

**2008 STATE LEGISLATION IMPACTING
MUNICIPAL ASSESSMENT AND TAXATION**



STATE OF CONNECTICUT

**OFFICE OF POLICY AND MANAGEMENT
INTERGOVERNMENTAL POLICY DIVISION**

AUGUST 22, 2008

Page	Act Number, Bill Number and Title
Page 1	Public Act 08-43 (Bill No. 5633) - AN ACT CONCERNING CONTINUATION OF WATER LIENS. Public Act 08-121 (Bill No. 302) - AN ACT CONCERNING MILITARY TRANSPORTATION. Public Act 08-130 (Bill No. 5599) - AN ACT CONCERNING THE TAXATION OF TELECOMMUNICATIONS COMPANY PROPERTY AND THE TIMELY FILING OF DECLARATIONS.
Page 3	Public Act 08-135 (Bill No. 682) - AN ACT PROTECTING THE HOME ADDRESSES OF INSPECTORS IN THE DIVISION OF CRIMINAL JUSTICE. Public Act 08-150 (Bill No. 297) - AN ACT CONCERNING THE DEPARTMENT OF MOTOR VEHICLES.
Page 4	Public Act 08-174 (Bill No. 5873) - AN ACT CONCERNING THE FACE OF CONNECTICUT STEERING COMMITTEE, THE PRESERVATION OF FARMLAND, A MUNICIPAL GRANT PROGRAM FOR DEVELOPMENT PROJECTS, LOANS FOR BROWNFIELD PURCHASERS AND TAX EXEMPTIONS FOR OPEN SPACE LAND HELD BY OR FOR CERTAIN CORPORATIONS.
Page 5	Public Act 08-185 (Bill No. 26) - AN ACT CONCERNING CERTAIN PROGRAMS ADMINISTERED BY THE OFFICE OF POLICY AND MANAGEMENT, THE DEFINITION OF "BIOMASS", THE ESTABLISHMENT OF PRIVATE DEVELOPMENT DISTRICTS WITHIN ADRIAEN'S LANDING, AND MUNICIPAL OPTIONS TO PROVIDE CERTAIN PROPERTY TAX EXEMPTIONS AND TO MAKE ANNUAL ADJUSTMENTS IN REAL PROPERTY VALUATIONS.

Public Act 08-43 (Bill No. 5633) - AN ACT CONCERNING CONTINUATION OF WATER LIENS.

Section 1 of Public Act 08-43 amends §7-239, effective October 1, 2008. The amendment to §7-239 increases, from one to two years, the time that a lien for delinquent municipal water rates or charges runs before it must be continued by filing a certificate of continuation of lien with the town clerk pursuant to §12-174.

Public Act 08-121 (Bill No. 302) - AN ACT CONCERNING MILITARY TRANSPORTATION.

Section 3 of Public Act 08-121 amends §12-81(53), effective July 1, 2008. The amendment to §12-81(53) removes the requirement that a motor vehicle belonging to, held in trust for or leased by a member of the United State armed forces, be garaged outside of the State of Connecticut in order for the vehicle to be exempt from taxation. As a result, each member of the United States armed forces is eligible for the exemption of one motor vehicle, regardless of its location.

The armed forces of the United States consist of the regular military (i.e., the Army, Navy, Marine Corps, Coast Guard and Air Force), as well as the reserves (the Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, Coast Guard Reserve) and the National Guard. The Connecticut National Guard comprises both the Army National Guard and the Air National Guard.

A person's status as a member of the United States armed forces on the date he or she establishes a motor vehicle property tax liability constitutes the *only* eligibility criteria for this exemption. As a result, each person who is a member of this country's regular or reserve military forces (including the National Guard) is eligible for the exemption of one motor vehicle.

In order to receive this exemption, a member of the armed forces must file a written application within the assessor of the town in which his or her motor vehicle is registered. Assessors approve the form of the application for this exemption.

The provisions of §12-81(53) specify that an armed forces member may claim the exemption for any assessment year not later than the December 31 following the tax due date in such assessment year. Given that July 1, 2008 is the effective date of Section 3 of Public Act 08-121 and the due date for property taxes in the 2007 assessment year, the exemption under the amended provisions of §12-81(53) is first available with respect to a vehicle for which a 2007 assessment year tax liability exists.

Note – The Grand List Abstract Code for the exemption under §12-81(53) as amended by Section 3 of Public Act 08-121, is 'A'. There is no state reimbursement for the tax loss due to this exemption.

Public Act 08-130 (Bill No. 5599) - AN ACT CONCERNING THE TAXATION OF TELECOMMUNICATIONS COMPANY PROPERTY AND THE TIMELY FILING OF DECLARATIONS.

Section 1 amends §12-80a, effective July 1, 2008. The amendment to §12-80a affects those telecommunications services companies for which the Office of Policy and Management (OPM) calculates an annual personal property tax. The provisions of §12-80a, as amended, require the information that a telecommunications services company submits to OPM on or before November 30, to list property on a town-by-town basis.

The amendment to §12-80a also requires a company to submit to each municipality a copy of the list the company provides to OPM, containing information regarding the company's personal property that is located in (or allocable to) that municipality. Since the provisions of §12-80a require OPM to allocate a portion of a town's tax to certain lesser taxing districts within the town's borders, a company must send a lesser taxing district a copy of the list of personal property that the company submits to OPM for the town in which the district is located.

Lastly, the amendment adds a new subdivision (f) to §12-80a, the provisions of which allow a municipality to "...examine the Office of Policy and Management's or the Department of Revenue Services' audit of a taxpayer's submission..."

Note – The portion of the amendment to §12-80a requiring a company to submit a list of personal property on a town-by-town basis has no substantive procedural impact, as OPM already requires companies to submit a town-by-town list.

Although the provisions of this statute's new subsection (f) allow municipalities to examine an audit of a taxpayer's submission, there is no statutory provision that explicitly authorizes OPM to audit the list of personal property a taxpayer submits. While the Department of Revenue Services has audit authority, that agency's audits would not entail verification of the accuracy of a company's list of personal property as submitted pursuant to §12-80a. Moreover, provisions of the Connecticut General Statutes prohibit the Department of Revenue Services from releasing taxpayer-specific data to anyone other than the taxpayer, without that taxpayer's authorization. As a result, no audits of information under to §12-80a are available for examination.

Section 2 amends §12-41, effective June 5, 2008 and applicable to annual declarations due on or after November 1, 2008. The provisions of §12-41, as amended, specify that a Personal Property Declaration the assessor receives in an envelope bearing a postmark, as defined in §1-2a, showing a date within the allowed filing period "...shall not be deemed to be delinquent." Essentially, this amendment precludes an assessor from applying a 25% assessment penalty with respect to any declaration a taxpayer submits to the municipality in which the declaration is due, if the postmark date is within the allowable filing period.

Pursuant to §12-41 and §12-42, the filing due date for a Personal Property Declaration is November 1 or the next business day following a November 1 that falls on Saturday or Sunday. The provisions of §12-42 also allow an assessor to grant a filing date extension of up to 45 days (i.e., until December 15). If an assessor grants an extension, the allowable filing period ends on the date the assessor specifies when granting the extension request.

The provisions of §1-2a state that "...any reference to the United States mail or a postmark shall be treated as including a reference to any delivery service designated by the Secretary of the Treasury of the United States pursuant to Section 7502 of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, (2) any reference to a postmark made by the United States Postal Service shall be treated as including a reference to any date recorded or marked in the manner described in said Section 7502 of said Internal Revenue Code by a designated delivery service, and (3) any equivalent of registered or certified mail designated by the Secretary of the Treasury of the United States pursuant to said Section 7502 of said Internal Revenue Code shall be included within the meaning of registered or certified mail."

As a result, the postmark date of a Personal Property Declaration sent by United States mail includes the date stamped by the United States Postal Service (if sent by United States

regular mail), the date of registration (if sent by United States registered mail) or the date the sender's receipt is postmarked by a postal employee (if sent by United States certified mail).

Additionally, the postmark date of a Personal Property Declaration may include the date recorded or marked by any of the following delivery services designated by the United States Secretary of the Treasury, pursuant to Section 7502 of the Internal Revenue Code: Airborne Express (Airborne) - Overnight Air Express Service, Next Afternoon Service, and Second Day Service; DHL Worldwide Express (DHL) - DHL "Same Day" Service and DHL USA Overnight; Federal Express (FedEx) - FedEx Priority Overnight, FedEx Standard Overnight, and FedEx 2Day; or United Parcel Service (UPS) - UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, and UPS 2nd Day Air A.M.

Note – The delivery services cited above are those that regulations pursuant to Section 7502 of the Internal Revenue Code currently specify. These regulations are subject to change.

Public Act 08-135 (Bill No. 682) - AN ACT PROTECTING THE HOME ADDRESSES OF INSPECTORS IN THE DIVISION OF CRIMINAL JUSTICE.

Section 1 of Public Act 08-135 amends subsection (e) of §14-10(e), effective June 5, 2008. The amendment to §14-210 adds an inspector employed by the Division of Criminal Justice to the list of public employees whose residential addresses the Connecticut Department of Motor Vehicles (DMV) can withhold from public disclosure. Like other employees seeking this protection, these inspectors must provide the DMV with their business addresses so that DMV may substitute them for their residential addresses on DMV records that are available for public disclosure.

Public Act 08-150 (Bill No. 297) - AN ACT CONCERNING THE DEPARTMENT OF MOTOR VEHICLES.

Section 56 of Public Act 08-150 amends subsection (b) of §12-71, effective October 1, 2008. The amendment to §12-71(b) eliminates the requirement that the DMV must issue number plates under §14-20 (i.e., DMV Class Code 25 – Historic) for a motor vehicle, in order for its assessment to be \$500 or less. Instead, the amended statute provides a \$500 assessment cap, for assessment years commencing on and after October 1, 2008, with respect to any "antique, rare or special interest motor vehicle, as defined in §14-1." That definition is "...a motor vehicle twenty years old or older which is being preserved because of historic interest and which is not altered or modified from the original manufacturer's specifications."

The amended provisions of §12-71(b) do not contain a registration requirement. As a result, an assessment limit of \$500 is applicable to any registered or unregistered antique, rare or special interest motor vehicle.

Note – The lists of registered motor vehicles that DMV provides to assessors pursuant to §14-163, will continue to reflect Class Code 25 for motor vehicles that have been issued Early American plates, even though the issuance of such plates is not a prerequisite for the \$500 assessment cap under §12-71(b).

Public Act 08-174 (Bill No. 5873) - AN ACT CONCERNING THE FACE OF CONNECTICUT STEERING COMMITTEE, THE PRESERVATION OF FARMLAND, A MUNICIPAL GRANT PROGRAM FOR DEVELOPMENT PROJECTS, LOANS FOR BROWNFIELD PURCHASERS AND TAX EXEMPTIONS FOR OPEN SPACE LAND HELD BY OR FOR CERTAIN CORPORATIONS.

Section 8 amends §12-81(7), effective June 13, 2008 and applicable to assessment years commencing on and after October 1, 2007. The amendment to §12-81(7) allows an exemption for property that a nonprofit organization owns, if the organization's purpose is preserving open space land, as defined in §12-107b.

Subdivision (3) of §12-107b defines open space land "...any area of land, including forest land, land designated as wetland under section 22a-30 and not excluding farm land, the preservation or restriction of the use of which would (A) maintain and enhance the conservation of natural or scenic resources, (B) protect natural streams or water supply, (C) promote conservation of soils, wetlands, beaches or tidal marshes, (D) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces, (E) enhance public recreation opportunities, (F) preserve historic sites, or (G) promote orderly urban or suburban development."

A nonprofit organization does not have to classify land as open space in order for the organization's property to be exempt from taxation under §12-81(7), as amended by Section 8 of public Act 08-174. Such an organization must, however, comply with the filing requirements of §12-87 and §12-87a, in order to receive an exemption for its property.

Section 9 is effective June 13, 2008. Section 9 of Public Act 08-174 provides that nothing in the amended provisions of §12-81(7) "...shall be construed to affect the terms of any stipulated judgment with regard to the imposition of property taxes."

Public Act 08-185 (Bill No. 26) - AN ACT CONCERNING CERTAIN PROGRAMS ADMINISTERED BY THE OFFICE OF POLICY AND MANAGEMENT, THE DEFINITION OF "BIOMASS", THE ESTABLISHMENT OF PRIVATE DEVELOPMENT DISTRICTS WITHIN ADRIAEN'S LANDING, AND MUNICIPAL OPTIONS TO PROVIDE CERTAIN PROPERTY TAX EXEMPTIONS AND TO MAKE ANNUAL ADJUSTMENTS IN REAL PROPERTY VALUATIONS.

Section 9 amends §32-666, effective June 12, 2008. The amendment to §32-666 makes the City of Hartford eligible for a Payment-In-Lieu of Taxes (PILOT) under §12-19a, for improvements on or to land comprising a private development district that the Capitol City Economic Development Authority (CCEDA) may designate pursuant to §32-600.

CCEDA may designate any portion of the thirty-three acre Adriaen's Landing site as a private development district.

Section 11 amends §12-81b, effective June 12, 2008 and applicable to assessment years commencing on and after October 1, 2007. The amendment to §12-81b adds property for which subdivisions (18), (27) and (29) of §12-81 authorize exemptions, to those that a municipal ordinance may exempt from the property's date of acquisition.

These subdivisions of §12-81 allow exemptions for property acquired by certain war veterans' organizations (or any of their local posts), certain Connecticut Grand Army posts and the American National Red Cross.

Section 12 is effective October 1, 2008. In general, the provisions of Section 12 of Public Act 08-185 authorize a town's legislative body to require the assessor to adjust real property values in each assessment year between revaluations. A town may adopt this local-option provision with respect to the first assessment year following implementation of a revaluation under §12-62. The assessor must calculate an average annual valuation

adjustment for that assessment year and for each subsequent assessment year until the town implements its next revaluation in accordance with §12-62. In each such year, a cap is applicable to such an adjustment. If there is an increase in the valuation of real property due solely to such an adjustment, the assessor does not have to mail an increase notice to the affected property owner, as §12-55 would normally require.

Given that the effective date of Section 12 of Public Act 08-185 is October 1, 2008, and that annual real property value adjustments must commence "...with the grand list immediately following the grand list in which a revaluation takes place," towns that implemented a 2007 revaluation are those that may first adopt the valuation adjustment provisions of this legislation. If a town that implemented a revaluation in 2007 chooses to do so, the assessor would begin adjusting real property values for the 2008 grand list, and would continue doing so for the 2009, 2010 and 2011 grand lists. The town would then implement a 2012 grand list revaluation pursuant to §12-62.

In any town that chooses to adopt the provisions of Section 12 of Public Act 08-185, the assessor must adjust the "market value of all real estate...to reflect the average annual adjustment in the value of each category of property within the municipality." Property categories are the land use classes that OPM prescribes for the Administrative Abstract Coding System.

Section 12 of Public Act 08-185 requires an assessor to derive an annual adjustment for each property category from "...a compilation of all fair market sales within the municipality during the twelve months preceding the assessment date." If the number of fair market sales is insufficient during that 12-month period to allow an assessor to derive an "accurate average annual adjustment," the legislation allows the use of "fair market sales from a prior period or other data that may be lawfully used by an assessor for valuation purposes." Assessors may further adjust the values by specific geographic areas (i.e., neighborhoods).

Any such adjustment (which may result in increases or decreases in property valuations) cannot exceed 5%.

While this legislation allows towns to require assessors to adjust real property values based on the average percent of change in the values (up to 5%), the basis for these valuation adjustments is unclear according to the summary of Section 12 of Public Act 08-185 that the Legislative Commissioner's Office prepared. According to that summary, it "...is not clear if [assessors] must adjust each property's value based on (1) the average change in value for all property, (2) the average change in value for each property class, or (3) the average change in value for each property class in each specified geographic area."

Note – OPM anticipates the introduction of legislation during the 2009 Session of the General Assembly that will clarify various provisions of Section 12 of Public Act 08-185. A town that chooses to implement the annual adjustment provisions of this legislation prior to the enactment of such clarifying legislation should consider mailing increase notices to real property owners, even though the provisions of Section 12 of Public Act 08-185 do not require such notices.

Receipt of an assessment increase notice provides a property owner with an opportunity to request an appeal hearing before a town's board of assessment appeals. If a town fails to send such a notice, a property owner's only indication of an assessment increase due to the provisions of this legislation may be the tax bill the owner receives after the completion date of the board of assessment appeals' duties for the grand list a real property adjustment impacts.