

VERMONT DEPARTMENT OF TAXES
TECHNICAL BULLETIN

TAX: LAND GAINS TAX TB-1
SUBJECT: BASIS OF LAND ACQUIRED THROUGH ISSUED 7/21/95
FORECLOSURE OR TRANSFER IN LIEU
OF FORECLOSURE

32 V.S.A. § 10005(a) provides that "[t]he provisions of the Federal Internal Revenue Code shall determine the basis of land sold or exchanged except basis for land transferred by a mortgagee who acquired the land by foreclosure or transfer in lieu of foreclosure shall be the amount of debt due the mortgagee, increased by the costs of acquisition, and decreased by the amount of any tax benefit due to bad debt loss on the mortgage debt.

The following guidelines apply when determining the basis of land transferred by a mortgagee or judgment lien creditor who acquired the land by foreclosure or transfer in lieu of foreclosure.

1. The "amount of debt due" does not include interest if the interest has not been reported as income for state and federal income tax purposes or the income has been reversed out by any accounting adjustments.
2. "Tax benefit" means the bad debt write-off multiplied by the federal and state marginal rates applicable to the mortgagee or judgment lien creditor.
3. In cases of "foreclosure by sale" under Vermont Rule of Civil Procedure 80.1 by mortgagees or judgment lien creditors, payments to other lienholders and debtors by the mortgagee or judgment lien creditor, which are required under this rule, are considered to be part of the basis.

For more information on basis determination you may call the land gains tax division at 802-828-2550 or write to Vermont Department of Taxes, Land Gains Tax, 109 State Street, Montpelier, VT 05609-1401.

The purpose of this bulletin is to supply general information to the public on the subject of basis determination for land gains tax purposes and does not replace the need for competent legal advice. This technical bulletin supercedes all prior department pronouncements on this subject.

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Approved:

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