

HIGHLIGHTS OF 2003 TAX LEGISLATION

EDUCATION PROPERTY TAX

Beginning in fiscal year 2005 (July 1, 2004 – June 30, 2005), the statewide education and local share property taxes are replaced with a new statewide property tax imposed at the rate of **\$1.59** per hundred dollars of value on nonresidential property and **\$1.10** per hundred dollars of value on homesteads for per pupil spending of **\$6800**, the “base education payment”. H. 480, §§ 1 - 4. For fiscal year 2004, before the new provisions take effect, the statewide education property tax is \$1.10 per \$100 of value and the State support grant is \$5810. H. 480, §§ 76,77.

A **homestead** includes the entire parcel of land surrounding the dwelling regardless of whether a road intersects the land. If there are 2 or more homesteads on a single parcel, the value of the parcel allocated to each homestead shall be the total parcel value divided by the number of principal dwellings, unless a different ownership of record is established. H. 480, § 3.

The homestead rate **increases proportionately** for per-pupil spending in excess of \$6800. In towns that spend in excess of 125 percent (135 percent in fiscal year 2005 and 130 percent in fiscal year 2006) of the statewide average per equalized pupil spending, a portion of the spending is double-weighted. The base education payment grows by an inflation index in 2006 and after. H. 480, §§ 3, 4, 15.

The commissioner of taxes determines how much education tax is to be collected by each municipality based on these rates times the most recent equalized nonresidential and homestead values. Towns may retain **one-eighth of one percent** of the total tax collected if timely remitted to the State. H. 48, § 4.

The new law requires each resident individual to file an annual homestead declaration on or before April 15 and imposes a penalty in the amount of 3 percent of the education tax for the failure to file a timely declaration if the municipality’s nonresidential tax rate is higher than its homestead tax rate. If the nonresidential tax rate is the same or lower, the penalty is 8 percent of the education tax liability. The penalty is imposed and collected by the municipalities. Effective January 1, 2004. H. 480, § 6.

The exemption for ski lifts and snowmaking equipment from education property tax applies to grand lists for 2004 and after. The value shall be excluded from the calculation of the municipality's education tax liability for purposes of determining equalized education grand lists for January 2004. H. 464, § 289b.

PROPERTY TAX PAYMENTS

The property that is eligible for a property tax adjustment is now described as the "**housesite**" to distinguish it from the homestead which has no acreage limitation. A housesite is the principal residence and up to two acres. Applies to claims filed in 2004 and after. H. 480, § 7.

A claimant whose household income does not exceed \$75,000 is entitled to an additional adjustment amount of \$10.00 per acre, up to a maximum of five acres, for each additional acre of homestead property in excess of the two-acre housesite. Applies to claims filed in 2004 and after. H. 480, § 9.

A "household" now excludes a person who is not related to any member of the household and who is residing in the household under a **written homesharing agreement** pursuant to a nonprofit homesharing program. Similarly, "rent constituting property taxes" does not include payments made under such an agreement. Applies to claims filed in 2004 and after. H. 480, § 7.

The exclusion from "modified adjusted gross income" for income earned by a **dependent child** or received by a **dependent parent** is increased from \$4000 to \$6500. Applies to claims filed in 2004 and after. H. 480, § 8.

Effective for claims filed in 2004 and after, the **\$15,000 exclusion** from the housesite's equalized value is limited to claimants with household income of \$47,000 or less. Under former law the exclusion was available to claimants with household income less than \$75,000. Applies to claims filed in 2004 and after. H. 480, § 9.

An owner of a building containing "**qualified rental units**" is entitled to a reduction of education tax equal to ten percent of the ratio of qualified rental units to total rental units in the building. Qualified rental units are certain units subject to rent restriction under state or federal law. Applies to fiscal years 2005 and after. H. 480, § 4.

SALES AND USE TAX

The sale and use tax rate increases from 5 percent to **6 percent** on October 1, 2003. H. 480, § 30.

Telecommunications, which were formerly taxed at the rate of 4.36 percent, are subject to tax at the general rate of 6 percent beginning October 1, 2003. H. 480, § 31.

No sales or use tax is due on sales of personal computers to individuals for personal use from August 9 to August 11, 2003. S. 178, § 25.

Taxpayers are required to attest to the amount of **use tax** liability on their individual income tax returns. Alternatively, they may elect to report an amount that is .04% of their Vermont adjusted gross income. The Commissioner of Taxes will publish a table showing the alternative amount by income. Use tax liability arising from the purchase of each item with a purchase price in excess of \$1000.00 shall be added to the table amount. Applies to income tax returns for tax years 2003 and after. H. 480, § 35.

The **local option tax** (for towns that currently qualify) is extended from 2006 to 2008.

Upon Vermont's membership in **Streamlined Sales and Use Tax Agreement**, a multi-state project to simplify and modernize sales and use tax collection and administration, but no earlier than January 1, 2005, the sales and use tax and the local option tax will be amended in the following respects:

- (1) Conforming definitions and registration and filing provisions are adopted;
- (2) The **\$110 ceiling on the exemption for clothing** is removed;
- (3) The exemption for **beer** is repealed, making beer subject to the 6 percent sales tax;
- (4) The \$20 reduction per month per line of residential purchases of **telecommunication services** is repealed;
- (5) Clothing will become exempt from the local option sales tax and telecommunications will become subject to the local option sale tax.

H. 480, §§ 51 – 66.

INCOME TAX

Capital gains treatment of **dividends**, enacted as part of the Federal Jobs and Growth Tax Relief Reconciliation Act of 2003, will not pass through to the Vermont income tax return. The dividends are included as ordinary income in Vermont taxable income. Applies to tax years beginning on and after January 1, 2003. H. 480, § 82.

Under the new **Angel Venture Capital** provision, a qualified taxpayer may subtract from taxable income 60 percent of any capital gain if the gain is invested within two years in an eligible venture capital investment. The gain excluded under this provision is taxable in the year in which the eligible venture capital investment is disposed. Eligible venture capital investment means up to

\$200,000.00 of total investment by one person which is equity or at-risk debt investment, in one qualified business, for expenditure by the qualified business on plant, equipment, research, and development as working capital in Vermont. The treatment of capital gain income is available on a pro rata basis to partners, shareholders or members of an eligible partnership, S corporation or limited liability company. Applies to investments made after July 1, 2003. S. 178, § 24.

Two new credits are available to sustainable technology businesses with VEPC approval. The **Economic Advancement Sustainable Technology Research and Development Tax Credit** is equal to 30 percent of qualified sustainable research and development expenditures. The expenditures must be made within the State of Vermont for the purpose of design, development, or manufacture of computer software, machinery, or equipment used by an industry to generate electricity using biomass, geothermal, methane, solar or wind energy resources. The **Economic Advancement Sustainable Technology Export Credit** is equal to the difference between calculation of income tax liability using the statutory three factor formula (sales, payroll and property) and using a triple-weighted sales factor that disregards “throwback” of sales shipped to the United States Government or to states in which the company is not doing business. Both credits are available for taxable years beginning on and after January 1, 2003. S. 178, §§ 24b, 24c.

Other changes to **VEPC-approved credits** include an increase in the Workforce Development Credit from 10 to 20 percent of qualified expenditures and clarification of provisions related to carry-forward of credits, allowance of pass-through of credits to partners, shareholders and members and recapture and disallowance of credits. S. 178, §§ 18, 21, 21a.

A Vermont resident with federal adjusted gross income less than \$30,000 (or \$40,000 filing jointly) is eligible for a refundable credit against the individual income tax. The credit is equal to 50 percent of the federal **child and dependent care credit** allowed to the taxpayer for the taxable year for child or dependent care provided in Vermont in a registered home or licensed facility certified by the Agency of Human Services as meeting National Accreditation or National Credential Standards endorsed by the agency. This credit is in lieu of the child care and dependent care credit available under 32 V.S.A. § 5822(d)(24 percent of the federal child care and dependent credit). This was passed last year to apply to taxable years 2003 and after. 2001, No. 144 (Adj. Sess.), §§ 24, 42(8).

For tax year 2003 and after, the **military pay** exclusion from taxable income is increased from \$1500 to \$2000; eligibility for the exclusion is expanded from taxpayers with federal adjusted gross income less than \$47,000 to taxpayers with federal adjusted gross income of less than \$50,000; and pay received from the United States Reserve is expressly added to the exclusion which had previously referenced only National Guard pay. 2001, No. 144 (Adj. Sess.), secs. 1, 2, 42.

Effective for tax years 2003 and after, the threshold for imposing interest and penalty on **underpayment of estimated tax liability** is increased from \$250 to \$500. 2001, No. 140 (Adj. Sess.), § 10.

Interest on refunds resulting from amended or late filed returns begins to accrue on the 46th day after the date of filing the amended or late return. Formerly, interest accrued on amended returns from the 46th day after the date of filing the original return. H. 480, § 81.

Beginning with contributions made on and after January 1, 2004, a nonrefundable credit is allowed in the amount of five percent of the first \$2,000 per beneficiary contributed by a taxpayer to a **Vermont Higher Education Investment Plan Account**. The assets of the plan and income earned on those assets was already exempt from Vermont income tax. H. 141.

CURRENT USE

Farm buildings enrolled in current use are exempt from all property taxes starting in fiscal year 2004 (grand lists for April 1, 2003) and the value of the buildings will be excluded from the calculation of a municipality's education tax liability for fiscal year 2004. Municipalities that have already lodged their grand lists may file an addendum to the grand lists reducing the value of farm building to zero. H. 464, §§ 286, 28, 289a.

Effective with respect to April 1, 2004 grand lists, a dwelling situated on enrolled land and used in the preceding tax year exclusively to house one or more **farm employees**, as defined in 9 V.S.A. § 4469 and their families, as a nonmonetary benefit of the farm employment, is a "farm building" with a listed value of zero. H. 464, § 286a.

With respect to use changes and development occurring after July 1, 2003, the **land use change tax** will be paid to the Commissioner of Taxes for deposit into the general fund instead of to the municipality in which the land is located. (The State holds municipalities harmless from the loss of taxes that would otherwise result from the difference between use value and fair market value.) H. 480, § 86.

FUEL GROSS RECEIPTS TAX

The fuel gross receipts tax is extended to June 30, 2008. 2003, No. 9.

CIGARETTE TAX

A directory of cigarette brands will be maintained on the Attorney General's Website based on annual certifications made by cigarette manufacturers. Cigarette brands that are not in the directory may not be sold in

Vermont. This legislation is complementary to the Nonparticipating Tobacco Manufacturers Statutes, 33 V.S.A. §1912 et seq., that requires any tobacco manufacturer selling cigarettes in Vermont that is not participating in the Master Settlement Agreement to escrow funds available to satisfy claims against it. 2003, No. 14, eff. May 6, 2003.