

**\*Finance, Revenue and Bonding Committee  
JOINT FAVORABLE REPORT**

**Bill No.:** SB-1090

AN ACT CONCERNING THE DEPARTMENT OF REVENUE SERVICES'

**Title:** RECOMMENDATIONS FOR TAX ADMINISTRATION.

**Vote Date:** 5/1/2019

**Vote Action:** Joint Favorable Substitute

**PH Date:** 4/10/2019

**File No.:**

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**SPONSORS OF BILL:**

Finance, Revenue and Bonding Committee

**REASONS FOR BILL:**

Substitute Language makes this proposal a study bill:

In an effort to make Connecticut tax law more effective, efficient, and fair for all residents and businesses this bill requires the Finance, Revenue and Bonding Committee's chairpersons and ranking members to study certain state revenue and tax policies and report their findings to the General Assembly by January 1, 2020.

**RESPONSE FROM ADMINISTRATION/AGENCY:**

**Scott Jackson, Commissioner of the Department of Revenue Services**

Commissioner Jackson offered testimony detailing his feelings regarding sections 1-4 of the proposal- his comments on each section are detailed below:

- Section 1 changes the order for the application of tax payments so that penalty, then interest, then tax, is satisfied. This reverses a modification adopted last year with the Legislature's support; unfortunately, DRS learned over the course of the year that the change brought unintended consequences, including stranding payments within our collections operation.
- Section 2 eliminates a graduated penalty regime for late electronic payments that was first introduced in 1998. A new provision would instead peg late payment penalties to the amount provided for in the respective tax chapter. As electronic payments are now prevalent – more than 91% of DRS filings are electronic - this change better reflects how state taxes are administered today.

- Section 3 offers an additional protection to consumers, and would require that a business – if it receives a refund of a state tax resulting from a tax collected from a customer – to demonstrate that the customer has been made whole for taxes remitted to the business.
- Section 4 modifies the estate tax to specifically provide that property held in an entity will be considered owned individually, unless the entity has a specific business purpose.

#### **NATURE AND SOURCES OF SUPPORT:**

None expressed.

#### **NATURE AND SOURCES OF OPPOSITION:**

##### **Kelley Peck CT Bar Association**

Ms. Peck focused her testimony on section 4 of the proposal. Her concerns with the bill include first, and foremost, that the proposal on its face appears to violate both the State and Federal Constitution. By targeting only non-resident business owners, the law may be found to violate the Commerce Clause and the Equal Protection Clause of the U.S. Constitution. By granting this State the power to ignore the business entity, this bill appears to be an attempt to do an end-run around that long-standing Supreme Court jurisprudence. She further notes that the disparate treatment of resident and non-resident business owners, without a rational basis, will have a chilling effect on our business sector, further undermining our struggling economy. The Bar Association encourages the committee to defer consideration of this legislation until members have the opportunity to review the constitutional concerns and potential chilling effect it may have on the business community. If a fair and honest review leads to the conclusion that this legislation has merit, they can then undertake to draft a bill with clear and unambiguous terms.

##### **Bonnie Stewart, Executive Director of the Connecticut Society of Certified Public Accountants**

Ms. Stewart testified in opposition to Section 1 and 4 of SB 1090. Her testimony notes that when a taxpayer makes a late payment, they are assessed a penalty and interest on the taxes owed. The interest rate is extremely high, 1% simple interest monthly or 12% annually. Presently, when working to pay the taxes and fees, the penalty is paid first, taxes next, then interest. This order of payment was recently approved by this committee and the legislature, but Section 1 of SB 1090 would move back the order of payment to penalty, interest and then taxes, to the detriment of the taxpayer. As the taxpayer is already paying the initial penalty, the interest (another penalty because of the high rate) and the owed taxes, it does not make sense to penalize them further by applying payments to interest before taxes owed. CTCPA urges the committee to strike Section 1 from SB 1090.

**Reported by: Jean Holloway**

**Date: 5/10/2019**