

HIGHLIGHTS OF TAX LEGISLATION PASSED IN 2005

Corporate Income Tax

Under current law, a federal **net operating loss** election (to carry a loss back or forward) must be followed with respect to the Vermont return. However, Vermont refunds resulting from the application of a net operating loss carrybacks are limited to zero, thus limiting the benefit of a net operating loss based solely on how the federal net operating loss was utilized. The Department of Taxes will report to the Legislature by January 15, 2006 on the possible effects of amending the law to allow 50 percent of federal corporate net operating losses to be carried forward in Vermont, based on loss-year apportionment factors, for a period of up to ten years and of phasing the allowance percentage up from 50 percent to 100 percent. H. 521, Sec. 4.

Personal Income Tax

The retirement income credit is renamed the “**elderly and permanently totally disabled credit**” to reflect the new federal name for the credit. Eff. on passage. H. 521, Sec. 15.

Insurance Premiums Tax

The affordable housing tax credit, like other downtown credits, may now be applied against insurance premiums tax as well as against individual and corporate income tax. Eff. on passage. H. 521, Sec. 7.

Sales and Use Tax

Prior to an event that includes **occasional vendors**, e.g., a flea market or gun show, the promoter must provide a list of the participating vendors to the Department and verify that the participants are registered to collect sales and use tax. However, this requirement applies only if 25 or more vendors are authorized by the promoter to sell taxable items. Eff. on passage. H. 521, Sec. 1.

Effective for sales on and after July 1, 2005, the maximum tax on **tracked vehicles** is increased from \$900 to \$1100. The Commissioner will study the advisability of adjusting the cap for inflation every second year and report his recommendation to the Legislature by January 15, 2005. H. 521, Sec. 2.

The formula for allocating sales tax revenues to a town that is hosting **designated downtown development** is simplified. Instead of allocating based on actual sales and receipts, the allocation will be based on estimated costs as stated in the successful bid documents. A town will receive half of its allocation when the project is 50 percent complete and the balance upon completion. Eff. June 1, 2005. H. 210, Sec. 9; H. 51, Sec. 13 and 14.

Various **telecommunications-related provisions** in Vermont sales and use tax law were amended to conform to the Streamlined Sales and Use Tax Agreement, including changes to the definitions of “telecommunications” and “sales price”. Eff. July 1, 2005. H. 521, Sec. 21 – 25.

The Tax Commissioner may **post a sign** on a business informing the public that the business has failed to file a bond that was required by the department and may not conduct business at that location. Eff. on passage. H. 210, Sec. 11.

Education Property Tax

Homestead Declarations are due each year by April 15. However, the duty to file a declaration continues after that date in order to assure grand list accuracy. Under prior law, a person who filed late, but before December 1 would receive a new tax bill at the homestead rate. Beginning January 1, 2006, late filed declarations will result in a new bill only if they are filed before July 15. H. 504, Sec. 6.

A uniform method is enacted for **appraising residential rental property** that is subject to a housing covenant or other legal restriction by a governmental, quasi-governmental, or public purpose entity on rents that may be charged. For these properties, fair market value will be determined under an income approach that uses market rents, actual expenses, a vacancy rate that is 50 percent of the market vacancy rate and a capitalization rate that is typical for the area. Property Valuation and Review will determine and publish capitalization rates for geographic areas annually prior to April 1. This new method will apply to grand lists of April 1, 2006 and after. H. 521, Sec. 6.

The law is clarified that in determining **estimated fair market value**, the sale price of the property should be considered, but is not determinative. Eff. on passage and shall apply to grand lists of April 1, 2006 and after H. 504, Sec. 1.

There will be a **voluntary lister program** developed by the Division of Property Valuation and Review to support local listers in performing their jobs and to improve the quality and uniformity of appraisal methodology and grand list maintenance. The program will include instruction in lister duties, property inspection, data collection, valuation methods, mass appraisal techniques, and property tax administration and will lead to designation of competence at three levels. H. 504, Sec. 2, 3, 4, 4a.

A residence that was the **homestead of the decedent** at the date of death and from the date of death through the next April 1 is held by the estate of the decedent and not rented is taxed at the homestead rate. A declaration should be filed by the estate, but the estate is not entitled to a property tax adjustment. This new rule applies to declarations related to April 1, 2005 and after. H. 504, Sec. 16, 18.

Property Tax Adjustments (Prebates and Rebates)

Currently, a claimant with household income of \$75,000 or more may be eligible for an adjustment of education property tax on the first \$160,000 of equalized value of the housesite. Income sensitivity is expanded in two stages in H. 504. For claims filed for 2006 property taxes and after, the household income amount increases from \$75,000 to \$85,000 and the maximum housesite value that qualifies for income sensitivity at that income level increases from \$160,000 to \$200,000. For claims filed for 2007 property taxes, the household income amount increases from \$85,000 to \$90,000 and the housesite value remains at \$200,000. H. 504, Sec. 25, 26, 27. Claimants with income up to approximately \$110,000 will be eligible for a property tax adjustment under the new parameters (under current law, income sensitivity phases out at approximately \$88,000 of household income).

In most cases in which a homestead property is jointly owned, the percentage of property tax used to calculate a prebate or rebate is the same percentage as the claimant's ownership. However, in the case of a homestead that is a portion of a **duplex**, the property tax of the claimant is the tax on the portion of the structure occupied by the claimant (without reduction for the interest of other owners in the claimant's portion) provided that all owners live in a portion of the duplex structure. This new rule applies to claims filed for 2006 property taxes and after. H. 504, Sec. 15.

Current Use

The **definition of farmer** is expanded for purposes of determining eligibility to enroll farm buildings in the current use program. A person whose gross income from the **sale of processed farm products** and from the business of farming together equals at least half of the person's gross income is a farmer provided that a minimum of 75 percent of the farm crops processed in the farm facility are produced by the farmer on land enrolled by the farmer or on a housesite adjoining the enrolled land. The definition of farm buildings is also expanded to include up to \$100,000 of the value of a farm facility processing farm crops (75 percent or more of which are produced on the farm). H. 540, Secs. 1 and 2. Effective July 1, 2005.

The current use program provides that the **land use change tax** will be limited to 10 percent of the value of the changed land (instead of 20 percent) if the changed land has been enrolled for more than ten years. This section provides that the ten-year enrollment must be continuous. Eff. July 1, 2006. H. 210, Sec. 5.

Property Transfer Tax

The law that sunsets the property transfer tax exemption for the first \$100,000 of value for properties purchased with a Vermont Housing Finance Agency mortgage was repealed, making the exemption permanent. H. 521, Sec. 5.

Solid Waste Tax

Effective July 1, 2005, the following waste is exempt from tax: (1) waste delivered to and accepted by a composting facility for **composting**; (2) solid waste delivered to a facility with a **solid waste categorical certification**; (3) solid waste resulting from **mining, extraction, or mineral processing operations** delivered to a facility certified solely for the treatment, storage, recycling, or disposal of such waste. However, the exemption for mining waste sunsets June 30, 2008 and a study of the human health and environmental effects of Omya's mineral processing of calcium carbonate in Vermont is to be filed with the Legislature on or before January 15, 2008. Septage or sludge delivered to an incinerator is subject to tax. H. 532, Sec. 4, 5.

A **license fee** is imposed on facilities that treat, store, or dispose of waste generated solely from mining, extraction, or mineral processing at the rate \$0.41 per cubic yard of certified operational capacity above 15,000 cubic yards up to a maximum of \$35,000. The fee is prorated and paid on an annual basis over the term of the certification. The solid waste categorical certification statute is amended generally and categorical disposal facilities are expressly excluded from license fees charged by the Agency of Natural Resources. H.532, Sec. 1, 3.