

2017 Legislative Highlights

Property Owners

- **Education Property Tax Rates**

For fiscal year 2018 only, the nonresidential property tax rate is lowered to 1.535, the property dollar equivalent yield is \$10,160 and the income dollar equivalent yield is \$11,990. Secs. H.1-H.2 (H.542) Act 85.

- **Property Transfer Tax and Surcharge**

Starting July 1, 2017, the allocation of property transfer tax revenues to the Department of Taxes is increased from 1% to 2% for Property Valuation and Review administration costs. From 2011 to 2016, the Division of Property Valuation and Review received 2% of PTT revenues, and was authorized to use up to one half for administering the current use value program electronically. On July 1, 2016, the 2% allocation decreased to the pre-2011 statutory allocation of 1%. Sec. I.4 (H.542) Act 85.

The 2018 sunset on the property transfer tax surcharge is repealed. The surcharge will continue to be imposed until 2027 at 0.2% and between 2027 and 2039 at 0.04% on the value of the property to be used as the buyer's principal residence that exceeds \$100,000, or that exceeds \$200,000 if the buyer obtains a specially financed mortgage. The surcharge sunsets permanently in 2039. Secs. I.7-I.12 (H.542) Act 85.

Municipalities

- **Property Tax Appeals**

A municipality may request that the Director of Property Valuation and Review recalculate its education property tax liability when a property's listed value, and subsequently the grand list value, is reduced following a determination, declaratory judgment or settlement. The current 1% limitation on property tax appeal adjustments is replaced with an annual cap of \$100,000 for total reimbursements to all municipalities. Municipalities may now request the adjustment annually by January 15, for an appeal or action resolved within the previous calendar year. The statute clarifies the appeals process from the Director's determination, to the Commissioner, and then to Superior Court, which may only overturn the Commissioner's determination for abuse of discretion. Sec. 27 (H.516) Act 73.

- **Town Listers**

Town clerks are required to report new listers to the Department of Taxes Director of Property Valuation and Review electronically, not in writing. Sec. 2 (H.516) Act 73.

- **Tax Increment Financing (TIF)**

The Vermont Economic Progress Council is authorized to approve new tax increment financing (TIF) districts. The City of South Burlington is added to the statutory list of TIF districts. Six new districts may be approved if the statutory criteria and conditions are met. Economically distressed areas are highlighted as priority areas for TIF districts and affordable housing projects. The number of new TIF districts is limited to two districts

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per county, not counting previously approved districts. When the Legislature is not in session, the Emergency Board has the discretion to approve more than the six new TIF districts authorized under statute. Municipalities are permitted to retain up to 70% of the state education tax increment received for up to 20 years. Municipalities must use 85% of the municipal tax increment to repay TIF debt and related costs. Municipalities are authorized to create municipal TIF districts and to incur debt to fund improvements and related costs. Effective date: contingent on the Governor's signature of H.542, FY2018 budget bill. Secs. J.1-J.7 (S.135) Act 69.

- **Merged School Districts 5% Hold Harmless Rule**

The 5% provision limits a town's equalized homestead property tax rate increase or decrease, and related household income percentage adjustments to 5% in a single year during the years when the corresponding tax rate reductions apply to a new union school district's equalized unified homestead property rate. In a fiscal year when tax rate reductions are applied to a new union school district, increases in the district's education spending per equalized pupil of over 4% above its education spending in the prior fiscal year will trigger a Tax Rate Reduction Review. If the Secretary of Education requests, a union school district must submit its budget to a Review to determine whether its increase in spending was beyond the district's control or for other good cause. A Review considers the extent to which the increase in education spending is caused by: declining enrollment, unifying employee contracts in the course of the union school district formation process, and increases in tuition paid by the union school district. If after the Review, the Secretary determines that the union school district's budget contains excessive increases in educational spending that are within the district's control and are not supported by good cause, then union school district rates for the fiscal year will be determined by:

(A) The tax rate of a member town that would otherwise be *increased* by no more than 5% shall be *increased* by no more than 5% *plus* the difference between a 4% increase in education spending per equalized pupil and the actual increase in the union school district's education spending per equalized pupil.

(B) The tax rate of a member town that would otherwise be *decreased* by no more than 5% shall be *decreased* by no more than 5% *minus* the difference between a 4% increase in education spending per equalized pupil and the actual increase in the union school district's education spending per equalized pupil. Effective on passage. Sec. 29c (H.516) Act 73.

- **Local Option Tax on Meals, Rooms and Alcoholic Beverages**

After the Town of Hartford voted in favor of a local option tax in November 2016, the Legislature amended Hartford's municipal charter to impose a 1% local option tax on rooms, meals, and alcoholic beverages, the net proceeds of which are to be deposited in a capital reserve fund until directed otherwise by vote of the Town. The local option tax is effective starting October 1, 2017. Act M-6 of 2017 (H.130), Sec. 2.

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Sales and Use Tax Exemptions

- **Dyed Diesel**

Clear or undyed diesel fuel is excluded from the definition of gasoline or other motor fuel, to clarify that that clear or undyed diesel is not subject to the gasoline tax in title 23. Dyed diesel is also explicitly exempted from sales and use tax when it is used: (1) to power forestry machinery; or (2) to propel a vehicle off the highways of the State. A statutory purpose for the clear or undyed diesel fuel expenditure is added to title 32. These changes are effective on July 1, 2017. Secs. 16-18 (H.495) Act 75.

- **Forestry Equipment**

Starting July 1, 2017, machinery and parts are exempted from sales and use tax when they are used for timber cutting, timber removal, and processing of timber or other solid wood forest products intended to be sold ultimately at retail. This is the list of exempted machinery: skidders with grapple and cable, feller bunchers, cut-to-length processors, forwarders, delimiters, loader slashers, log loaders, whole-tree chippers, stationary screening systems, and firewood processors, elevators, and screens. The Department of Taxes is required to publish guidance on how the exemption applies. A statutory purpose for the expenditure is added to title 32. Secs. 17-18 (H.495) Act 75 and Secs. 9-10 (S.34) Act 77.

- **Aircraft and Parts**

Starting on September 1, 2017, sales of drones, and parts, machinery, and equipment to be installed in drones, are no longer exempted from sales and use tax. The exemption for the sales of parts, machinery, and equipment to be installed in any aircraft (other than drones) has been made permanent. Secs. 19, 31(3), (4), 32(8) (H.516) Act 73.

Use Tax Liability and Compliance

- **Use Tax Safe Harbor**

If taxpayers elect to report an amount of use tax liability that is a percentage of their income, the rate of use tax is reduced from 0.20 % to 0.10 % of adjusted gross income, and a cap on use tax liability is set at \$500 for total purchases of items with a purchase price of \$1,000 or less. The annual indexing of the rate is repealed. Effective date: retroactive to January 1, 2017, and applies to returns filed for tax year 2017 and after. Sec. 20 (H.516) Act 73.

Information Reporting

- **Noncollecting Vendors**

Noncollecting vendors who make \$100,000 or more of sales into Vermont in the previous calendar year must file with the Department of Taxes a copy of the notice sent to Vermont purchasers who have made \$500 or more of purchases, stating the amount of purchases made from the noncollecting vendor in the previous calendar year. Failure to

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report to the Department will result in a \$10 penalty per failure, unless the vendor can show reasonable cause. Sec. 23 (H.516) Act 73.

- **1099-K Information Reporting**

Existing Vermont reporting requirements regarding IRS form 1099-K are changing to require third-party settlement organizations to report all transactions of a value greater than \$600 (instead of \$20,000 and over 200 transactions) to the Department of Taxes and to any payee. Effective: retroactively to January 1, 2017, and applies to taxable year 2017 and after. Secs. 22, 32(10) (H.516) Act 73.

Current Use

- **Definitions: Buffer Zones and Farm Buildings**

The definition of “agricultural land” as used for the current use program, was changed to include buffer zones as required by the Agency of Agriculture, Food and Markets. The definition of “farm buildings” as used for the current use program was changed to clarify that for a dwelling used for farm employee housing to qualify as a farm building, it must have been used exclusively for farm employee housing during the prior 12 months, not during the preceding tax year. Sec. 11 (H.495) Act 75.

- **Certification for Enrolled Agricultural Land or Buildings**

The date for owners of agricultural land or buildings enrolled in the use value program to certify their continued eligibility for the program was changed from September 1 to November 1 annually. Sec. 12 (H.495) Act 75.

Employer Assessment

Starting January 1, 2018, the Department of Taxes will regulate the employer assessment (officially named the Health Care Fund Contribution Assessment) instead of the Department of Labor. The return of the fourth quarter of 2017 is due on January 25, 2018. Secs. 16-17, 31(5), 32(7) (H.516) Act 73.

Small Business Outreach

- The Taxpayer Advocate at the Department of Taxes is directed to convene a working group of stakeholders to examine how the Department can improve outreach and education to small business taxpayers, and to recommend ways to improve the relationship between the Department and small businesses. The Taxpayer Advocate’s report to the Legislature is due by November 15, 2017. Sec. 24a (H.516) Act 73.

Break-Open Tickets / Games of Chance

- Starting September 1, 2017, the Department of Liquor Control will have regulatory authority over break open tickets (officially named Games of Chance) instead of the Department of Taxes. Nonprofit organizations are required to buy tickets directly from

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distributors and file quarterly information reports with the Department of Liquor Control. An annual certification from nonprofits regarding how they qualify for nonprofit status is required, and all nonprofits that sell break-open tickets, except clubs, will be subject to reporting requirements. Secs. 12-13, 31(1), 32(4) (H.516) Act 73.

Clean Water

- **State Treasurer's Clean Water Report**

By January 15, 2018, the State Treasurer must make a recommendation to the Legislature whether public good benefits payments made to the State for water quality as a condition of a certificate of public good issued by the Public Service Board provide sufficient revenue to leverage the issuance of a revenue bond to fund water quality improvements in the State through the Clean Water Fund. Sec. 25 (H.516) Act 73.

- **Clean Water Working Group**

The Commissioner of Taxes or designee is one of six members named by the General Assembly to a new working group on water quality funding, to be chaired by the Secretary of Natural Resources. The Working Group's purpose is to recommend equitable and effective long-term methods to fund clean water efforts in Vermont. The first meeting must be held by July 1, 2017. The Working Group must recommend draft legislation, summarize its activities, and evaluate existing sources of funding in its report due to the General Assembly by November 15, 2017. Sec. 26 (H.516) Act 73.

Tax Credits

- **Downtown Tax Credits**

The total amount of Vermont Downtown and Village Center Tax Credits that the Vermont Downtown Development Board may award to all qualified applicants will be increased from \$2,200,000 to \$2,400,000. The deadline to apply for the downtown tax credit will be limited to the time before the completion of the qualified project, instead of up to one year after completion of the qualified project. Effective date: contingent on the Governor's signature of H.542, FY2018 budget bill. Secs. H.8-H.9 (S.135) Act 69.

- **Captive Insurance Tax Credits**

When captive insurance companies are licensed for the first time on or after January 1, 2017, they will receive a nonrefundable tax credit of \$5,000 to be used against the first two taxable years for which they have a liability under the captive insurance premium tax. The existing tax credit was \$7,500 and could only be applied to the first year of tax liability. The new tax credit will become effective on July 1, 2017. Sec. 30 (H.516) Act 73.

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Captive insurance companies will be able to apply an affordable housing tax credit to their captive insurance premium tax liability when they make an eligible cash contribution to the owner, developer, or sponsor of an affordable housing project that is eligible for affordable housing tax credits. Effective date: contingent on the Governor's signature of H.542, FY2018 budget bill. Sec. H.10 (S.135) Act 69.

Miscellaneous Technical Changes

- **Computation of Income Tax Liability; Adjusted Gross Income**
Starting January 1, 2018, federal adjusted gross income will be adopted as the base for Vermont's personal income tax. Technical changes are made to the definition of taxable income. Secs. 13a, 32(5) (H.516) Act 73.
- **Annual Income Tax Update**
Vermont income tax law was updated to adopt federal law for the purpose of computing tax liability for taxable year 2016, without regard to federal income tax rates. This update is done annually, and is always effective retroactively to the previous tax year. Effective date: retroactive to January 1, 2016, and applies to taxable years on and after January 1, 2016. Secs. 7, 32(1) (H.516) Act 73.
- **S Corporation Return Filing Deadlines**
The due date for filing S Corporation returns is changed to link up to the federal filing requirement. This change mirrors the due date for minimum tax payments under 32 V.S.A. § 5915, which was linked to the federal filing requirement under 26 U.S.C. § 6072(b) in Act 134 (2016), Sec. 14. Sec. 4 (H.516) Act 73.
- **Tax Information Confidentiality**
The tax confidentiality section 32 V.S.A. § 3102 is amended to allow the Department of Taxes to share return information with the Department of Financial Regulation regarding surplus lines, insurance premium, and direct placement taxes, and with the Agency of Natural Resources regarding solid waste and hazardous waste taxes. The tax definitions in 32 V.S.A. § 3102 are expanded to apply to the entire chapter on tax administration. Other sections within the chapter used terms without defining them, creating ambiguity. Effective upon passage of bill. Sec. 3 (H.516) Act 73.

The type of information on a property transfer tax return that the Commissioner of Taxes may disclose is restricted to prohibit disclosure of social security numbers, federal taxpayer numbers, email addresses, or phone numbers. Sec. 6 (H.516) Act 73.
- **Ski Expenditure Statutory Purposes**

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A statutory purpose for the fixed ski lifts and snow-making equipment tax expenditure is added to title 32 to allow the expenditure to continue to be enforced, and to be exempt from the education property tax. Sec. 10 (H.516) Act 73.

- **Background Checks**

The Department of Taxes, along with the Agency of Human Services, the Department of Motor Vehicles, and the Department of Labor are required to conduct background checks for prospective employees and contractors who handle federal tax information before allowing those individuals access to that information. Sec. 11 (H.516) Act 73.

- **Health Care IT-Fund**

The sunset on the funding from the health care claims tax to the health care information technology fund is extended by one year, from July 1, 2017 to July 1, 2018. Sec. 14 (H.516) Act 73.

- **Spirits and Fortified Wines Tax**

The Department of Taxes is no longer required to be involved in rule-making process for the tax on spirits and fortified wines. The Department does not administer this tax. Sec. 1 (H.516) Act 73.

- **Meals and Rooms Tax Returns**

The Department of Taxes is no longer required to distribute meals and rooms tax returns on paper, although it will continue to provide the returns if requested by a taxpayer. Sec. 5 (H.516) Act 73.

- **Estate Tax**

The 2016 changes to the Vermont estate tax led to an inadvertent deletion of a subsection relating to the determination of estate values. This subsection (c) was reinserted into 32 V.S.A. § 7442a, and is effective retroactively on January 1, 2016, when the deletion took effect. Secs. 8, 32(2) (H.516) Act 73.