

HIGHLIGHTS OF 2000 TAX LEGISLATION

Individual Income Tax

Earned income tax credit is increased from 25% to 32% of the federal EITC. H. 837 (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.

H. 847.

The sunset of the credit for income received for a dramatic performance in a commercial film production was repealed, with the effect that the credit continues to be available. H. 671.

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.

H. 671.

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. H. 408.

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. H.837.

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. H. 837.

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. H. 671.

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. H. 837.

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. H. 837.

Property Transfer Tax

Exemption for transfers between husband and wife without actual consideration is extended to partners to civil unions. H. 847.

Property Tax

The statutory \$3.00 tax rate in the unorganized towns and gores of Essex County is eliminated and replaced by procedure for setting a tax rate annually. H. 691.

Taxation of mobile homes located in cooperative 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). H. 671.

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. H. 671.

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*. H. 671.

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. H. 748.

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 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 licensee who fails to remit the tax. H. 188.

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. H. 188.

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). H. 671.

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. H.671

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. H.671.

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. H. 671.

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. H. 671.

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. H. 671.

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. H. 671.

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. H. 671.

