

HIGHLIGHTS OF TAX LEGISLATION PASSED IN 2007

Introduction

This document describes the significant changes made to Vermont tax laws by the General Assembly in the 2007 session. However, this is a reminder that Act 185, which was enacted in the 2006 session will impact property tax bills for the first time this summer. Act 185 combined prebates and rebates into one property tax adjustment amount¹. That amount will not be mailed to claimants but rather will appear as a credit on the property tax bill of the claimant's homestead, thereby reducing the amount owed to the municipality. Taxpayers who did not claim an adjustment amount are not affected by this law. 2006. Act No. 185.

Income Tax

Debt setoff: Clarified that courts, like all State agencies, are entitled to set off debts against both income tax refunds and property tax adjustments; and clarifies that court system "debts" include fines and penalties imposed by the State, but do not include damages awarded when one citizen sues another. Act 33, Secs. 3, 4.

The **Downtown Credit Allocation** was increased \$100,000 from \$1.5 million to \$1.6 million. These credits are awarded by the Vermont Downtown Development Board to qualified applicants for qualified code improvements, façade improvements and historic rehabilitation projects. H. 521.², Sec. 23.

Withholding tax: Effective July 1, 2008, the payment date for taxpayers who file their withholding returns electronically may be extended by the Tax Commissioner by six days. This allows Vermont and Federal withholding tax to be paid at the same time. Current law allows only a four-day extension for taxpayers *required* to file electronically. H. 521, Secs. 2, 3.

All bonds and notes issued by the newly created **Vermont Telecommunications Authority** and income from and interest on such bonds and notes are exempt from income tax (and all taxes except for transfer, inheritance and estate taxes). H. 248, Sec. 1 (30 V.S.A. § 8074).

Land Gains Tax

Land sold to an organization that qualifies under section 501(c)(3) of the Internal Revenue Code, meets the "public support" test of section 509(a)(2) of the Code, and has as one of its stated purposes to provide affordable housing is **exempt** from tax if the land is sold within 12 months by the organization to a buyer who is qualified under an affordable housing program for the buyer's principal residence. However, if the land is

¹ At the option of the claimant, this amount may also include all or a portion of the claimant's income tax refund.

² Bill numbers are referenced where Act numbers are not yet available.

not transferred within 12 months or not transferred to a qualified buyer for occupancy as the principal residence, the tax on both transfers (to and from the organization) shall be due from the organization. If the organization transfers the land within 12 months but there is no dwelling on the land and the buyer fails to complete and occupy a principal residence within two years, the tax on the first transfer shall be due from the organization and the tax on the second transfer shall be due from the buyer. H. 521, Sec. 25.

Local Option Taxes

The **City of South Burlington** charter was amended to give the City authority to impose a one percent local option tax on sales, meals & rooms and alcoholic beverages which are subject to taxation by the State of Vermont. The City Council must adopt an ordinance imposing the tax and then give 90 days notice to the Department of Taxes before collection of the taxes goes into effect. M-13. The City expects these actions to be taken in time for an October 1, 2007 effective date.

Property Tax

A. Education Property Tax

Education tax rates: For fiscal year 2008 only (2007-2008 property tax bills), the education tax rate on nonresidential property is \$1.36 per \$100 of assessed value and the rate on homestead property is \$.87 per \$100 of assessed value. H. 526, Sec. 4.

Divided question: Effective for FY10 through FY14, a school budget must be presented to the voters as a **divided question** if it contains spending in excess of the specified inflation amount *and* the district's education spending per equalized pupil in the prior fiscal year was in excess of the statewide average school district spending per equalized pupil in that fiscal year. The first question is whether the voters approve a total budget that includes the maximum inflation amount and the second question is whether the voters also approve additional education spending in a specified amount. Districts whose spending does not exceed the statewide average spending per pupil are not affected by this provision. H. 526, Secs. 5 and 6.

Section 3843 properties: 32 V.S.A. § 3841 authorizes municipalities to enter into PILOT agreements with owners of housing projects for low and moderate income occupants. These agreements were grandfathered by Act 60 for ten years, meaning that these properties were not included on the municipality's education grand list. Their grandfathered status – which was due to lapse in 2007 – has been extended one year. This provision does not affect other agreements and exemptions covered by the Act 60 transition language – these will be included on the municipalities' 2007 education grand lists. H. 521, Sec.11.

Tax increment financing for reappraisal towns: Tax increment financing exempts the excess value of property over the original taxable value (the "increment") within the tax increment financing district from the education tax and allows municipalities to retain

that portion of tax to finance improvements within the district. However, background growth – appreciation that would have occurred regardless of improvements within the district - is not part of the increment. This law provides that when a town reappraises at least twenty percent of the parcels in the municipality, the original taxable value of a property in the district is increased by the same proportion that other property within the district is increased. Prior to this amendment the increase was the same percentage as the increase experienced by the rest of the municipality. Act 66, Sec. 24.

To compensate municipalities for billing and collecting the education tax, municipalities may retain one-eighth of one percent of the total education tax collected (if remitted timely to the State). Effective for fiscal year 2009, the amount municipalities may retain increases to **0.225 of one percent of the total education tax collected**. However, the towns will not receive actual payment of the education tax adjustment amount in FY09 (as they will in FY08). Instead that amount will be **netted** in the calculation of education tax fund payments to school districts. In FY08, municipalities will receive education tax adjustment funds on or about July 1. The law was amended to require municipalities to transfer **all** education tax adjustment funds they receive to their school districts within 20 days of the first date upon which the taxes became due or 20 days after notification by the Education Commissioner, whichever is later. Under Act 185, some municipalities could have held a portion of the funds longer, depending upon the due dates. Act 65, Secs. 289, 290, 291, 299.

B. Property Tax Adjustments

Adult foster care: Last year, the law was amended to allow difficulty of care payments to be excluded in total from household income when calculating the claimant’s property tax adjustment for 2007 and retroactively for 2005 and 2006; with respect to claims for 2008 and after, the first \$6,500 of such payments could be excluded. This year the law is further amended to replace the term difficulty-of-care payments with a new term, “adult foster care payments” and to allow a total exclusion of adult foster care payments for all future years. The Act also retroactively provides that interest will be paid to claimants who received refunds as a result of the retroactive law change (excluding the payments from household income) made last year. Act 37.

Homestead sales: Claimants who transfer their homestead after March 31, 2007 and before June 21, 2007, may receive their property tax adjustment directly from the Department of Taxes instead of having it credited against the property tax due to the town. To obtain the payment, a claimant must notify the Commissioner of Taxes in writing no later than 4:30 p.m. on June 20, 2007. The notice must include the following:

- 1) A request that the property tax adjustment amount be paid to the transferor;
- 2) a copy of the completed property transfer tax return that was filed with the town clerk including the transferor’s social security number and the property’s school parcel account number (SPAN); and

- 3) proof of payment of the property transfer tax, such as a copy of the check or receipt of the tax payment to the town or closing agent.

Act 39, Sec. 7 and H. 521, Sec. 24. The notice should be mailed to **Vermont Department of Taxes, P.O. Box 1645, Montpelier, VT 05601-1645** or faxed to **(802) 828-2720** and be marked "Homestead Closing". See NOTICE REGARDING HOMESTEAD REAL ESTATE CLOSINGS OCCURRING AFTER MARCH 31, 2007 AND BEFORE JUNE 21, 2007 on the Department's website.

Household income amendments: Prior law provided that a claimant who filed a timely claim had three years after the due date in which to amend their household income form (HI-144). This ability to amend has been extended to claimants who file late but by September 1 of the claim year. H. 521, sec. 4.

Maximum adjustment: With respect to claims filed in 2008 and after, no taxpayer shall receive a total adjustment amount in excess of \$8,000 related to any one property tax year. The maximum adjustment for claims filed in 2007 is \$10,000. H. 526, Secs. 2, 3.

C. Other Property Tax Changes

Subsidized housing: Definition of "appraisal value" with respect to subsidized rental housing is clarified to specify that for certain project types where rent is partially paid by the government and partially by the tenant, the value should be established using both components of rent referred to as "contract rents". H. 521, Sec. 10.

Rolling reappraisal study: Property Valuation and Review, in consultation with Vermont Assessors and Listers Association, Vermont League of Cities and Towns, International Association of Assessing Officials and two individual listers, one from an above average-sized town and one from a below average-sized town, will study the feasibility of adopting a statewide system of rolling reappraisals on a three- or five- year basis. H. 526, Sec. 27.

All property owned by the newly created **Vermont Telecommunications Authority** is exempt from tax. The Authority is authorized to own and lease equipment, facilities and other infrastructure, including fiber optic cables, towers, shelters, easements and rights of way. H. 248, Sec. 1 (30 V.S.A. §§ 8062, 8074).

Sales and Use Tax

The exemption for **parts, machinery and equipment ("parts") installed in an aircraft**, is broadened to include parts installed on private aircraft. Prior law exempted only parts installed on commercial aircraft (and commercial aircraft itself). After July 1, 2011, the exemption reverts to parts installed on commercial aircraft. H. 521, Secs. 7a and 7b.

Tobacco Tax

A taxpayer who fails to file a required **tobacco tax return** may be assessed at any time, which is the rule for other taxes. H. 521, Sec. 5.

Tobacco products wholesalers are now required to state on the invoice if the price includes the Vermont Tobacco Products Tax. This will clearly let retailers know if they have an obligation to remit the tax. H. 521, Sec. 6.

Vermont Economic Growth Incentive

Property tax allocations and stabilizations are subject to the same performance standards as a Vermont Economic Growth Incentive (VEGI) authorization. Thus, if a company falls short of performance requirements (creation and retention of payroll, capital investment and job targets) the property comes back onto the education grand list at full fair market value. H. 521, Secs. 12, 13, 21. Also, stabilizations and allocations are subject to the incentive ratio in the same manner as VEGI authorizations (this is the discount ratio whereby cost-benefit impacts are discounted 20% before an income authorization is issued) and cannot be authorized independently of an approval for a VEGI authorization. H. 521, Sec. 14.

Several **definitions** are corrected to make the program work as intended:

The term “**base payroll**” is removed from the definition of “**payroll threshold**” to resolve an error which would allow the calculation to produce negative numbers. The concept of base payroll is instead incorporated into the definition of “qualifying payroll”. H. 521, sec. 7.

“**Qualifying payroll**” is redefined to ensure that base payroll is maintained and background growth is taken into account in determining what investments are incremental. The new definition also clarifies that excess payroll may be counted toward future years’ targets and incentive payments provided the investments are maintained; and that VEGI recipients are not entitled to incentives on a full year’s salary for a new employee who is hired part-way through the year. H. 521, Secs. 7, 8.