

VERMONT DEPARTMENT OF TAXES  
TECHNICAL BULLETIN

TAX: FRANCHISE TAX TB-03

SUBJECT: EXCLUSION OF DEPOSITS HELD OUTSIDE VERMONT BY  
TAXPAYERS OPERATING IN MORE THAN ONE STATE

STATUTORY REFERENCE: 32 V.S.A. SECTION 5836(b) ISSUED: 2/14/96

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A franchise tax is imposed on the franchise or privilege of doing business in this state of each bank, savings bank, savings institution, trust company, savings and loan association, or building and loan association which has a business location in Vermont. 32 VSA 5836(a).

Act 29 of the 1995 legislature amended Section 5836(b) by inserting the words "in Vermont" to limit the deposits required to be used for calculating the tax:

(b) The tax imposed by this section for each taxable month shall be equal to 0.000040 of the average monthly deposit held **in Vermont** by the corporation. As used in this section the word "deposit" shall have the same meaning as the word "deposit" as defined in Title 12, Part 204, section 204.2(a)(1) of the code of federal regulations. The average monthly deposit for any taxable month shall be determined by the deposits held **in Vermont** by the corporation...[words added by 1995 amendment in bold print].

The Act provided that the amendment shall apply to taxable months beginning on and after May 1, 1995, and ending before July 1, 1996. Unless other legislative action intervenes, the words "in Vermont" will drop out of the section for months beginning after June 30, 1996.

The "sunset" provision of Act 29 will have no effect on the calculation of the tax. Although the original language had not contemplated a bank with branches both within and outside of Vermont (state and federal banking rules prevented this) the statute can not be interpreted as extending the reach of the tax to activity beyond the state's borders. As there is no provision for apportionment, internal consistency requires that "deposit" must mean only a deposit associated with a business location in the state.

The Department of Taxes considers the provisions of Act 29 as merely clarifying and will not require corporations subject to the franchise tax to include deposits held at branches outside the state after the amendment expires.

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Approved:

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