

## **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A sunset provision enacted as part of Subchapter 10A of Chapter 151 of Title 32 (Taxation of S Corporations) in 1996 is repealed, ensuring that the law will continue in effect.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The sales tax on services contracts which was passed last year is repealed July 1, 1999 with respect to contracts which are regulated under Subchapter 4 of Chapter 113 of Title 8 (generally, "consumer" type contracts).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 this year, a homestead declaration must be filed by October 15, 1999. Beginning next filing season, 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.