

HIGHLIGHTS OF 2014 TAX LEGISLATION

Administrative Provisions

Credit card processors are required to file with the Tax Department a copy of the 1099 they file with the IRS to account for payments the credit card processor makes to a merchant. The filing must be made within 30 days of the federal filing. This is effective for the 2014 tax year. Act 174, Sec. 1. 32 V.S.A. § 5862d.

There will be a new check-off box on the 2014 income tax return for Vermont Green Up, Inc. to fund Greenup Day. Act 174, Sec. 3. 32 V.S.A. §5862f.

The Commissioner may publish the names, addresses and amounts of tax liability of the 100 individual taxpayers and 100 business taxpayers with the greatest unresolved tax liability. The taxpayer must have been delinquent for more than 90 days and must be notified prior to publication. Act 174, Sec. 31. 32 V.S.A. § 3102(m).

In connection with PVR's lister education program, several educational level designations were struck and the Director of Property Valuation and Review was given more flexibility to designate levels of achievement. Act 174, Sec. 15. 32 V.S.A. § 3436(b).

Cigarette and Tobacco Taxes

The tax on cigarettes is increased from 131 to 137.5 mills per cigarette or little cigar (13 cents on a 20-pack to \$2.75) effective July 1, 2014. Act 174, Sec. 38. 32 V.S.A. §7771(d).

The tax on snuff is increased from \$1.87 to \$2.29 per ounce. The tax on new smokeless tobacco is increased from \$1.87 to \$2.29 per ounce or if the new smokeless tobacco is packaged for sale to a consumer in a package that contains less than 1.2 ounces the tax is increased from \$2.24 to \$2.75. These increases are also effective July 1, 2014. Act 174, Sec. 39. 32 V.S.A. §7811.

Floor stock taxes are imposed on retail dealers that hold \$500 or more in wholesale value of snuff, more than 10,000 cigarettes or little cigars and on each cigarette stamp in the possession or control of the wholesaler on July 1, 2014. Act 174, Sec. 40. 32 V.S.A. § 7814.

Education Property Tax

(also see Solar Capacity Tax for other property tax changes)

The last date for filing a homestead declaration was changed from September 1 to **October 15** to be consistent with the last date for filing for a property tax adjustment (which was moved to accommodate claimants who file their income tax returns under an extension). This applies to property on grand lists lodged in 2014 and after. Act 174, Sec. 18. 32 V.S.A. § 5410(i).

The issuance of a corrected property tax bill does not excuse a taxpayer from paying the original bill on time. If timely payment results in an overpayment, that will be deducted from the corrected bill. This is a

clarification of the existing law. However, a change in this section of law gives municipalities discretion to charge less than the maximum penalty for late or misfiled declarations. Instead of the penalty being 3 or 8 percent (depending upon circumstances) the penalty is now *up to* 3 percent and *up to* 8 percent. Act 174, Sec. 17. 32 V.S.A. §5410(g). A companion provision clarifies this is also the rule if the corrected bill results from a late property tax adjustment claim. Act 174, Sec. 19. 32 V.S.A. §6066a(f).

The fiscal year 2015 education property tax rates are \$0.98 for homesteads and \$1.515 for nonresidential property. The percentage of household used to calculate the property tax adjustment is 1.80 and the base education amount is \$9,285.00. Act 174, Sec. 50, 51. Session Law.

Two parcels of land, one in Greensboro owned by the Town of Hardwick and the other in Fairlee and West Fairlee and owned by the Town of Thetford, that provide public access to public waters are exempt from education property tax. The host municipalities may vote to exempt them from municipal tax. These provisions correct a related provision in 2013 legislation. Act 174, Sec. 56, 57. 32 V.S.A. §§ 5401(10)(K), 3839.

The definition of “homestead” is amended effective for declarations for 2015 and after. The requirement of ownership on April 1 is retained, but the property does not have to be *occupied* on April 1 by the declarant. Rather, a durational requirement is added. The property must be occupied as the declarant’s domicile for a minimum of 183 days of the calendar year. It is also explicitly provided that a homestead does not include any portion of a dwelling that is rented and a dwelling is not a homestead for any portion of the year in which it is rented. Act 174, Sec. 58. 32 V.S.A. § 5401(7). *Please be advised that this language was further modified during the 2015 legislative session.*

Effective for fiscal year 2016 and after, excess spending increases will be tied to inflation from fiscal year 2014 to the present, as opposed to current law which ties the increase to the previous year’s spending. Act 174, Sec. 59, 60. 32 V.S.A. §5401(12).

The education tax rate reduction in place for the Town of Vernon because it hosts an electric generating plant taxed under title 32 chapter 213 will be phased out over 4 years. Act 174, Sec. 62. Session law.

The time for municipalities to appeal to the Director of Property Valuation and Review (PVR) for a redetermination of the municipality’s equalized education property value and coefficient of dispersion was changed from 30 after receipt by the municipality’s clerk to 35 days from the mailing of the notice of under section 5406. Act 174, Sec. 16. 32 V.S.A. § 5408(a).

For purposes of the statewide education property tax, the Director of PVR shall determine the appraised value of all natural gas or petroleum infrastructure within the State. The valuation shall be on a cost basis, but shall not be depreciated below 30 percent of its cost. Act 174, Sec. 32. 32 V.S.A. § 3621.

Appraisal value for owner-occupied housing that is subject to a housing subsidy covenant is defined as not less than 60 and not more than 70 percent of what the fair market value of the property would be if it were not subject to the housing subsidy covenant. To qualify for this reduction the covenant must be

one defined in 27 V.S.A. § 610, be imposed by a governmental, quasi-governmental, or public purpose entity, and limit the price for which the property may be sold. This change affects grand lists for 2015 and after. Act 174, Sec. 54. 32 V.S.A. § 3481.

Under prior law, the exemption of properties used for public, pious and charitable purposes from tax (32 V.S.A. §3802(4)) was limited in that it did not apply to property used primarily for health and recreational purposes unless the municipality so voted. Effective with respect to grand lists lodged in 2015 and after, the law is modified so that two types of properties are not disqualified under the health and recreation limitation. These are:

(1) Buildings and land owned and occupied by a health, recreation and fitness organization which is exempt from taxation under 26 U.S.C. §501(c)(3); used its income entirely for its exempt purpose; and promotes exercise and healthy lifestyles for the community and serves citizens of all income levels.

(2) Real and personal property operated as a skating rink, owned and operated on a nonprofit basis, but not necessarily by the same entity, and which, in the most recent calendar year, provided facilities to local public schools for a sport officially recognized by the Vermont Principals' Association. *Some skating rinks had been exempt pursuant to session law in the past. There is a one-year gap in exemption under session law and the new codified language.*

To qualify for exemption the properties must still meet the underlying requirements for exemption under section 3802(4). Act 174, Sec. 55. 32 V.S.A. §3832(7).

The property tax exemption for college fraternities and societies will be repealed effective January 1, 2017. If a fraternity or society loses affiliation with a national organization or university, it will immediately become ineligible for the exemption. Act 200, Secs. 21a. and 22. 32 V.S.A. § 3802(5).

A number of changes were made to the Tax Increment Financing (TIF) statutes:

- A requirement that the City of Burlington annually report its calculation of a payment in lieu of taxes for the Waterfront TIF, the value of each parcel within the district at several dates, the history of TIF revenue and debt service payments and details of new debt authorized was repealed . Act 174. Sec. 7. 2011 Acts and Resolves No. 45, Sec. 16.
- The meaning of “related costs” is expanded. Act 174. Sec. 8. 24 V.S.A. § 1894(b) and (c).
- The phrase “pledge and appropriate” is replaced by the word “commit” in the statute requiring proportionality between use of increment for financing improvements and the extent to which the improvement serves the district. Act 174, Sec. 9. 24 V.S.A. § 1894(e).
- What listers must certify to reflect growth or reduction in the value of property within the TIF is changed slightly. Act 174, Sec. 10. 24 V.S.A. §1895.

- The statute was amended to reflect that is the treasurer, not the listers or assessor, who computes tax rates and provides that the final payment of capital debt shall be reported to the treasurer and after that no taxes may be diverted to the TIF. Act 174, Sec. 11. 24 V.S.A. § 1896(a).
- Information formerly required to be included in the annual town auditor report is eliminated; the report now must include only verification of the original taxable value, and annual and total municipal and education tax increments generated, expenditures for debts and related cost, and current balance. Act 174. Sec. 12. 24 V.S.A. § 1901(3).
- Decisions of the Secretary of Commerce and Community Development concerning the administration of TIFs must be in writing. Act 174, Sec. 13. 32 V.S.A. § 5404a(j).
- An exception to the timing of State Auditor audits of TIF districts allows the Milton Catemount/Husky district and the Burlington Waterfront district to be audited only one more time. Act 174, Sec. 14. 32 V.S.A. § 5404a(l).

Employers' Health Care Fund Contribution

The employer assessment is extended to include employees who are offered insurance but enroll in Medicaid. Act 174, Sec. 23 and 24. 21 V.S.A. § 2001.

The assessment is increased from \$91.25 for each full-time equivalent employee in excess of 8 to \$133.30 for each full-time employee in excess of 4. Act 174, Sec. 25. 21 V.S.A. § 2003(b).

Fuel Gross Receipts

Only propane delivered to a residence or business is subject to the fuel gross receipts tax. Formerly all propane – even that sold for non-heating purposes – was taxable. This change is effective July 1, 2014. Act 174, Sec. 48. 33 V.S.A. § 2503. *See change to sales tax exemption for fuels used for domestic purposes below.*

Income Tax

A corporation's election to file a consolidated return is binding for 5 years, including the year the election is made beginning in 2014. Act 174, Sec. 2. 32 V.S.A. § 5862(c).

VEGI claims must be filed by the last day of April for the prior year's utilization period. If the business fails to file a claim, authorization for the incentive may be revoked. Act 174, Sec. 4. 32 V.S.A. § 5930b(c)(9).

The total amount of downtown and village tax credits that may be awarded by the Vermont Downtown Development Board annually is increased from \$1.7 million to \$2.2 million. Act 174, Sec. 35. 32 V.S.A. §5930ee(l).

The research and development tax credit is reduced from 30 to 27 percent of the amount of the federal credit and the names of taxpayers claiming the credit will be published each year before January 15. This applies to claims for credits filed after January 1, 2014. Act 174, Sec. 37

A payment in the amount of two percent of the wages paid by an employer for services performed in designated counties associated with the manufacture of finished wood products is available to the employer in the year the county qualifies and for one year after the qualification ends. The counties will be designated by the Secretary of Commerce and Community Development annually based on high rates of unemployment. Act 179, Sec. E. 100.6.

Individuals were eligible for a tax credit for qualified expenditures related to flood damage suffered in 2011; corporations are not eligible for the credit. In 2014, \$88,000 was appropriated for payment to Latchis Arts Inc. in Brattleboro for Irene-related damage. Act 179, Sec. C.106.1. Session law.

Meals and Rooms Tax

The exemption from meals tax for food purchased with food stamps was changed to reflect the current name of the subsidy program "USDA Supplemental Nutrition Assistance Program" (SNAP). Act 174, Sec. 20. 32 V.S.A. §9202(10)(D)(ii)(X).

Hospital service corporations, medical service corporations, and credit unions are subject to meals and rooms tax. The entities are still exempt from all other taxes. Act 200, Sec. 4. 32 V.S.A. § 9247.

Property Tax Adjustments

The housesite value used to calculate property tax adjustments for people with over \$90,000 in household income is increased from \$200,000 to \$250,000. As a result, more people with incomes over \$90,000 will receive an adjustment. Act 174, Sec. 64. 32 V.S.A. § 6066(a).

Also see change to definition of homestead above in Education Property Tax.

Property Transfer Tax

Last session, in order to facilitate electronic filing of property transfer tax returns, the Legislature eliminated the requirement that the returns be signed by the parties. In the 2014 session the legislature made a conforming change that removed the signature requirement in the law prohibiting town clerks from filing deeds lacking certain attributes. Act 174, Sec. 21. 32 V.S.A. § 9608(a).

Sales and Use Tax

The percentage of adjusted gross income a taxpayer may elect to report as use tax on the taxpayer's income tax return in lieu of attesting to actual use tax is increased from 0.08 to 0.10. Act 174, Sec. 33. 32 V.S.A. § 5870.

The exemption for construction materials costing in excess of \$250,000 purchased to incorporate into a downtown redevelopment project is repealed. Act 174, Sec. 36. 32 V.S.A. §9741(39)(ii).

The law on contractor purchasers is clarified by amending the definitions of (1) “retail sale” to specifically include sales to contractors, subcontractor, repair persons of materials and supplies for use by them in erecting structures or otherwise improving, altering, or repairing real property; and (2) “tangible personal property” to specifically include property used to improve, alter or repair the real property of others by a manufacturer or any person who is primarily engaged in the business of making retail sales of tangible personal property. Contractors may apply to the Commissioner for a direct pay permit. Act 174, Sec. 41-43. 32 V.S.A. §§ 9701(5), 9771(1), 9745.

Effective July 1, 2014, two new exemptions were added to 32 V.S.A. § 9741, bringing the number of product exemptions to 50. The new exemptions are for: (1) clean high carbon bulking agents used for commercial or on-farm composting and food residuals used for commercial or on-farm composting or on-farm energy production and (2) compost, animal manure, manipulated animal manure, and planting mix when sold in bulk – that is in a form that is not prepackaged or packaged in volumes greater than one cubic yard. These terms are defined in the new law or, in the case of clean high carbon bulking agents, by reference to ANR Solid Waste Management Rules. Act 174, Sec. 44-46. 32 V.S.A. §§ 9701(48)-(52), 9706(jj), 9741(49), (50).

Also effective July 1, 2014, use tax is imposed on telecommunications service except coin-operated telephone service, private telephone service, paging service, private communication service, or value-added non-voice data service. Act 174, Sec. 47. 32 V.S.A. §9773.

The exemption for fuels used in a residence for domestic use does not include fuel sold at retail in free-standing containers, or sold as part of a transaction where a free-standing container is exchanged without a separate charge. Prior law exempted domestic fuel use but did not contain this exclusion. The amendment is effective July 1, 2014. Act 174, Sec. 49. 32 V.S.A. §9741(26).

The \$10,000.00 limitation on sales tax paid on telecommunications is repealed effective January 1, 2015. Act 200, Sec. 22. 32 V.S.A. § 9771a.

Current Use Program

Eligible ecologically significant treatment areas may be included in managed forestland enrolled in the Current Use Program under certain conditions. Additionally, to keep a parcel eligible for enrollment, owners of managed forestland must submit a management plan update on or before April 1 of the year in which the plan expires. Act 159, Secs. 16c. and 16d. 32 V.S.A. §§ 3752(9), 3755.

Solar Capacity Tax and Property Tax Related to Solar Facilities

Property (except land) generating electricity from solar energy is exempt from education and municipal property taxes if it has a plant capacity of less than 50 kW and is either net metered or not connected to the power grid. Act 174, Sec. 26. 32 V.S.A. §3802(7).

The law now requires that property comprising a solar plant be appraised for property tax purposes using an income capitalization or discounted cash flow methodology and sets out required elements of those methodologies. Act 174, Sec. 27. 32 V.S.A. § 3481(1)(D).

A municipality may vote to exempt solar facilities (as well as other renewables) from municipal property tax but may not exempt land upon which the facility is listed. Under prior law the exemption included up to a half acre of land. This required additional valuation work on the part of the municipality which may have acted as a disincentive to exemption. Act 174, Sec. 28. 32 V.S.A. § 3845.

Solar plants with a plant capacity of less than 50kW are exempt from the solar capacity tax. The exemption before this amendment was for plants with capacity less than 10kW. By January 15, 2021, the Department of Taxes will report to the senate Committees on Finance and on Natural Resources and Energy and the House Committees on Ways and Means and on Natural Resources and Energy with a recommendation on whether the solar exemptions should be retained and whether the rate of the capacity tax should be altered. Act 174, Sec. 29 and 30. 32 V.S.A. §8701(c); and amending 2012 Acts and Resolves No. 127, Sec. 4.

All solar tax provisions apply to property on grand lists lodged in 2015 and after.

Spirituos Liquor Tax

The brackets for the spirituous liquor tax were changed to be as follows: gross revenues of \$500,000 or less are taxed at a 5% rate; between \$500,000 and \$750,000 at a 10% rate; and over \$750,000 at a 25% rate. To the extent that a manufacturer or rectifier is selling its own products at a fourth class or farmers' market location the gross revenues must be included and taxed. (This tax is collected by the Liquor Control Department). Act 174, Sec. 22. 7 V.S.A. § 422.