



STATE OF CONNECTICUT
DEPARTMENT OF REVENUE SERVICES

SN 2012(5)

25 Sigourney Street Ste 2
Hartford CT 06106-5032

SPECIAL NOTICE

**2012 Legislative Changes Affecting Sales and Use Taxes,
Enhanced 911 and Marijuana and Controlled Substances Tax**

Purpose: This Special Notice summarizes legislative changes made during the 2012 regular session of the Connecticut General Assembly affecting sales and use taxes and the marijuana and controlled substances tax.

Effective Date: As noted below

Statutory Authority: 2012 Conn. Pub. Acts 55; 2012 Conn. Pub. Acts 135; 2012 Conn. Pub. Acts 153, §§2, and 3; 2012 Conn. Pub. Acts 1, §124, 147-148, 150, 169, 170 (June 12 Spec. Sess.).

“Zappers”: Legislation makes it a crime to willfully and knowingly sell, purchase, install, transfer, or possess an automated sales suppression device (i.e., “zapper”) or “phantom-ware” and subjects violators to a fine of up to \$100,000, one to five years in prison, or both. The legislation is effective on and after July 1, 2012.

A “zapper” is a software program that falsifies electronic cash register and other point-of-sale system electronic records, including transaction data (e.g., items purchased, price and taxability of each item, and amount tendered and returned) and transaction reports. “Phantom-ware” is a hidden programming option embedded in or hardwired into an electronic cash register, whether preinstalled or installed later, which may be used to create a virtual second till or eliminate or manipulate sales records, that may or may not be digitally preserved, to represent the true or manipulated record of electronic cash register transactions.

See **Special Notice 2012(4)**, *2012 Legislation Prohibiting the Use of Zappers*.

Enhanced Emergency 9-1-1 Program: Legislation requires sellers of prepaid wireless telecommunications cards to collect a prepaid wireless Enhanced 9-1-1 fee for each retail transaction, effective January 1, 2013. No later than 30 days after receipt of a prepaid wireless E 9-1-1 fee, DRS must transfer the fee to the State Treasurer for deposit into the E 9-1-1 Telecommunications Fund.

The amount of the fee will be set by the Public Utilities Regulatory Authority (PURA). The consumer pays the fee when the prepaid card is purchased, and the seller is required to remit the fee to DRS. The fee is not included in the calculation of any tax, additional fee, or surcharge and must be separately stated by the seller on an invoice or receipt provided to the consumer. Sellers who collect the fee may keep 1% of the fee.

Retailers collecting the E 9-1-1 fee will follow the same registration, payment, audit, and appeal procedures in place for sales and use taxes. DRS will establish procedures to ensure that a sale of prepaid wireless telecommunications services does not include the fee when sold by a wholesaler or distributor to a retailer, similar to the resale procedures for the sales tax.

Aircraft Industry Joint Ventures: The legislation expands both the eligibility for, and the duration of the exemption from sales and use taxes for personnel services, as well as business analysis and management services for certain kinds of joint ventures in the aircraft industry.

To qualify for the exemption:

- A joint venture's purpose must relate directly to producing or developing new or experimental products or systems and supporting and marketing them;

- One of its corporate participants must have been actively engaged in business in Connecticut for at least 10 years; **and**
- The entity receiving services must be a corporation, partnership, or limited liability company and the entity giving services must be its corporate shareholder, partner, or member, respectively.

Effective for sales occurring on and after July 1, 2012, the legislation expands eligibility for the exemption to allow a joint venture in the aircraft industry to qualify, as long as each participant's ownership interest is equal to the aggregate ownership interest percentage of each related member participating in the venture.

In addition, the legislation extends from 30 to 40 consecutive years the duration of the exemption for aircraft industry joint ventures that existed before January 1, 1986. The exemption for all other joint ventures remains for 20 consecutive years from the date the joint venture is formed, incorporated, or organized.

Connecticut Innovations, Incorporated:

Effective July 1, 2012, the legislation merges the Connecticut Development Authority (CDA) into Connecticut Innovations, Incorporated (CII). It authorizes CII to form subsidiaries which will be quasi-public agencies with the same tax exemptions of CII.

In addition to existing sales tax exemptions available to CII, effective July 1, 2012, the legislation provides an exemption from sales and use taxes for any tangible personal property or services acquired for incorporation into or used and consumed in connection with the development, construction, rehabilitation, renovation or repair of a project approved by CII for sales and use tax relief. This exemption will be in accordance with procedures adopted by the board of directors of CII and is subject to any limitations or conditions of the approval.

CII may create sales and use tax exemption certificates to distribute to program participants, who can use the certificates to make tax exempt purchases of tangible personal property. CII shall develop any exemption certificates in collaboration and consultation with the Commissioner of Revenue Services.

Legalization of Medical Marijuana: Although this legislation does not specifically amend any provision within Title 12 of the Connecticut General Statutes, there are tax implications that stem from its provisions.

Summary of legislation: A licensed physician may certify an adult patient's use of marijuana after determining that the patient has a debilitating medical condition and could potentially benefit from the use of marijuana to provide relief from symptoms of that medical condition. Patients seeking to use marijuana for relief from symptoms of a medical condition must have a written certification by a physician and register with Department of Consumer Protection (DCP). Qualifying patients and their primary caregivers may possess a combined one-month marijuana supply.

The legislation establishes who can be primary caregivers and requires them to register with DCP. Registry information is generally confidential and not subject to disclosure under the Freedom of Information Act (FOIA), but may be disclosed for specified purposes (e.g., to law enforcement officials for investigating and prosecuting crime).

Pharmacists (termed “dispensaries”) are subjected to licensing requirements to supply marijuana and producers are subjected to licensing requirements to grow it. DCP must adopt regulations that set the maximum number of dispensaries and producers (the number of producers must be at least three but no more than 10), create licensing, and set standards.

Patients, their caregivers or doctors, dispensaries, or producers may not be subject to criminal or civil penalties, or denied any right or privilege, for specified actions relating to therapeutic marijuana use. Caregivers are only protected from these punishments if they obtained marijuana from a licensed dispensary. The same restriction does not apply to patients.

Protections for patients will not apply in specific settings, such as at work, at school, in public places, in moving vehicles, or in front of children.

For the most part, this legislation is effective October 1, 2012 although some sections are effective upon passage. However, DCP may only license a dispensary on and after the effective date of the regulations it adopts in accordance with this act.

Sales and Use Tax Implications: Sales of marijuana by licensed dispensaries (see below) will be subject to sales and use taxes; the sales and use tax exemption for prescription medicine will not apply. Licensed dispensaries may purchase the marijuana from licensed producers on a resale basis.

Licensed producers may be able to claim a sales tax exemption under the provision commonly called the farmer tax exemption. This exemption allows entities engaged in agricultural production as a trade or business to be exempt from the sales and use tax for purchases of tangible personal property used exclusively for agricultural production

Marijuana and Controlled Substances Tax Implications: Under the new legislation, the marijuana and controlled substances tax does not apply to persons in lawful possession of these drugs. Qualifying patients, physicians, primary caregivers, producers and dispensaries will be considered in lawful possession of marijuana, and therefore, not subject to the tax. However, anyone not in lawful possession of marijuana would be subject to the tax, in addition to other penalties.

Effect on Other Documents: None affected.

Effect of This Document: A Special Notice announces a new policy or practice in response to changes in state or federal laws or regulations or to judicial decisions. A Special Notice indicates an informal interpretation of Connecticut tax law by the Department of Revenue Services (DRS).

For Further Information: Call DRS during business hours, Monday through Friday:

- **1-800-382-9463** (Connecticut calls outside the Greater Hartford calling area only); **or**
- **860-297-5962** (from anywhere).

Select **Option 6** to speak with a representative.

TTY, TDD, and Text Telephone users only may transmit inquiries anytime by calling 860-297-4911.

Forms and Publications: Visit the DRS website at www.ct.gov/DRS to download and print Connecticut tax forms and publications.

Paperless Filing/Payment Methods (fast, easy, free, and confidential):

Business and individual taxpayers can use the **Taxpayer Service Center (TSC)** at www.ct.gov/TSC to file a variety of tax returns, update account information, and make payments online.

File Electronically: You can choose to get first-time filer information and filing assistance, or can log directly into the **TSC** to file returns and pay taxes.

Pay Electronically: **You can pay taxes for tax returns that cannot be filed through the TSC. Log in and select the Make Payment Only option. Designate a payment date up to the due date of the tax and mail a paper return to complete the filing process.**

DRS E-Alerts Service: Get connected to the latest news from DRS. Receive notification by email of changes to legislation, policies, and procedures. **DRS E-Alerts** provide information for employer's withholding tax, News – Press Releases, and Top 100 Delinquency List. Visit the DRS website at www.ct.gov/DRS and select e-alerts from the left navigation bar.