HIGHLIGHTS OF
1999 TAX LEGISLATION

Personal income tax
The income tax is reduced from 25% to 24% of federal tax liability effective January 1, 2000. The earned income tax credit stays at 25% of the Federal EITC. 32 V.S.A. §§ 5822 and 5828b. Act 49, Secs. 35 and 36.

Corporate income tax
The annual $50,000 cap on total credits which can be granted for training expenses is removed. Other limitations, e.g., credit may not exceed $400 per qualified employee per taxable year, employer must be an entity doing business in a downtown area, remain in place. 32 V.S.A. § 5930t. Act 49, Sec. 37b.

A sunset provision enacted as part of Subchapter 10A of Chapter 151 of Title 32 (Taxation of S Corporations) in 1996 is repealed, ensuring that the law will continue in effect. Subchapter 10B, pertaining to taxation of partnerships and limited liability companies, never contained a sunset. 32 V.S.A. § 5910 et seq. Act 49, Sec. 68.

Sales tax
A sales tax exemption for articles of clothing which cost $110 or less goes into effect December 1, 1999. Footwear and special clothing designed primarily for athletic activity or protective use are not exempt. Footwear (but not special athletic clothing) will be exempt beginning July 1, 2001. Note that the clothing exemption applies per item, not to the total charge, so that if 5 items which cost $25 each are purchased, no sales tax is due although the total cost exceeds $110. 32 V.S.A. § 9741(45). Act 49, Secs. 34 and 34a.

The sales tax on services contracts which was passed last year is repealed July 1, 1999 with respect to contracts which are regulated under Subchapter 4 of Chapter 113 of Title 8 (generally, "consumer" type contracts). With respect to contracts not subject to regulation under Subchapter 4, the repeal is effective as of the date of passage. Thus, those contracts will be treated as though never subject to tax. 32 V.S.A. § 9771(7). Act 49, Sec. 71.

There is a new sales tax exemption for tangible personal property which will be incorporated into a net metering system as defined under 30 V.S.A. § 219a. 32 V.S.A. § 9741(46). Act 49, Sec. 74.

The language of the prior fuel exemption for fuel used in manufacturing tangible personal property is restored. There will no longer be an exemption for fuel used to provide services. Any exemptions previously awarded by VEPC (Vermont Economic Progress Council) continue until July 1, 1999. 32 V.S.A. § 9741(34). Act 49, Secs. 92 and 95.

The exemption for sales of building materials is limited to materials used to construct or expand facilities which manufacture goods for sale (as opposed to facilities used in providing services). Awards granted by VEPC continue until the remainder of the 3 years previously awarded. The exemption for building materials incorporated into a downtown redevelopment project is unchanged. 32 V.S.A. § 9741(39). Act 49, Secs. 93 and 95.

The exemption for machinery and equipment used in providing services is repealed. The exemption for machinery and equipment used in manufacturing remains in effect. This repeals only the expanded exemption enacted last session. Any awards granted by VEPC under this section continue until July 1, 2000. 32 V.S.A. § 9741(40). Act 49, Secs. 94 and 95.

Education property tax

Billing and collection of the statewide and local share education property taxes will remain at the local level. As reported in an earlier notice (dated April 2, 1999), the Legislature voted to have municipalities bill and collect 1999-2000 education property taxes. Act 1, Secs. 60a - 60j. In Act 49, local billing and collection is enacted for years after 1999-2000. Secs. 37 and 37a. These taxes will be due to the municipality on the municipality's usual tax collection schedule. Delinquent taxes will accrue interest and penalties as they have in the past on locally collected property taxes. Priority lien and tax sale provisions will apply to education property taxes as well as municipal taxes.

Homestead property tax income sensitivity

Prebate checks will be an annual event. The prebate amount is an advance or preliminary income sensitivity. That amount will be reconciled with actual income and property tax information during the following income tax filing season. In order to receive a prebate in 1999, a homestead declaration must be filed by October 15. Beginning in 2000, this is the way it will work:

When taxpayers complete their education property income sensitivity adjustment forms, they will indicate whether they are declaring a homestead for the coming year. Those who declare will receive a prebate. That prebate will be the amount of their prior year's net property tax income sensitivity adjustment, including both their education tax adjustment and the super circuit breaker (which applies to taxpayers whose income is $47,000 or

less). The following filing season, taxpayers will reconcile the prebate amount they received against what they are entitled to based on their actual income and tax bill for the year. This final income sensitivity adjustment, for any given year, relates that taxpayer's income with the property taxes assessed for that year. Taxpayers can choose *not* to receive a prebate and receive their entire correct income sensitivity adjustment the following spring.

This year, prebate checks will be mailed to declared homestead owners approximately 30 days before the first installment of school taxes is due, except that the first checks will not be mailed until approximately September 1,1999. Next year and in subsequent years, payment will be made by the latest of: July 1, for claims filed by April 15; 45 days after the claim is filed, for claims filed after April 15; or 30 days prior to the first education property tax installment date for the claimant's municipality in the fiscal year which begins in the calendar year in which the claim is filed. See Act 1, Secs. 60a - 60j; Act 49, Secs. 8, 37 and 37a.

There are some changes to eligibility for income sensitivity claims filed in 2000 and after. These changes take effect January 1, 2000 (unless otherwise noted). Therefore, they ***will not*** affect the prebate checks the Department sends out this summer and fall. However, when claimants file next spring to reconcile the prebate amount with their actual income sensitivity, they ***will*** receive the benefit of these changes:

* The $75,000 cap on household income is removed so that a claimant with income over $75,000 may be eligible for income sensitivity. However, those claimants are not eligible for the alternate $15,000 exclusion from homestead value. Also, for those claimants, income sensitivity on the statewide education tax is limited to the lesser of the actual statewide education tax on the homestead, or 2% of household income plus the statewide education tax on the value of the homestead over $160,000. Mathematically, the income sensitivity adjustment phases out at $88,000 of household income at a $1.10 tax rate on a homestead appraised for $160,000 or more. The adjustment phases out at a lower household income level with respect to homesteads appraised at less than $160,000. (The income-sensitized local share property tax is then the local share percentage of the adjusted statewide tax.) Act 49, Secs. 10 and 11.

* The definition of "homestead" is changed to require exclusion of the business portion of a home *only* if it exceeds 25% of the total floor space - the two room test is eliminated. Act 49, Sec. 7.

* "Household income" will not include the income of a spouse who is at least 62 years of age and does not live in the homestead, but has moved on a permanent basis to a nursing home or other care facility. 32 V.S.A. § 6061(4). Act 49, Sec. 9.

* A claimant who is a co-owner with a former spouse may claim based on the amount of property tax which the claimant is required by the divorce decree to pay. Thus, a claimant who has possession of the homestead and the obligation to pay the taxes, may claim based on the entire tax bill regardless of whether the claimant's former spouse is still on the deed. 32 V.S.A. § 6062. Act 49, Sec. 14.

* In calculating household income, a business capital gain may be netted against a net business loss incurred in the same year and relating to the same business. A farm is a "business" for purposes of this section. 32 V.S.A. § 6061(5). Act 49, Sec. 15.

* The Legislature codified the Department's existing position with respect to trusts (a dwelling owned by a trust is not the homestead of the beneficiary unless the trust is a revocable trust created by the beneficiary and the claimant is the sole beneficiary of the trust). This rule is effective with respect to 1999. It also created a new rule effective for 2000 and after: a dwelling owned by a trust is the homestead of the sole beneficiary if the grantor was the beneficiary's parent, grandparent, child, grandchild or sibling, and the beneficiary is disabled. 32 V.S.A. § 6062. Act 49, Sec. 14.

* Current law requires that a renter rebate claimant shall have rented for the entire year. For 2000 and after, the law is changed to allow a renter claim for less than the full year if the claimant owned a homestead during the taxable year, sold it, and did not purchase another, but rented for the remainder of the year. The section of law that allowed a person who owned for part of the year and rented for the other part of the year to claim based on a combination of property tax and rent is repealed for 1999 and after, because a person who owned the homestead at the end of the year is eligible to claim for property tax adjustment on the entire year's property tax, and so, does not need to add rent to the calculation. 32 V.S.A. § 6062. Act. 49, Sec. 14.

Local option taxes

Local option taxes may be imposed through 2004. Authority to opt to impose the tax terminates September 1, 2003. For calendar year 2000 and after, the municipality imposing the tax retains 70% of the tax and rest goes to

the PILOT special fund. Municipalities will pay 70% of the costs of administering the tax and the PILOT fund will pay 30%. 24 V.S.A. § 138. Act 49, Sec. 87.

Land gains tax

A loophole in the land gains tax was closed. A developer could purchase a parcel of land, subdivide it, complete a house within the time allowed and have no land gains tax liability on the remaining unimproved parcels. Under the new language, the building requirements must be met on *each* subdivided parcel in order for the builders' exemption to apply. 32 V.S.A. § 10002(f). Act 49, Sec. 66.

Also with respect to this tax, the time for paying refunds was extended from 15 to 45 days. This conforms with the refund periods for other taxes. 32 V.S.A. § 10007(b). Act 49, Sec. 67.

Miscellaneous changes

A payment due to a taxpayer from the State for provision of goods, services or real estate may be setoff against a tax assessment even if assessment has been appealed if collection of the tax is determined to be in jeopardy. 32 V.S.A. § 3113(d). Act 49, Sec. 42.

Mailed returns will be deemed timely filed if received by the Department within 3 business days after the due date or the taxpayer provides proof satisfactory to the commissioner that the return was mailed by the due date. The postmark rule was changed because the Department no longer retains envelopes. 32 V.S.A. § 3201(d). Act 49, Sec. 43.

A generation skipping tax is added to the estate tax chapter effective January 1, 2000. The Internal Revenue Code imposes a generation-skipping tax, but allows a credit to the extent that a state generation-skipping tax is imposed. Therefore, the imposition of this tax will not cost the taxpayer any more, it means that the tax will be paid to Vermont rather than to the federal government. 32 V.S.A. § 7460. Act 49, Sec. 57.

It is clarified that an "operator" in the meals and rooms tax and a "vendor" in the sales and use tax may be a business entity other than a corporation. 32 V.S.A. §§ 9202(4) and 9701(14). Act 49, Secs. 60 and 62.

It is clarified that authority to assess personal liability for meals and rooms tax and sales and use tax includes the assessment of interest and penalty. 32 V.S.A. § 9280(a) and § 9703(a). Act 49, Secs. 61 and 63.

Electric power facilities are to be listed as real property effective for grand lists for 2000 and after. 32 V.S.A. § 3602a. Act 49, Sec. 24.

The interest rate charged by and paid by the Department will be based on the 12 preceding months from October to October instead of December to December in order to accommodate earlier printing of the tax booklets. 32 V.S.A. § 3108(a). Act 49, Sec. 75.

When electronic funds transfer is required, the commissioner may allow taxpayer up to 4 additional days in which to file. 32 V.S.A. § 5842(a)(4)(D). Act 49, Sec. 73.

The rate on electric generating plants subject to 32 V.S.A. § 8661 is reduced from 3.5 to 2.75 percent of net book value and the deduction for local taxes is eliminated. The education property tax on these plants is imposed at 2% of net book value. 32 V.S.A. § 5402a. Act 49, Secs. 88-89b.

HIGHLIGHTS OF
2000 TAX LEGISLATION

Individual Income Tax
Earned income tax credit is increased from 25% to 32% of the federal EITC. Act 119 (applies to tax years beginning on and after January 1, 2000).

Effective with respect to taxable years beginning on and after January 1, 2001, partners to civil unions must file their Vermont income tax returns as if they were entitled to the same filing status accorded spouses under the Internal Revenue Code. This means that for purposes of calculating their Vermont income tax liability, civil union partners must recompute their federal tax liability as married filing jointly or married filing separately.
Act 91.

The sunset of the credit for income received for a dramatic performance in a commercial film production was repealed, with the effect that the credit continues to be available. Act 159.

A Vermont affordable housing tax credit is available against a taxpayer's individual income, corporate income or franchise tax. The amount is based on the federal (Section 42) housing credit, but is subject to the limitation that the total amount of credits which may be awarded in any calendar year to all applicants is $100,000. Application for an allocation of affordable housing credits must be made to the joint committee on tax credits which advises the allocating agency, the Vermont Housing and Conservation Board. The credit is available in each of 5 consecutive years beginning with the tax year in which the affordable housing credit is placed in service.
Act 159.

The requirement that application for an historic buildings tax credit (32 V.S.A. § 5930n) be made *prior to commencement of any rehabilitation* is eliminated. One of the events that triggered a recapture of the historic buildings credit was a taxpayer's performance of work not contained in the application for certified rehabilitation and not otherwise certified by the National Park Service. This was modified to provide that only the actual revocation of the certificate by the National Park Service would trigger the recapture. With respect to the rehabilitation credit for older or historic building (32 V.S.A. § 5930p) recapture is triggered by any work not contained in the application for the credit allocation, not only *remedial* work, as formerly provided. Act 159.

Income Withholding Tax
Withholding tax may be paid quarterly if the taxpayer reasonably estimates that the amount to be deducted and withheld during that quarter will not exceed $2,500. Formerly, if quarterly withholding was estimated to be more than $600.00 monthly filing was required. Act 119.

Corporate Income Tax
See affordable housing credit and historic building credits under "Individual Income Tax".

S Corporations, Partnerships and Limited Liability Companies
Certain S corporations, partnerships, and limited liability companies may file and remit the tax due under 32 V.S.A. § 5914(c)(estimated tax payments on behalf of nonresident shareholders) and 32 V.S.A. § 5920(c)(estimated payments on behalf of nonresident partners and members) annually, on January 15, instead of quarterly which is the general requirement. To qualify the entity must have a single (nonresident) shareholder, partner or member and a tax liability of $250.00 or less in the prior year, or 2 or more shareholders, partners or members and a tax liability under 32 V.S.A. § 5914(c) of $500.00 or less in the prior year.
Act 119.

Bank Franchise and Insurance Premiums Tax
Credit for rehabilitation of historic buildings is allowed against bank franchise tax and insurance premiums tax. Formerly, it was allowed only against personal income and corporate income tax. Act 159.

Sales and Use Tax
The quarterly filing category is expanded to include persons whose sales and use tax liability for the immediately preceding calendar year is more than $500.00 but less than $2,500.00. Formerly, quarterly filing was permitted only if the prior year liability was $1,000.00 or less. An annual filing status is created for persons whose prior year liability was $500.00 or less. Act 119.

Certain vendors of building materials who would otherwise be required to file and remit sales and use tax monthly may file on a quarterly basis. To qualify, a person must file an annual application with the commissioner demonstrating to the commissioner's satisfaction that at least 50 percent of its sales during the immediately preceding calendar year were sales of building materials to contractors for the improvement of real estate, and that those sales were made on credit terms by the person required to collect the tax with an average credit period of at least 40 days. Act 119.

Property Transfer Tax
Exemption for transfers between husband and wife without actual consideration is extended to partners to civil unions. Act 91.

Property Tax
The statutory $3.00 tax rate in the unorganized towns and gores of Essex County is eliminated and replaced by a procedure for setting a tax rate annually. Act 139.

Taxation of mobile homes located in cooperatively owned parks was clarified. Each unit in a mobile home limited equity cooperative under proprietary lease together with the lessee's interest in the common areas and facilities owned by the cooperative is to be taxed as one parcel of real estate. Units that are not leased, together with the remaining cooperative interest in common areas and facilities, may be combined and taxed as one parcel. Common areas and facilities owned by the cooperative shall not be subject to a separate tax (apart from ownership of a unit). Act 159.

Other aspects of the taxation of mobile homes were addressed in H. 671 as well. Within 10 days of acquiring a mobile home, the owner must file a uniform bill of sale with the clerk of the municipality in which the mobile home is located. A mobile home may not be moved unless the uniform bill of sale is endorsed by the town clerk and if the mobile home is being removed from the town the clerk will not endorse the bill of sale unless the taxes on the mobile home (but not the site) have been paid. The owner must file a copy of the endorsed mobile home bill of sale with the clerk of the new municipality within 10 days. Taxes assessed against mobile homes are due on the date the mobile home is removed from the town last listed. Taxes are a lien on the mobile home. Mobile homes cannot be moved over the highways without a uniform bill of sale endorsed by the clerk of the town in which it was last listed and the clerk of the town in which it was last located. Local boards of abatement may abate tax upon a mobile home moved from the town during the tax year as a result of a change in use of the mobile home park in which it was sited. Act 159.

The general rule is that a dwelling owned by a trust is not a homestead for purposes of income sensitivity. An exception exists where the claimant is the sole beneficiary of the trust and the claimant was the grantor of the trust and the trust is revocable. This exception was expanded to include the case where the claimant *or the claimant's spouse* was the grantor of the trust and the trust is revocable *or became irrevocable solely by reason of the grantor's death.* Act 159.

Cigarette Tax
The sale of cigarettes manufactured for consumption outside of the United States, so-called "gray marketed cigarettes" is prohibited in Vermont. Specifically, cigarettes may not be stamped if the container or package: (1) does not comply with federal packaging and labeling laws; (2) has been imported into the United States in violation of federal law; (3) is labeled "For Export Only" or with similar words indicating that the manufacturer did not intend that the product be sold in the United States; or (4) has been altered by making or deleting the export wording. Such cigarettes are contraband in Vermont and may be seized without a warrant by the commissioner unless in transit. Seized cigarettes will be destroyed. Act 101.

Gasoline and Diesel Taxes
Enforcement provisions similar to those that exist in the sales and use tax law have been added to the gasoline and diesel taxes. Specifically, with respect to the diesel tax: (1) when the assets of a business are being transferred the buyer must notify the Department of Motor Vehicles and withhold from the purchase price an amount sufficient to pay the unpaid diesel tax liability of the seller; (2) personal liability may be imposed on distributors who fail to remit diesel tax; (3) liens may be placed on property of distributors who fail to remit diesel tax. With respect to the gasoline tax: (1) the State may bring an action to enforce a liability for gasoline tax; (2) the maximum amount of the bond which must be posted before commencing business as a gasoline distributor is increased from $100,000 to $400,000; (3) an additional bond may be required when a licensee becomes delinquent in an amount deemed necessary to protect the State's revenues; (4) withholding of proceeds of bulk sale to cover liabilities of seller may be required; (5) personal liability may be imposed on licensees who fail to remit the tax; (6) liens may be placed on property of licensees who fail to remit the tax. Act 154.

The split rate on diesel fuel is eliminated and the combined rate of 26 cents (including the 1 cent fee for the petroleum clean-up fund) is imposed and must be collected from a dealer or user on delivery into the dealer's or user's bulk tanks. Exempt users pay the tax at the time of sale and may apply for a refund. The only exceptions are municipalities and farmers.
Act 154

Motor Vehicle Purchase and Use Tax
Increases the purchase and use tax cap (which caps the tax on large trucks) from $750.00 to $1,100.00. Removes the cap on motorcycles and lightweight trucks (those weighing up to 10,099 pounds other than farm trucks which continue to benefit from the cap). Act 159.

The transfer of title back to the manufacturer under Vermont's Lemon Law (Title 9, Chapter 115) is exempt.

Vermont Economic Progress Council

As a condition of awarding tax credits, VEPC must make a threshold determination that "but for" the economic incentive the proposed economic development would not occur or would occur in a significantly different and significantly less desirable manner. Act 159.

Each application for credits must be evaluated by VEPC for consistency with 9 guidelines including the creation of new, full-time jobs which make a net positive contribution to employment in the area, the creation of positive fiscal impacts on the State, conformance with all appropriate town and regional plans and permits, protection of Vermont's natural, historical, and cultural resources and enhancement of Vermont's historic settlement patterns, use of Vermont resources, and use of existing infrastructure and location in an existing downtown redevelopment project. Act 159.

The cost-benefit model used by VEPC must measure the projected net fiscal benefit to the State; former law provided only that the fiscal benefit be measured. Act 159.

Information and materials submitted by a business concerning its income taxes and other confidential financial information shall be available to the joint fiscal office and the auditor of accounts, but those parties shall not disclose any proprietary business information except upon court order or as otherwise provided by law. Act 159.

The sum of the net fiscal cost of economic incentives that VEPC may approve for property tax stabilization, exemption and tax increment allocation for all projects that are net negative under the cost-benefit model is capped at $300,000 for each of fiscal years 2001, 2002, and 2003. H.671. For tax credits and sales tax exemptions the cap is $2,000,000.00 for each of fiscal years 2001, 2002, and 2003. Act 159.

Economic incentives are conditional upon meeting performance expectations and the reporting requirements of the VEPC and the Department of Taxes. The Department of Taxes has been given final authority to determine whether a tax credit shall be allowed. Compliance with respect to other economic benefits shall be detailed in a report to VEPC. Act 159.

The small business tax credit was retroactively amended (effective January 1, 1998) to allow a credit for the first dollar of investment, not only dollars expended over $150,000, provided the investment exceeds $150,000.
Act 159.

TAX LITIGATION

Supreme Court Decisions

Rock v. Department of Taxes, Docket No. 97-398 (Vt. 9/10/99)
The Supreme Court affirmed the Commissioner's determination that taxpayer was personally liable for outstanding trust taxes (withholding, sales and use, meals and rooms) of corporation. The Court looked at the person's position within the power structure of the corporation, authority as established by the articles of incorporation, bylaws or employment contract, and whether person actually exercised control over the finances of the business.

Tarrant v. Vermont Tax Department, Docket No. 96-608 (Vt. 4/9/99)
The Vermont Supreme Court allowed taxpayers a credit on their income tax for their pro rata share of corporate taxes paid by their S corporation to states that did not recognize the pass-through treatment of such corporations.

Schievella v. Department of Taxes, (Vermont Supreme Court, Entry Order, 10/23/00)
Supreme Court affirmed Washington Superior Court's 12(b)(6) dismissal by Judge Jenkins for lack of standing of complaint challenging constitutionality of income definition and eligibility requirements of homestead property tax income sensitivity adjustment, 32 V.S.A. § 6061 et. seq. The act adopted a statewide property tax for funding local education and adopted a "circuit breaker" that limits the statewide tax on homestead property to 2% of income for taxpayers with household incomes under $75,000. Taxpayers challenged how income is calculated for 2% limit and further challenged the $75,000 income limit on eligibility. Supreme Court upheld the legislative classifications as meeting rationality tests of equal protection and proportional contribution clauses of U.S. and Vermont constitutions.

Superior Court Decisions (not appealed)

In re: Appeal of J K Sports, Washington Superior Court, Docket No. 193-3-00 WnCv (9/29/00)
Judge Katz dismissed appeal and upheld sales and use tax assessment for membership fees charged by health club, finding ignorance of law is no excuse.

Brattleboro Tennis Club, Inc. v. Vermont Department of Taxes, Windham Superior Court, S129-4-99 Wmc (Vt. 8/25/99) "In 1997, the Vermont Supreme Court held that the annual dues paid by members of the Brattleboro Tennis Club ("BTC") were amusement charges subject to a five per cent tax under 32 V.S.A. § 9771(4). See *Brattleboro Tennis Club, Inc. v. Dept. of Taxes,* 166 Vt. 604 (1997). In reaching this conclusion, the Supreme Court cited a portion of BTC's bylaws providing that the playing rights of a member who did not pay his dues in a timely manner could be suspended and sold. BTC then changed its bylaws to provide that a member who did not pay his dues in a timely manner would be assessed late fees instead of losing his right to play; and based on that change, BTC argues here that its dues are no longer taxable amusement charges." The Superior Court affirmed the Commissioner's subsequent assessment, finding that the dues are still charges for the use of the facilities and subject to amusement tax.

Murphy et. al. v. Department of Taxes, Washington Superior Court, Docket No. 385-7-99 Wncv (12/29/99, vacated 9/19/00)
Taxpayers were assessed land gains tax due to their failure to complete and occupy their principal residence within two years of purchase of the land, 32 V.S.A. § 10002(b). Taxpayers appealed to commissioner claiming seller/developer of land was cause of Taxpayers' delay in completion. Commissioner upheld assessment. Superior Court (Judge Teachout) initially reversed, holding Department estopped from assessing tax because Taxpayers relied on Department to their detriment -- Taxpayers claimed they gave up opportunity to sue developer/seller for land gains tax. Superior Court later vacated initial decision on a Rule 60(b) motion when it was discovered that Taxpayers had in fact sued seller/developer for the tax and had received general verdict in their favor. This case is currently on appeal before Vermont Supreme Court.

Vermont Marble, Inc. et. al. v. Haase, Rutland Superior Court, Docket No. S0013-98 RcCa (Vt. 10/29/99)
Vermont Marble, Inc. and OMYA, Inc., merged. The Department assessed sales and use tax on self-generated electricity produced/used by the merged entity based on the pre-merger activity of the two companies. The Court reversed the Department's audit method and found that internally generated electricity used in manufacturing post-merger was not subject to sales and use tax in that the post merger company used more than 60% of the power generated by it, and thus was not subject to tax under 32 V.S.A. § 9773(2). The Court also found that the Commissioner automatically imposed a 25% penalty and failed to exercise his discretion in this regard. Therefore, the Court reversed and remanded the case to the Commissioner to exercise discretion on the imposition of the penalty.

Wyman v. Department of Taxes, Washington Superior Court, Docket No. 116-3-99 Wncv (9/19/00)
In 1989, Taxpayers relocated to Vermont from New York City, rented living quarters in Vermont and purchased a building lot in Quechee for their permanent home. They commuted to New York City for work. They filed Vermont resident personal income tax returns, paid Vermont personal income taxes, registered to vote in Vermont, and established other Vermont contacts. They maintained their co-op apartment in New York and filed New York non-resident returns claiming they had no living quarters in New York. They were audited and assessed additional NY tax by NY Department of Revenue, which found them to be statutory residents or domiciliaries of New York. Taxpayers then attempted to amend Vermont returns to claim refunds of Vermont resident taxes previously paid, by claiming they did not become Vermont domiciliaries until 1992, which was when construction of permanent home was complete. Commissioner found Taxpayers domiciled in Vermont beginning 1989, denied refund requests and upheld additional assessments. Superior Court (Judge Bryan) affirmed. This case was appealed to the Vermont Supreme Court and subsequently withdrawn.

Criminal Prosecutions

State of Vermont v. Bruce B. Blake, Vermont District Court, Washington County, Docket No. 566-6-98 Wncr (10/27/1998)
Bruce B. Blake, owner of The Computer Exchange in Plainfield, entered guilty pleas on the following charges: failure to remit sales tax collected from his customers, failure to file a sales and use tax return, failure to file a sales and use tax registration certificate with the Vermont Department of Taxes, and four counts of being engaged in business without a valid certificate of authority. Judge Alan Cheever imposed a suspended sentence of 30 days to one year and Mr. Blake was placed on probation until further order of the Court. Conditions of probation include the payment of a fine of $2,500.00; appearance before the Reparative Board; and future compliance with all Vermont tax filing and payment requirements. Mr. Blake paid $10,000.00 in restitution before he entered his guilty plea.

State of Vermont v. Robert G. Messer, Vermont District Court, Washington County, Docket No. 353-3-99 Wncr (4/9/1999)
Robert G. Messer, of Bennington, Vermont, pleaded guilty to seven tax related criminal charges. Mr. Messer, the owner of Colonial Printing Company, entered guilty pleas on the following charges: three misdemeanor counts of failing to file sales tax returns; three misdemeanor counts of failing to remit sales tax, and a felony count of failing to file a Vermont personal income tax return with the intent to evade more than $500 in tax. Judge Alan Cheever, at the Vermont District Court in Barre, imposed a suspended

sentence of one to three years and fines totaling $16,000. Conditions of probation include appearance before the Reparative Board; payment in restitution of $5,679.94 in sales and use tax and $13,976.19 in Vermont personal income tax, and future compliance with all Vermont tax filing and payment requirements. Mr. Messer was placed on probation until all fines and restitution are paid in full.

State of Vermont v. Jeryl S. Larson, Vermont District Court, Washington County, Docket No. 341-3-99 Wncr (6/30/1999)

and

State of Vermont v. Robert Larson, Vermont District Court, Washington County, Docket No. 340-3-99 Wncr (6/30/1999)

Robert C. Larson and Jeryl S. Larson, of Pittsford, Vermont, were convicted of tax related criminal charges. Mr. Larson, a chiropractor, and Mrs. Larson, each entered pleas of nolo contendre to one misdemeanor count of knowingly failing to file Vermont personal income tax returns for 1997. Judge Alan Cheever imposed a suspended sentence of 30 days to one year and fines of $1,000 against each Defendant. Conditions of probation include performance of 80 hours of community service by each Defendant; payment in restitution of $12,272.01 in Vermont personal income tax, and future compliance with all Vermont tax filing and payment requirements. The Larsons were placed on probation until all fines and restitution are paid in full or the filing and payment of their 1999 Vermont personal income tax returns, whichever last occurs.

State of Vermont v. Dennis Straight, Vermont District Court, Washington County, Docket No. 439-4-00 Wncr (8/22/2000)

Dennis H. Straight, of Lyndonville, was convicted of five tax related criminal charges. Mr. Straight was the pharmacist/owner of St. Jay Pharmacy of St. Johnsbury at the time the offenses were committed. Mr. Straight entered a no contest plea on one felony charge that he made false declarations in 1999 on his pharmacist license renewal forms filed with the Secretary of State that he was in good standing with respect to any and all taxes payable to the State of Vermont. Mr. Straight also entered no contest pleas on four misdemeanor charges that he had failed to file withholding tax returns in 1998; failed to remit withholding taxes in 1998; failed to file sales and use tax returns in 1999; and failed to remit the sales and use tax in 1999. Judge Mark J. Keller imposed a deferred sentence on the felony charge for a period of five years, and imposed suspended sentences of 30 days to one year on the misdemeanor charges. Conditions of probation include payment of fines and a contribution to the General Fund totaling $12,000, filing and payment of outstanding tax returns, and future compliance with all Vermont personal income tax and business tax filing and payment requirements. Mr.

Straight was placed on probation until all fines and contributions are paid in full or until the expiration of the deferred sentence.

State of Vermont v. James Lash, Vermont District Court, Washington County, Docket No. 343-3-99 WnCr (10/18/1999)
James R. Lash of South Burlington, Vermont, pleaded guilty to two tax related criminal charges. Mr. Lash entered guilty pleas on two misdemeanor counts of failing to file Vermont personal income tax returns for 1995 and 1996. Judge Mark J. Keller imposed a deferred sentence for a period of five years. Conditions of probation include payment in restitution of $13,870.52 in outstanding Vermont personal income tax including interest, penalties and late fees, a contribution of $2,000 to the General Fund, and future compliance with all Vermont personal income tax filing and payment requirements. Mr. Lash was placed on probation until all contributions and restitution are paid in full.

State of Vermont v. John Freeman, Vermont District Court, Washington County, Docket No. 1156-8-00 Wncr (11/8/2000)
John L. Freeman of Burlington, the owner of the Small Boat Exchange in Burlington, was convicted of seven tax related criminal charges. Mr. Freeman entered pleas of no contest on seven charges that he failed to remit the sales and use tax he had collected from his customers during 1997 and 1998. The State dismissed ten other related counts. Judge M. Patricia Zimmerman imposed suspended sentences of 30 days to one year on each of the charges and payment of fines totaling $7,000. Conditions of probation include payment in restitution of $21,458.43 in unpaid taxes, appearance before the Community Reparative Board, and future compliance with all Vermont personal income tax and business tax filing and payment requirements. Mr. Freeman was placed on probation.

Status of Various Legal Challenges to Act 60

Anderson v. State, Docket No. 141-6-97 LeCv (Lamoille County)
This was filed by an attorney, on behalf of his child and another child. The theory was that children cannot be adequately educated for the block grant amount and that Stowe will not vote over block spending. Cross motions for summary judgment were filed and in December 1997 Judge Cook denied plaintiff's motion and granted the State's motion. The Court found that the complaint was speculative (not ripe for review) since no one knew how the town would react. The Court also concluded that the equalized yield component of Act 60 bears a reasonable relationship to Act 60's avowed purpose of equalizing educational opportunity throughout Vermont. Plaintiffs appealed to the Vermont Supreme Court which affirmed on December 22, 1998, holding that plaintiffs claim of inability to obtain equal educational

opportunity is premature and speculative both because of the transition provisions of Act 60 and because it is based on a prediction of how Stowe voters will react, i.e., there is no actual controversy.

Town of Stowe and Stowe Citizens for Responsible Government v. State, Docket No. 142-6-97 LeCv (Lamoille County)
Stowe Citizens intervened in the lawsuit. The theory was that the legislature did not act in the common interest in passing Act 60 and therefore it is unconstitutional. Stowe Citizens stipulated to dismissal of this case.

Stowe Citizens for Responsible Government v. State, Docket No. 205-10-97 LeCv (Lamoille County)
Stowe Citizens' claim was that State unlawfully delegated to towns taxing authority and therefore, the duty to provide an education to Vermont children. It argued that school funding under Act is in the control of localities, rather then the legislature because components of funding depend upon the willingness of some towns to vote school budgets in excess of the State grant. Judge Cook issued an order in February 1998 denying Stowe Citizen's motion for summary judgment and granting the State's. The Court said it would "not indulge in speculation regarding actions and events that will occur in the future and thus cannot predict or foresee the adequacy of educational funding provided under Act 60." This decision was upheld on appeal to the Vermont Supreme Court on March 3, 1999. The Court held that plaintiffs' attempt to cloak its argument under the legal mantle of the delegation doctrine does not withstand scrutiny. Although the power to make laws cannot be delegated, the equalized yield provision of Act 60 specifies all of the details of the mechanism for equalizing the funding of public education - a statute that does not take effect unless assented to by the voters of a town is not invalid as a delegation of legislative power.

Stowe Citizens for Responsible Government v. State, Docket No. 61-3-98 LeCv (Lamoille County)
This was filed on the heels of the dismissal of the other Stowe Citizen's case. The complaint alleged that the block grant is not sufficient to fund a constitutionally adequate education. The State responded with a motion for summary judgment saying the claims were barred by res judicata because they could have been raised in the previous Stowe Citizens case. The motion was granted and no appeal was taken.

Town of Andover et al. v. State of Vermont, Marc Hull, Commissioner of Education; and Edward D. Haase, Commissioner of Taxes, (Washington County)
This lawsuit was brought by a coalition of municipalities. It alleges unlawful delegation of taxation authority to individual towns; impermissible delegation of the House of Representative's authority to originate revenue

bills to towns; and abdication of legislature's constitutional responsibility (under Brigham) to provide a public education to Vermont children. Judge Katz rendered a decision from the bench, granting the State's motion to dismiss based on the lack of legal capacity to bring the action. Basically, the holding was that towns are created by the State and it is not within their powers to sue the State. The Court did allow the Coalition to amend its complaint to substitute plaintiffs. The complaint was amended to add some individuals. The State filed a motion to dismiss the Coalition plaintiff based on the Court's earlier lack of capacity ruling. The Coalition opposed the motion arguing that the Court's earlier order was only interlocutory (not final) and that it has a right to keep its name on the action. The State filed a motion for the Court to enter final judgment against the coalition. The State argued that as long as there is no final judgment against them the municipalities are funding private litigation (the individuals' suits) with public money. Judge Katz agreed. The Supreme Court reversed and remanded on the lack of standing to sue argument for consideration whether compliance with the statute at issue would require the municipalities to violate constitutional provisions.

Geno v. State of Vermont, Washington Superior Court
The coalition amended its case (Town of Andover, et al) to bring in individual claimants. The Washington Superior Court granted the State's Motion for Judgment on the Pleadings, rejecting plaintiff's unconstitutional delegation argument, origination clause argument and argument that the State abdicated its obligation under Brigham to provide equal educational opportunity to towns.

Town of Andover et al. v. State of Vermont, Washington Superior Court
A second coalition case requested declaratory relief that: (1) a resolution of the Legislative Oversight Committee with respect to optionally exempt property (made October 14, 1997) be of no force and effect to the extent that it is inconsistent with Act 60; and (2) that the meaning and effect of Act 60 with respect to optionally exempt property be determined, specifically whether municipalities are obligated to include in the education property grand lists optionally exempt property that is voted after June 30, 1997. Judge Katz dismissed this coalition case along with the other one and the coalition never amended its complaint. This lawsuit presumably would have been moot in any event after Act 71 amended these provisions.

Town of Sherburne (now Killington) v. State of Vermont I, Washington Superior Court
This case involves a dispute over the calculation of the 40 percent cap provision in Act 71. Superior Court granted Town's motion for summary judgment. State appealed and the matter is pending in the Vermont Supreme Court.

Town of Sherburne v. State of Vermont II, Washington Superior Court
Sherburne filed a second action to challenge the calculation of its second statewide tax installment under the 40 percent cap. This action has been stayed pending a decision on Sherburne I.

Felis v. State of Vermont, U.S. District Court
Complaint was that the Brigham decision unlawfully amended the Vermont constitution. The Court dismissed on Eleventh Amendment grounds. The Second Circuit Court of Appeals affirmed.

Felis v. State of Vermont, Lamoille Superior Court
Plaintiff claims the block grant is insufficient. Plaintiff also makes a claim that Article 9 is violated because the tax under Act 60 is disproportionate. State filed motion to dismiss based on Anderson and Stowe Citizens, i.e., failure to state a claim and no justiciability. The State's motion was granted with no appeal.

State of Vermont v. Kilbride/Searsburg, Washington Superior Court
The State sued the treasurer of the town and school district to compel her to pay over the statewide taxes that she collected and refused to remit to the State Treasurer. The Court granted the State's summary judgment motion and subsequently ruled that post judgment interest will accrue at the rate of 12 percent.

State of Vermont v. Raymo/Dover I, Washington Superior Court
The State sued the treasurer of the town and school district to compel her to pay over the statewide taxes that she collected and refused to remit to the State Treasurer. The Court granted summary judgment in favor of the State on the liability issue and conducted a trial on the question of amounts owed -- the 40 percent cap calculation. Regarding the calculation of amounts owed, the Court accepted the town's interpretation of the transitional forty percent cap provision, but otherwise agreed with the State's calculation of town's liability and ordered payment of a sum certain with interest accruing at 8% prior to the decision and 12% subsequent to decision until payment. The matter is pending in the Vermont Supreme Court.

State of Vermont v. Raymo/Dover II, Washington Superior Court
The State sued the treasurer of the town and school district to compel her to pay over the second installment of statewide taxes. The matter is pending.

State v. Robohm/Whitingham I, Washington Superior Court
The State sued the treasurer of the town and school district to compel him to pay over the statewide taxes that he collected and refused to remit to the

State Treasurer. The Court granted the State's summary judgment motion and subsequently ruled that post judgment interest will accrue at the rate of 12 percent.

State v. Robohm/Whitingham II, Washington Superior Court
The State sued the treasurer of the town and school district to compel him to pay over the second installment of statewide taxes. The matter is pending.

Schievella v. Department of Taxes, (Vermont Supreme Court, Entry Order, 10/23/00)
Supreme Court affirmed Washington Superior Court's 12(b)(6) dismissal by Judge Jenkins for lack of standing of complaint challenging constitutionality of income definition and eligibility requirements of homestead property tax income sensitivity adjustment, 32 V.S.A. § 6061 et. seq. The act adopted a statewide property tax for funding local education and adopted a "circuit breaker" that limits the statewide tax on homestead property to 2% of income for taxpayers with household incomes under $75,000. Taxpayers challenged how income is calculated for 2% limit and further challenged the $75,000 income limit on eligibility. Supreme Court upheld the legislative classifications as meeting rationality tests of equal protection and proportional contribution clauses of U.S. and Vermont constitutions.

Town of Bridgewater, et al v. State of Vermont and Vermont Department of Taxes, Rutland Superior Court
Superior Court granted State's motion to dismiss lawsuit filed by coalition of municipalities challenging validity of State's equalization study because plaintiff towns had failed to exhaust the administrative remedy provided to a municipality by law for challenging the results of the study with respect to the particular town. The matter is pending in the Vermont Supreme Court.

1999 FORMAL RULINGS

99-01
Taxpayer, a newly formed Vermont nonprofit corporation, requested a ruling on whether its purchase of open-space land would qualify for the land gains exemption under 32 V.S.A. § 10002(i). The Department ruled that the purchase would be exempt if the corporation meets the public support test of section 509(1)(2) of the Internal Revenue Code, provided that one of the organization's stated purposes is to acquire property or rights and interests in property in order to preserve agricultural, forestry or open-space uses, and that the property is held by the organization for agricultural, forestry or open space purposes for at least six years.

Because the Department could not determine whether the corporation would meet the public support test until after the IRS determined its foundation status, the buyer and seller were instructed to follow the provisions of 32 V.S.A. § 10007 with regard to withholding and remittance of 10% of all consideration paid to the seller. The balance of the tax or claim for refund by the seller would be extended until the IRS makes a final determination of the corporation's foundation status.

99-02
Taxpayer requested ruling on whether the sale and installation of floor coverings (e.g. linoleum, tile, hardwood) is a sale of tangible personal property on which tax must be collected or an improvement to real estate. The Department ruled that the installation of flooring is an improvement or alteration of real property. The sale of the flooring itself to Taxpayer is a sale at retail when purchased for the purpose of installation, regardless of whether it is billed to the customer at a fixed price or as time-and-materials. When the sale to Taxpayer is within Vermont, it is subject to sales tax pursuant to 32 V.S.A. § 9771(1); if the property is brought into the state and no sales tax was paid on the purchase, it is subject to use tax under 32 V.S.A. § 9773(1). Over-the-counter sales by either retail locations or contractors, where Taxpayer is not responsible for the installation, are retail sales on which tax must be charged to the customer.

99-03
Taxpayer requested a ruling on whether its free, bound, covered, biweekly publication is exempt from sales tax pursuant to the newspaper exemption, 32 V.S.A. § 9741(15). The Department ruled that the publication did not meet the commonly accepted definition of newspaper because it did not possess the physical characteristics of a newspaper, and was therefore properly taxable. Although the publication may have met the content requirement of the statute (10% news), the content test is a secondary and

additional requirement of publications which would otherwise be newspapers under the ordinary meaning of the word.

99-04
Taxpayer requested a ruling on whether its product, a resorbable calcium phosphate scaffold matrix used by orthopedic surgeons, is tax exempt under 32 V.S.A. § 9741(2). The product at issue resembles the porosity of trabecular bone and is absorbed into the body during the process of normal bone healing following surgical implantation. The Department ruled that the product is a medical device or supply used in treatment intended to correct human physical disabilities and is therefore exempt under the statute.

99-05
Taxpayer, a tax-exempt nonprofit corporation as described in section 501(c)(3) of the Internal Revenue Code, requested a ruling on whether sales of meals at three of its cafeteria locations are tax-exempt under either 32 V.S.A. § 9202(10(D)(ii)(I) or (IV). The Department ruled that meals served at two of the corporation's cafeterias are exempt under 32 V.S.A. § 9202(1)(D)(ii)(IV) because the meals are furnished on the premises of a nonprofit corporation organized and operated exclusively for religious or charitable purposes and are prepared by the corporation's employees. At the third location, however, because the corporation utilized a third-party contract granting the exclusive right to sell food and non-alcoholic beverages to an independent contractor/commercial manager, section (IV) does not apply. Further, meals served at this cafeteria are not tax-exempt under § 9202(10)(D)(ii)(I) because the contractual arrangement between corporation and independent contractor allows the independent contractor to participate in the profits of the enterprise.

99-06
The Department clarified that under 32 V.S.A. § 5930g, an approved small business investment tax credit is to be taken the year in which the capital expenditure is made, rather than when the asset is placed into service. Further, because the amount of yearly investment may differ from that projected at the time the credit is approved, the amount of credit taken for each respective year may differ from the amounts listed in the taxpayer's Schedule for Claiming Tax Credits. The total amount of expenditures on which credit is claimed, however, is limited to the total approved amount.

99-07
Taxpayer corporation does business in several locations, including Vermont, with its business headquarters and all of its fixed assets in New Hampshire. The corporation deposited operating funds into accounts with a Vermont bank, and earned approximately $5,500.00 in interest income for 1998.

Taxpayer requested a ruling as to whether this income was apportionable or allocable income for the purposes of calculating its Vermont Net Income.

Taxpayer's interest income has no situs; thus, if nonbusiness income, it would be allocated to New Hampshire. Pursuant to Reg. 1.5833 (d)(6), however, the interest earned from the deposit of operating funds does not qualify as nonbusiness income and is therefore subject to apportionment. For purposes of apportionment, Taxpayer must include the interest income in the numerator of the Vermont sales factor only if the company manages the funds from Vermont; the fact that the interest was paid in Vermont or that the funds were in a Vermont bank do not require the interest to be included in the Vermont numerator.

2000 FORMAL RULINGS

2000-01

Taxpayer business engages in the transfer of tangible personal property under various leasing and installment sales arrangements. Because the property is sometimes used in more than one state during the lease period and may be subject to sales or use tax in more than one state, taxpayer requested a ruling concerning reciprocal credits for sales or use tax.

A reciprocal credit is available only to reduce *use* tax for sales or use tax paid to another jurisdiction. In a true lease, lessors of tangible personal property generally acquire the property tax-exempt under the resale exemption, then collect sales tax on the lease charge, with each charge treated as a separate sale subject to Vermont tax when the property is within Vermont. If the property is received in another state and subsequently moved to Vermont, Vermont sales tax would be due only for those periods during which the property is located in Vermont. If during any period the property is used in another jurisdiction and then in Vermont, the tax paid to the former for that period may be used to reduce the Vermont tax.

In the case of financing leases or conditional sales, also commonly referred to as leases, the transfer is subject to Vermont tax when the obligation to pay is established if the purchaser receives the property in Vermont. Because the sales tax jurisdiction is fixed by the location where the property is received, when the property is received in another state and subsequently moved to Vermont, any Vermont use tax due would be reduced by the tax paid to the first jurisdiction.

2000-02
Taxpayer corporation is exempt from meals and rooms tax for direct purchases of ordinarily taxable meals or lodging because it is designated by statute as a "public instrumentality of the state." The exemption does not apply, however, to purchases by the corporation's employees even if the employees are to be reimbursed by the corporation.

2000-03
Taxpayer, the operator of several Vermont restaurants, requested a ruling on the applicability of meals and rooms tax to meals provided either at no charge or at a discounted price. The Department ruled that only the net charge of discounted meals (i.e. where the customer presents a coupon for a discount) is taxable. Complimentary meals, where no charge is collected for the meal, are not taxable. Where meals without charge are taken by employees for business purposes, i.e. for entertaining a business client, the meals are not taxable because there is no transaction or sale between two parties; rather, there is an internal accounting entry which does not constitute a receipt. Finally, Department Regulation 1.9202(10)-4, Meals Furnished to Employees, provides that meals furnished at no or reduced charge to an employee are taxable only to the extent of the charge.

TECHNICAL BULLETINS

TB-13 Meals and Rooms Tax
Addresses the scope of purchaser-based exemptions from meals and rooms tax for purchases by the State of Vermont, the federal government, certain medical or hospital corporations, and by the American Red Cross. For the exemption to apply, charges for meals and rooms must be *direct* charges; indirect charges to employees of or persons contracting with these entities are not exempt from the tax regardless of whether they are on government business and are ultimately reimbursed for the charges.

TB-14 Local Option Tax
Provides general rules and examples relating to the collection of local option sales taxes imposed under the provisions of 24 V.S.A. § 138. The Town of Manchester tax is used for examples, although the principles apply to any other municipalities which enact local option sales taxes. Originally issued: 2/22/99, revised and replaced 11/7/00.

TB-15 Real Estate Withholding Tax
Discusses Vermont real estate withholding procedures which are applicable when a nonresident reports gain on the sale of Vermont real estate under the installment sale method on or after June 26, 1997. Under 32 V.S.A. § 5847(h), unless exempted from withholding or reduced withholding applies (§§ 5847(b) & (c)), transferees must withhold 2 1/2 percent of <u>all</u> consideration, not just 2 1/2 percent of the down payment of 2 1/2 percent of an installment. Also discusses how to report the gain on the sale or exchange, and how amounts withheld are applied to transferor's liability.

TB-16 Sales and Use Tax (See Also TB-17)
Provides definitions, general rules and examples relating to the exemption from sales and use tax for clothing which costs $110 or less, effective December 1, 1999. 32 V.S.A. § 9741(45).

TB-17 Sales and Use Tax (See Also TB-16)
Addresses several questions received after TB-16 was released.

TB-18 Act 60 Tax Reduction
Discusses when the transfer of retirement plan assets must be included in household income for the purposes of determining the Act 60 tax reduction. Taxpayers who rollover from a traditional IRA to a Roth IRA must include these amounts in AGI: no exception in 32 V.S.A. § 6061(5). A transfer of funds in a traditional IRA from one trustee to another is no a rollover: there is no distribution to the taxpayer. A rollover from traditional IRA to traditional IRA is not included in household income if transfer meets all

federal requirements. A rollover from an employee's plan into an IRA is not included to extent transferred amount is not included in taxpayer's AGI.

TB-19 Sales and Use Tax

Address questions which arise when a 501(c)(3) organization is determining whether it must collect the sales and use tax. Under 32 V.S.A. § 9743(3), a 501(c)(3) is not required to collect Vermont sales tax if the organization had no more than $20,000 of otherwise taxable sales in the previous year. The bulletin addresses, inter alia, what types of organizations qualify (501(c)(3)'s only); what year is used (fiscal or calendar); how to treat sales in its first year of operation (it need not collect the tax), and other issues.

TB-20 Act 60 Reduction

Addresses treatment of claims under Act 60 in which the homeowner died prior to receiving the final benefit.

TB-21 Property Tax

Addresses property tax treatment of removable greenhouses. If it is removable without material injury to the underlying realty it is business personal property under 32 V.S.A. § 3618. Otherwise, it is an improvement to the underlying real estate and its value should be included in the parcel's real property assessment.

TB-22 Corporate Tax

Effective with returns for years ending June 30, 2000, or later, the Department of Taxes will allow an affiliated group which includes an investment and holding company that qualifies under 32 V.S.A. § 5837 to exclude the qualifying corporation from its consolidated return. The excluded investment and holding company must file a separate return and pay the minimum tax.

TB-23 Income Tax Withholding

Provides guidance to an employer as to when an employee should complete W-4VT to determine his or her Vermont State income tax withholding. Specifically, employees who take federal credits which do not pass through to Vermont income tax should complete form W-4VT. Also, employees in civil unions may use W-4VT to show such filing status so that the Vermont tax is computed in the same manner as if the partners were married. As with married employees, partners in a civil union may elect to have withholding taken at the higher Single rate. *See* 32 V.S.A. § 5841.

INTEREST RATES

Year	Annual Rate	Monthly Rate
1984	12.0	1.0
1985	13.2	1.1
1986	12.0	1.0
1987	9.6	0.8
1988	9.6	0.8
1989	10.8	0.9
1990	12.0	1.0
1991	12.0	1.0
1992	9.6	0.8
1993	7.2	0.6
1994	6.0	0.5
1995	7.2	0.6
1996	9.6	0.8
1997	9.6	0.8
1998	9.6	0.8
1999	9.6	0.8
2000	8.4	0.7
2001	9.6	0.8

"When a taxpayer fails to pay a tax liability imposed by this title (except the motor vehicle purchase and use tax) on the date prescribed therefor, the commissioner may assess and the taxpayer shall then pay, a sum of interest computed at the rate per annum established by the commissioner pursuant to section 3108 of this title on the unpaid amount of that tax liability for the period from the prescribed date to the date of full payment of the liability." 32 V.S.A. § 3202(a)