

HIGHLIGHTS OF TAX LEGISLATION PASSED IN 2006

Cigarette Tax

The tax on cigarettes increases to **\$1.79 per pack** beginning July 1, 2006. (This is a \$.60 per pack increase from the current \$1.19). The tax will increase by an additional \$.20 per pack on July 1, 2008. Act 191, Secs.36, 37.

“Little cigars” (cigars weighing 3 lbs. per 1000 or less) and **roll-your-own tobacco** will be taxed as cigarettes beginning July 1, 2006. Snuff will be taxed at \$1.49 per ounce beginning July 1, 2006 and at \$1.69 beginning July 1, 2008. These products are currently subject to a tobacco products tax of 41 percent of their wholesale price. Act 191, Secs. 36, 37.

A **floor stocks tax** will be imposed on cigarettes, little cigars, roll-your-own tobacco and snuff as of July 1, 2006 and July 1, 2008 to collect the additional tax on product on retail shelves on those dates. The floor stocks tax is the difference between the new tax and the tax paid by the wholesaler at the lower rate. Act 191, Sec. 39.

Vermont imposes the cigarette tax at the wholesale and distributor level. The tax is currently \$1.19 per pack (increases to \$1.79 per pack on July 1, 2006), and is paid by the wholesale dealers purchasing stamps and affixing the stamps to the packs. A new law imposes the cigarette tax on anyone who purchases cigarettes from a source that did not pay the Vermont cigarette stamp tax, such as purchases through the internet or mail order, or in another state. The **new cigarette use tax** applies to sales made on or after July 1, 2006. Under this law, however, two cartons of cigarettes may be purchased by an individual and brought into Vermont for that individual’s consumption without payment of the Vermont tax. Also, a taxpayer would receive a credit for any cigarette tax already paid to another jurisdiction. Act 207, Sec. 3.

Income Tax

A. Corporate

Effective January 1, 2007, the current Economic Advancement Tax Incentive program with its myriad of credits will be replaced with a single, **payroll-based incentive** for job creation and capital investment. Existing **property tax stabilization** and **allocation incentives** are retained. These three incentives are collectively subject to an overall \$10 million annual cap on authorizations. The Emergency Board may approve increases of the cap. The new program is authorized until January 2012. The Vermont Economic Progress Council (VEPC) will administer the new incentive program until the council dissolves in April 2009 at which time a new body, the Economic Incentives Review Board (EIRB), is established and will succeed to VEPC’s administrative responsibilities. Act 184, Secs. 3 – 13.

A new **net operating loss (NOL) rule** that is specific to Vermont has been adopted. “Vermont net operating loss” means any negative income after allocation and apportionment of Vermont net income under section 5833 of Title 32. Prior law piggybacked to the federal net operating losses, but allowed no refund for the portion that was carried back on the federal return (and therefore on the Vermont return). The new rule, when fully implemented in 2010, will allow corporate taxpayers to carry forward all Vermont losses for 10 years regardless of whether the federal loss is carried back. During the transition period, corporate taxpayers will be able to carry forward the Vermont NOL if the federal NOL is carried forward. Additionally, for 2007 losses, 10 percent of the Vermont NOL will be available for carryforward when the federal NOL is carried back. This percentage increases to 30 percent for 2008 losses and 40 percent for 2009 losses. Act 207, Secs.15-18.

Effective July 1, 2006, funding for the **affordable housing tax credit** is increased. For fiscal year 2007, the annual award cap goes from \$150,000 to \$300,000 and for fiscal year 2008 and after, the cap is \$400,000. The award amount is awarded for each of 5 years, so the maximum amount of new credits in any single year would be \$2 million. Act 207, Sec. 21.

Four existing tax credits – (1) rehabilitation of an historic building, (2) rehabilitation of an older or historic building, (3) platform lifts, elevators or sprinkler systems, and (4) code improvements to commercial building - have been consolidated into one **“Downtown and Village Center” tax credit program**. Inconsistent requirements are removed. Under the new program, credits continue to be available against the corporate and individual income tax, bank franchise tax and insurance premiums tax for historic rehabilitation, façade improvement and code improvements. In addition, a new bank credit certificate, which replaces the mortgage credit certificate, will allow a credit recipient to negotiate with a bank for cash, as well as for an adjustment of mortgage terms, in exchange for credit. The cap on the total amount of tax credits awarded, together with sales tax allocation under 32 V.S.A. § 9819, is increased from \$1 million to \$1.5 million. Act 183, Secs. 12 – 16.

The time for taxpayers to report **changes in federal taxable income** (due to a Federal audit or other reason) to the Vermont Tax Department has been expanded from 30 days to 60 days. Act 94, sec.4.

B. Personal

The **“angel incentive”**, which was a deferral of capital gain taxation, is now a tax credit. The credit is 3 percent of capital gain income invested in an eligible venture capital business. To be eligible, the investment must be at least \$50,000; otherwise, the definition of eligible venture capital investment remains the same. For taxpayers who deferred taxation of capital gain income in taxable years prior to 2006, the capital gain income must be included in the taxpayer’s taxable income no later than 5 years after the year in which the investment (that gave rise to the deferral) was made. Act 207, Secs. 9-11.

Beginning with contributions made in 2007, the credit for contributions to a **Vermont Higher Education Investment Plan account** is increased from 5 percent of the first \$2000 per beneficiary contributed each year to 10 percent of the first \$2500 contributed to the account. Act 207, Sec. 6.

See payroll incentive program, affordable housing tax credit and “Downtown and Village Center” tax credit program discussed above in corporate income tax.

C. Pass-Through Entities

Effective January 1, 2006, the rate at which pass-through entities pay tax (on behalf of owner) to Vermont is reduced. Partnerships, limited liability companies and subchapter S corporations are pass-through entities, meaning that they are not taxed at the entity or business level. Instead, their owners are taxed personally on their pro-rata share of the business income. To ensure that Vermont receives the income tax owed by nonresident owners of these entities, Vermont income tax law requires that the entity itself must pay tax to the State on behalf of the owner at the highest marginal rate. These sections lower that rate from the highest individual rate (9.5 percent) to the **second lowest rate (7.2 percent)**. Act 207. Secs. 1,2.

See payroll incentive program discussed above in corporate income tax.

Property Tax

A. Education Property Tax

Net tax bills: Beginning in 2007, property tax bills will be reduced by a taxpayer’s property tax adjustment (also referred to as “prebate” and “rebate”) and at the option of the taxpayer, by the taxpayer’s income tax refund or any designated portion of the refund. For all adjustment claims that are timely filed – by April 15, the State will send the town a payment on July 1 of the amount to be credited against the taxpayer’s property tax bill. If the taxpayer files a late claim for a property tax adjustment on or before September 1 (and also files a homestead declaration by that date), the State will send the adjustment amount to the town on or before September 15 and the taxpayer will receive a new bill from the town that subtracts the adjustment amount. The town will reduce the adjustment amount by \$15.00 to cover the cost of creating the new bill. A property tax will not be reduced to reflect a homestead declaration or property tax adjustment claim filed after September 1. The property tax adjustment and any designated income tax refund are subject to the same offsets (for delinquent State taxes and debts to other State agencies) as under current law. Act 185, Secs. 1-7. (See **Education Property Tax Adjustments** below)

Education tax rate: For fiscal year 2007 only (2006-2007 property tax bills), the education property tax rate on nonresidential property tax will be \$1.44 per \$100 of assessed value and the rate on homestead property shall be \$0.95 per \$100 of assessed value. Act 185, Sec. 18.

New **tax increment financing (TIF) district** provisions are available to all municipalities. TIF development must occur in compact, high-density industrial, commercial and residential areas; or within growth centers or designated downtown or village centers; or commercially distressed areas. New project criteria, which replace the cost-benefit model in determining eligibility, focus on public benefits such as affordable housing, brownfield remediation, potential job growth and transportation impacts. S. 165, Sec. 2h. A municipality that is a “designated growth center” is presumed to meet the location criteria. Act 184, Sec. 2.

Use of education funds for **TIFS is extended from 10 to 20 years**, with twenty-five percent of the increment dollars being retained by the education fund. Permitted uses of increment dollars are expanded to include “related costs” which are expenses directly related to the creation of the TIF district, transportation infrastructure and brownfields remediation. As with the payroll-based incentive program (see corporate income tax), EIRB will take over administrative functions of VEPC regarding TIFs in 2009. No more than 10 new TIFs may be created in the next 5 years, with no more than one new district in any municipality. Procedures for municipal hearings, planning and bonding have been established. Act 184, Sec. 2.

B. PILOT

For 2006 through 2010 grand lists, the State shall make PILOT payments for **Vermont State College property** regardless of whether the property is used for educational or commercial purposes. Under current law, all Vermont State College property is tax-exempt, but only educational buildings are eligible for PILOT. Beginning in 2011, Vermont State College property will only be exempt if used for educational and not commercial purposes. Act 207, Sec. 7, 8.

C. Other Property Tax Changes

Towns are now authorized to vote to exempt up to \$40,000 of the appraisal value of the **residence of a disabled veteran** or the disabled spouse, widow, widower or child of a veteran. Prior law authorized a voted exemption of \$20,000. Act 207, Sec. 25.

Beginning July 1, 2006, the **filing fee** for a property tax appeal to the Director of Property Valuation and Review will increase from \$30 to \$70. A taxpayer or selectboard aggrieved by a decision of the board civil authority may appeal to superior court or to the director of Property Valuation and Review for a de novo hearing. Appeals to the director are heard by a State Appraiser, an independent hearing officer who determines the property’s value after hearing. Act 202, Sec. 8.

Education Property Tax Adjustments

A. Overview

Beginning in 2007, the **prebate and rebate amounts will be combined** into one property tax adjustment payment that will be applied as a credit to the 2007-2008

property tax bill. The prebate will no longer be paid directly to the claimant and the rebate will no longer be a credit against the income tax. In addition, any taxpayer may opt to have all or a portion of his or her income tax refund applied to the homestead tax bill. Claims for both programs will be due April 15. Claims filed after April 15 but before September 2 will be allowed, but will be reduced \$15.00 to cover the town's cost of rebilling the property tax. No adjustment payment will be made for claims not filed by September 1. Act 185, Secs. 1-7.

Note that because 2006 rebates and 2007 prebates will be applied to reduce 2007-2008 property tax bills, individuals will not receive rebate or prebate checks in 2007.

With respect to claims filed in 2007 and 2008, no taxpayer shall receive total adjustments in excess of \$10,000 related to any one property tax year. An individual who received a homestead exemption or adjustment of property taxes assessed by another state for the taxable year will not receive a Vermont property tax adjustment. Act 185, Secs. 9.

B. Rebate Program Changes

A claimant must own the homestead on **April 1** to qualify for the rebate – this conforms the ownership date to the prebate program that has always required ownership as of April 1. Act 185, Sec. 2.

Effective for claims filed in 2007 and after, homeowner and renter rebates for claimants with **household income under \$10,000** are increased. These claimants will receive an adjustment in equal to the amount of property tax or rent constituting property tax in excess of 2 percent of household income. Currently the percentages are 3.5 for incomes up to \$4,999 and 4.0 percent for income between \$5,000 and \$9,999. Act 185, Sec. 12.

C. Prebate Program Changes

Prebates will be calculated using **prior year household income and tax assessment** (similar to the rebate program). Act 185, Sec. 1.

Since Act 68 became law, the **applicable base percentage** (the percentage of household income that claimants must pay before being entitled to a property tax adjustment) has been adjusted in proportion to education property tax rate changes. In the future, that base rate will drop no lower than 1.8 percent (adjusted by school district spending and the common level of appraisal). Act 185, Sec. 10.

D. Household Income Changes

Gifts received by members of the household in excess of a total of \$6500 in cash or cash equivalents (for example, certificates of deposit, stocks, bond, treasury obligation) must be included in household income for claims filed in 2007 and after. Act 185, Sec. 13.

The first \$6500 of income received by a person who qualifies as a dependent of the claimant under the Internal Revenue Code and who is the claimant's **disabled adult**

child may be excluded from household income for claims filed in 2007 and after. Act 185, Sec. 13.

For claims filed in 2005, 2006 and 2007, **difficulty of care payments** made by the State or an agency designated by the State to an individual for care of an eligible person with a developmental disability may be excluded from household income. Any tax assessment resulting from a claimant's exclusion of this income on a property tax adjustment claim filed in 2005 or 2006 will be abated. Similarly, if a claim was reduced as a result of a claimant's exclusion of such income, a supplemental payment will be made. Also, any person may file, on or before September 1, 2006, a late 2005 or 2006 property tax adjustment claim (relative to 2004 and 2005 household income) that excludes difficulty of care payments. (Note that flexible family funding payments were already excludable for those years.) Act 185, Sec. 14.

For claims filed in 2008 and after, only the first **\$6,500 of difficulty of care payments and flexible family funding payments** may be excluded from household income. Act 185, Secs. 13, 13a, 17(4).

Sales and Use Tax

Beginning September 1, 2006, **court judgments** for fines, penalties, surcharges and fees shall be subject to a setoff on the judgment debtor's income tax refund. Act 167, Secs. 4, 5.

The General Assembly approved a change to the **City of Burlington** Charter that will allow the city to impose a one percent **local option sales tax**. The tax will differ from local option taxes currently imposed in Manchester, Williston and Stratton in that Burlington will follow the State tax base and exempt clothing costing \$110 or less and will tax telecommunications. The tax will be effective on the next tax quarter following 30 days notice to the Tax Department, provided the notice is given in 2006. M-11.

Authorization to impose **local option taxes** existed under prior law only through 2008. That sunset has been removed. Consequently, the towns originally authorized by Act 60 to impose local option taxes, including Manchester, Williston and Stratton that have local option taxes in place, will continue to have that authority. Act 215, Sec. 293b, 293c.

Any in-state or out-of-state holder of a license to ship **vinous beverages** in Vermont must pay the sales tax due on such product directly to the tax department and must comply with the provisions of Chapter 233 and legally authorized local sales taxes. Act 140, Sec. 4.

Sellers that **register voluntarily** under the Streamlined Sales Tax Agreement will only have to file returns annually unless they accumulate more than \$1000 tax, in which case a return is due the following month. Act 207, Sec. 5.