receipts of $250,000 or more during the twelve-month period.

As under existing law, such retailers are also considered to be soliciting sales in Connecticut if they regularly and systematically solicit sales by:

1. displaying billboards or other outdoor advertisements;
2. distributing catalogs, periodicals, advertising flyers, or other print, radio, or television media; or
3. mail, telegraphy, telephone, computer database, cable, optic, microwave, or other communication.

**Fulfillment House Exclusion**

The bill limits the out-of-state retailers that are exempt from collecting and remitting state sales tax under the existing “fulfillment house exclusion.”

By law, an out-of-state retailer not otherwise engaged in business in Connecticut is not required to collect and remit Connecticut sales tax solely because it purchases fulfillment services from an unaffiliated in-state company or owns property stored on that company’s premises.

Under current law, a company provides “fulfillment services” when it receives orders from a retailer or its agent, fills them from the retailer's inventory stored on its premises, and ships them to the retailer's customers. The bill limits the fulfillment services that qualify for this exclusion to those shipping orders outside of Connecticut.
§ 1 — DRS ADMINISTRATIVE FEE

Under the bill, the DRS commissioner may impose a fee of up to $100 to cover the reasonable expenses the agency incurs in performing an administrative function, including preparing an account reconstruction, letter of good standing, or certified copy of a tax return or certifying a software program or provider.

Any person subject to the fee may submit a written request to the commissioner to waive the fee. The bill authorizes the commissioner to waive it if he finds, based on information the person provides, that imposing the fee would result in undue hardship for the person. He must promptly notify the person of his decision to grant or reject the waiver and his decision is final and not subject to further review or appeal.

§ 4 — LOTTERY PRIZE TAX OFFSETS

Current law requires CLC to deduct and withhold delinquent taxes from any lottery prize claim of $5,000 or more that a delinquent taxpayer submits at CLC’s central office. The bill decreases the value of lottery prizes subject to being offset for delinquent taxes to $2,000 for claims submitted on or after July 1, 2018, at CLC’s central office.

By law, the offset is for state taxes, including penalties and interest, more than 30 days overdue that are not the subject of a timely filed (1) administrative appeal to the commissioner or (2) appeal pending before a court.

BACKGROUND

U.S. Supreme Court Decisions on Sales Tax Nexus

The U.S. Supreme Court has ruled that a state may require a company engaged in interstate commerce to collect taxes on its behalf if “the tax is applied to an activity with a substantial nexus with the taxing [s]tate, is fairly apportioned, does not discriminate against interstate commerce, and is fairly related to the services provided by the [s]tate” (Complete Auto Transit, Inc. v. Brady, 430 U.S. 274, 279 (1977)).
The Court has ruled that a company does not have the required nexus if it has no physical presence in a state and its only connection with it is to solicit business there through catalogs, flyers, advertisements in national publications, or phone calls and to fulfill orders by delivering merchandise to customers by mail or common carrier (Quill Corp. v. North Dakota, 504 U.S. 298 (1992); National Bellas Hess, Inc. v. Illinois Department of Revenue, 386 U.S. 753 (1967)).

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable
Yea 45  Nay 6  (04/05/2018)