



450 Columbus Blvd Ste 1
Hartford CT 06103-1837

Successor Liability and Request for Tax Clearance

Purpose: This Informational Publication explains successor liability and describes the requirements and procedures for requesting a tax clearance certificate.

Effective Date: Upon issuance.

Statutory Authority: Conn. Gen. Stat. § 12-294, Conn. Gen. Stat. § 12-330b, Conn. Gen. Stat. § 12-424, Conn. Gen. Stat. § 12-15(b)(6), Conn. Gen. Stat. § 12-546, Conn. Gen. Stat. § 12-707(e) and Conn. Agencies Regs. § 12-2-9.

1. What is successor liability?

Under certain chapters of the Connecticut tax code, the purchaser of a business or the stock of goods of a business is liable for the taxes owed by the seller of the business. The purchaser is considered the successor to the business of the seller.

2. Does successor liability apply to all taxes?

No. Successor liability is imposed in connection with the following: admissions and dues taxes, cigarette taxes, room occupancy taxes, sales and use taxes, tobacco products taxes, and Connecticut income tax withholding.

3. Can a purchaser find out whether a seller has any outstanding tax liabilities?

Yes. A purchaser who has committed to purchasing the business or stock of goods of a seller may submit a **Form AU-866, Request for Tax Clearance Certificate**, to the Department of Revenue Services (DRS). DRS will issue a tax clearance certificate or escrow letter within 60 days of receipt of Form AU-866.

If DRS does not send a tax clearance or an escrow letter within 60 days of receipt, the purchaser is released from any obligation to withhold from the purchase price and cannot be held liable for any taxes that are owed and unpaid by the seller at the time of purchase.

4. Where should the request for a tax clearance certificate be sent?

Form AU-866 and the required information listed under Question 5 **must** be mailed to:

Department of Revenue Services
Audit Division/Compliance Support Unit
Request for Tax Clearance Certificate
450 Columbus Blvd, Ste 1
Hartford CT 06103-1837

As explained, DRS has 60 days from the date of receipt of Form AU-866 to issue a tax clearance certificate or escrow letter. The date of receipt is the date DRS actually receives a properly completed Form AU-866 with all information.

5. What information must be included with Form AU-866?

A completed **Form AU-866, Request for Tax Clearance Certificate**, **must** include the following information:

- The business name and business address of the purchaser (and the name and address of the person representing the purchaser, if applicable, along with a properly executed **Form LGL-001, Power of Attorney**);
- The Connecticut Tax Registration Number that DRS has assigned to the purchaser, if any;
- The seller's name and address;
- The business name and business address of the seller as registered with DRS;
- The Connecticut Tax Registration Number that DRS has assigned to the seller, if any;
- A letter signed in the original by the purchaser (or its representative) that clearly and unambiguously indicates that there is an agreement by the purchaser to purchase the business or stock of goods of the seller;
- A copy of the purchase agreement, including all schedules, addenda, and attachments;
- The purchase price of the business;

- The expected closing date of the sale (or Closing Settlement Statement if closing has taken place); **and**
- The physical location at which the purchaser will operate the business.

6. What if all the required information is not submitted with Form AU-866?

If a Form AU-866 does not contain all of the required information, DRS will issue the purchaser a **Form AU-716, *Acknowledgment of Clearance Request – Not Accepted***, and identify the specific information that is needed. If the purchaser does not submit the required information within 45 days of the date DRS issued Form AU-716, DRS will consider the request for clearance to have been withdrawn.

7. What is a tax clearance certificate?

If, upon receipt of a properly completed Form AU-866, DRS determines that the seller has no outstanding tax liabilities that are subject to successor liability, DRS will issue the purchaser a tax clearance certificate. The tax clearance certificate is a release of the purchaser from any such liabilities. The specific tax clearance certificates are:

- **Form AU-712AD**, *Tax Clearance Certificate for Admissions and Dues Taxes*;
- **Form AU-712CIG**, *Tax Clearance Certificate for Cigarette Taxes*;
- **Form AU-712RO**, *Tax Clearance Certificate for Room Occupancy Tax*;
- **Form AU-712SUT**, *Tax Clearance Certificate for Sales and Use Taxes*;
- **Form AU-712TOP**, *Tax Clearance Certificate for Tobacco Products Tax*; **and**
- **Form AU-712WTH**, *Tax Clearance Certificate for Connecticut Income Tax Withholding*.

8. What is an escrow letter?

An escrow letter (**Form AU-711, *Tax Clearance Letter Request***) is the notice that DRS issues to the purchaser, advising the purchaser of the amount required to be withheld from the purchase price (Total Amount to be Withheld) to cover the liability of the seller for taxes due and unpaid as of the time of the sale.

Upon the purchaser's request for a tax clearance certificate, DRS will issue an escrow letter to the purchaser if DRS determines that the seller has any unpaid admissions and dues taxes, cigarette taxes, room occupancy tax, sales and use taxes, tobacco

products tax, or income tax withholding liability. The amount specified in the escrow letter may not exceed the purchase price of the business and is the maximum amount of the seller's taxes for which the purchaser will be liable.

9. How does a purchaser satisfy successor liability obligations?

To satisfy successor liability, the purchaser is required to withhold a sufficient amount of the purchase price to cover the amount of taxes, including any penalties and interest, which are owed and unpaid by the seller at the time of purchase as set forth in the escrow letter.

10. What happens if the purchaser does not withhold a sufficient amount of the purchase price?

A purchaser who fails to withhold a sufficient amount of the purchase price is personally liable for the taxes that are owed and unpaid by the seller at the time of purchase up to the amount of the purchase price.

11. How is the purchase price of a business computed?

The purchase price of a business or stock of goods is valued in money, whether or not the purchase price is paid in money.

The purchase price may be paid directly or indirectly to the seller.

The purchase price includes (i) the amount of any liability of the seller assumed by the purchaser, (ii) any obligation of the seller to which any assets transferred by the seller to the purchaser are subject, and (iii) the amount of any outstanding debt that the seller owes the purchaser, prior to the sale, if the debt is cancelled or offset against the purchase price.

12. Will the purchase of a controlling interest in a legal entity that operates a business result in successor liability for the purchaser?

No. The purchase of a controlling interest in a legal entity that operates a business does not trigger successor liability because the same legal entity owns the business; only the ownership of the legal entity has changed.

However, a person purchasing a controlling interest in a legal entity may be liable for controlling interest transfer tax. For more information see **Special Notice 2003(11)**, *2003 Legislation Affecting the Controlling Interest Transfer Tax*.

13. Will a change in the form of ownership or organization of a business result in successor liability for the new entity?

Yes. For example, if there is a change in the form of ownership or organization from a sole proprietorship to an LLC, from a partnership to an LLC, or from a sole proprietorship to a corporation, the new entity is a successor to the old entity.

However, if a corporation merges into another corporation (and is not the surviving corporation) the surviving corporation is not a successor but assumes, as a matter of law, the tax liability of the disappearing corporation.

14. Can a purchaser protest the audit of a seller?

Yes, under certain conditions. In order to protest an audit of a seller, the purchaser must acknowledge itself to be a successor within the meaning of the applicable statute and the statutory appeal rights available to the seller in connection with the subject liability have not lapsed or otherwise expired. It is important to make clear that acknowledging oneself to be a successor does not create, grant or otherwise establish any appeal rights. See Conn. Gen. Stat. § 12-294, § 12-330b, § 12-424, § 12-546, and § 12-707(e) for applicability.

Effect on Other Documents: This Informational Publication modifies and supersedes **Informational Publication 2011(16)**, *Successor Liability for Sales and Use Taxes and Admissions and Dues Tax, and Connecticut Income Tax Withholding*, and **Informational Publication 2004(26)**, *Successor Liability for Cigarette Tax*.

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Admissions and Dues Taxes, Cigarette Taxes, Room Occupancy Tax, Sales and Use Taxes
Tobacco Products Tax, Connecticut Income Tax Withholding,
Successor Liability and Request for Tax Clearance Certificate
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Effect of This Document: An Informational Publication issued by the Department of Revenue Services (DRS) addresses frequently-asked questions about a current position, policy, or practice, usually in a less technical question and answer format.

For Further Information: Call DRS at **1-860-541-3251** during business hours, Monday through Friday.

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

Forms and Publications: Visit the DRS website at **portal.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 **portal.ct.gov/TSC** to file a variety of tax returns, update account information, and make payments online.

File Electronically: You can choose first-time filer information and filing assistance or 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. Choose a payment date up to the due date of the tax and mail a paper return to complete the filing process.