

## 2019 Legislative Highlights

---

### Administrative Changes

- **Annual Calculation, Interest Rate, [Act 51 \(H.514\)](#) Sec. 2**
  - Does not change the way interest rates on overpaid and unpaid taxes are calculated.
  - Correction conforms with the Department’s current practices and removes the confusing and unnecessary monthly rate, which is not used for any purpose.
  - Effective June 10, 2019.
- **Appeal to Superior Court, Security, [Act 51 \(H.514\)](#) Sec. 13-14**
  - Repeals the “pay to play” requirement that a person aggrieved by the decision of the Commissioner must make payment in the amount of the tax due or provide surety prior to filing an appeal with the Superior Court.
  - Effective June 10, 2019.
- **Background Investigations, State Employees, [Act 58 \(S.134\)](#)**
  - Expands existing authority of multiple state agencies that receive federal tax information (FTI) to conduct fingerprint-supported background investigations on employees with access to FTI.
  - Requires periodic reinvestigations, every 10 years, when employees have continued access to FTI.
  - Effective July 1, 2019.
- **Confidentiality of Tax Information, Tobacco Settlement Agreement, [Act 51 \(H.514\)](#) Sec. 1**
  - Clarifies that the Department can disclose necessary information to the data clearing house and other parties as required by the 2017 Non-Participating Manufacturer Adjustment Settlement Agreement, which the State of Vermont joined in 2018.
  - Effective June 10, 2019.
- **Fee Waiver for Property Tax Appeals, [Act 51 \(H.514\)](#) Sec. 3**
  - Gives the Director of Property Valuation the authority to waive, reduce, or refund the property tax appeal filing fee of \$70 for hardship, or to allow appeals regarding the same parcel to be joined into one appeal.
  - Effective June 10, 2019.

---

### Business and Corporate Tax

- **Apportionment, [Act 51 \(H.514\)](#) Sec. 8**
  - The sale of intangible goods and services are now apportioned to Vermont if that taxpayer’s market for the sale is in Vermont.
  - Effective January 1, 2020, and applicable to tax years after that date.
- **Gross Receipts Attributable to Vermont, [Act 51 \(H.514\)](#) Sec. 7**

- Clarifies that Corporate Income Tax applies to gross receipts that are attributable to Vermont, not total receipts.
  - Effective June 10, 2019.
  - **Publicly Traded Partnerships (PTPs), [Act 51 \(H.514\)](#) Sec. 10-11**
    - Removes the withholding requirement in certain circumstances and defines the responsibilities of PTPs and entities wholly owned by PTPs with Vermont income for non-resident partners.
    - Effective June 10, 2019.
- 

## Cigarette and Tobacco Tax

- **Restricting Retail and Internet Sales, [Act 22 \(H.26\)](#)**
    - Specifies that only a licensed wholesale dealer or a retailer that has purchased tobacco products, tobacco substitutes, substances containing nicotine, and tobacco paraphernalia from a licensed wholesale dealer may sell such products to the public.
    - Prohibits shipping tobacco products including tobacco substitutes, substances containing nicotine or intended for use with a tobacco substitute, and tobacco paraphernalia to anyone in Vermont who is not a licensed wholesale dealer or retail dealer.
    - Effective July 1, 2019.
    - See also [Act 28 \(H.47\)](#), below.
  - **Taxation of Electronic Cigarettes, [Act 28 \(H.47\)](#)**
    - Expands the definition of "other tobacco products" to include products sold as a tobacco substitute, which includes electronic cigarettes as well as liquids containing nicotine or not, and delivery devices or paraphernalia sold separately for use with tobacco substitutes.
      - This expanded definition means that these products will become subject to the existing Tobacco Products Tax, which is a 92% excise tax paid by wholesale dealers and added to the final retail price paid by the consumer.
      - Creates an exemption for such supplies when sold at registered marijuana dispensaries to registered patients and caregivers for use with the delivery of medical marijuana.
    - Effective July 1, 2019.
- 

## Insurance Taxes

- **Fire Training Tax on Insurance Companies, Direct Placement Tax, Surplus Lines Tax , [Act 51 \(H.514\)](#) Sec. 35-38**
  - Clarifies that the Department may use tax administrative tools to enforce tax collection duties on certain insurance tax types that have shifted to the Department from the Department of Financial Regulation.
  - Deletes reference to surplus lines companies from those insurance companies which must contribute to the Fire Safety Special Fund.

- Effective June 10, 2019.
- 

## Meals and Rooms Tax

- **Meals for Resale, [Act 51 \(H.514\)](#) Sec. 12**
    - Provides an exemption for food or beverage sold for resale if the purchaser obtains an exemption certificate provided by the Department. Clarifies that the tax will be charged and collected at the time of final sale to the person consuming the meal.
    - Effective July 1, 2019.
  - **Rooms Tax, Booking Agents, [Act 71 \(H.541\)](#) Secs. 7-8**
    - Changes the definitions of “operator” to include online travel agencies (OTAs), also referred to as “booking agents,” and makes clear that associated transaction fees or commissions are subject to rooms tax.
    - Booking agents will be responsible for collecting and remitting Rooms Tax for all transactions on their platforms where they collect rent.
    - Effective July 1, 2019.
  - **The Clean Water Fund, [Act 76 \(S.96\)](#) Sec. 3a**
    - The Clean Water Fund, as it relates to the Department:
      - Will continue to be funded by revenues from the Property Transfer Tax;
      - Will be funded by the unclaimed beverage container deposits (escheats) as discussed in [Act 62 \(H.63\)](#);
      - Shall be funded by reallocating 6% of revenues from the meals and rooms tax, intended for the General Fund, to the Clean Water Fund, effective October 1, 2019.
- 

## Miscellaneous Tax Changes

- **Universal Service Charge, Prepaid Calling Cards, [Act 79 \(H.513\)](#)**
  - Addresses improvements to Internet and other communications services for Vermonters, in part by changing the structure of the existing funding mechanism, the Universal Service Charge (USC). Effective July 1, 2019, the USC is increased to a 2.4% charge on the price of retail telecommunications services. This change updates Vermont law to conform to recent federal requirements regarding prepaid calling cards.
    - Starting January 1, 2020, for retail sales of prepaid calling cards, the USC will only apply to sales that would also be subject to sales tax.
      - Starting January 1, 2020, the USC collected on retail sales of prepaid calling cards must be collected by the Department and remitted within 30 days to a fiscal agent selected by the Commissioner of Public Service.
    - The bill provides an exemption for prepaid cards worth 10 minutes of service or \$5, or less, that are sold with a prepaid wireless device for a single, nonitemized price, in which case the seller may elect not to apply the USC to the card. In case of a seller’s election, the entire transaction would be still subject to sales tax.
- **Estate Tax Exclusion, [Act 71 \(H.541\)](#) Secs. 5-6**

- Gradually increases the value of an estate that is excluded from taxation over a two-year period.
  - Effective January 1, 2020, the estate tax exclusion rises from \$2.75 million to \$4.25 million.
  - Effective January 1, 2021, the exclusion rises to \$5 million.
- **Fuel Tax, [Act 71 \(H.541\)](#) Sec. 18**
  - Effective July 1, 2019, clarifies that the Fuel Tax on the retail sale of heating oil, propane, kerosene, and other dyed diesel fuel applies to all deliveries made in Vermont.
  - Extends the sunset on the Fuel Tax to June 30, 2024.
- **Health Care Claims Tax; Health-IT Fund, [Act 71 \(H.541\)](#) Sec. 19-22**
  - Extends the sunset for allocating a portion of the Health Care Claims Tax to the Health-IT fund to July 1, 2021.
- **Unclaimed Beverage Container Deposits, [Act 62 \(H.63\)](#) Sec. 8**
  - Includes technical corrections to Act 208 (2018) which authorized the State of Vermont to claim unclaimed beverage container deposits, otherwise known as “escheats,” from “deposit initiators.”
    - Deposit initiators are no longer required to open a separate interest-bearing account for escheats.
    - Beginning January 1, 2020, requires deposit initiators to report and remit quarterly, on the 25<sup>th</sup> day of the calendar month.
    - Removed several items unnecessary for tax calculation from the reporting requirements.
    - Clarifies the refund calculation.
    - Grants the Department chapter 151 administrative powers with respect to enforcement, collection, interest and penalties.
    - Provides a mechanism by which the deposit initiator may appeal a decision by the Department.
    - Ensures confidentiality of deposit initiator/taxpayer information but permits disclosure of aggregated information that does not compromise a taxpayer’s identity or information.
    - These sections took effect on passage.

## Municipalities

- **Charter Change, Bennington, [Act M-8, \(H.508\)](#)**
  - Authorizes the Town of Bennington to vote to assess a local option tax of one percent on any or all of the following: meals, rooms, alcoholic beverages, or sales.
- **Common Level of Appraisal Districts, [Act 51 \(H.514\)](#) Sec. 25-27**
  - Sec. 25 requires the Department to provide municipalities with language explaining the common level of appraisal on property tax bills.
  - Sec. 26 authorizes municipalities within a school district to merge assessment districts and receive the same common level of appraisal, allowing them to receive the same tax rate. The election to merge is binding for 5 years.
  - Sec. 27 contains additional instruction regarding the format of property tax bills.

- Effective for grand lists lodged after July 1, 2019.
  - **Distribution of Property Tax Adjustments, [Act 51 \(H.514\)](#) Sec. 28**
    - Increases the frequency with which the Department notifies and pays municipalities for homestead property tax adjustments from yearly to monthly.
      - Monthly notifications will occur from July to November.
      - The format of the homestead files sent to the municipalities will not change.
    - Effective June 10, 2019.
  - **Municipal Fees, [Act 38 \(H.526\)](#)**
    - Adjusts town clerks' fees for recording, filing and examination of documents which will impact tax related filings such as property transfer tax returns and lien filings.
    - Requires the creation of a Restoration and Preservation Reserve Fund, into which a portion of the above fees are to be deposited, for the purpose of restoration, preservation, digitization, storage, and conservation of municipal records.
    - Defines "survey plat" and specifies how and where one must be filed and used.
    - Specifies that a property lien shall be deemed filed when a town or city clerk's indorsement appears on a certificate of lien, as well as other miscellaneous recording procedures.
    - Multiple effective dates, beginning July 1, 2019.
  - **Reappraisals, [Act 51 \(H.514\)](#) Sec. 24**
    - Requires municipalities to reappraise its education grand list properties if it is determined by the Director of Property Valuation and Review that the common level of appraisal is below 85 percent or above 115 percent.
    - Effective for grand lists lodged after July 1, 2019.
- 

## Personal Income Tax

- **529 Plans, [Act 51 \(H.514\)](#) Secs. 16-21**
  - Decouples from federal law and requires the repayment of the Vermont credit for contributions to VHEIP for K-12 expenses paid from a VHEIP Plan.
  - Expands authority to recapture tax credits if funds are used for disallowed purposes.
  - Requires annual reporting by Vermont Student Assistance Corporation to House Ways & Means and Senate Finance of assets withdrawn from the Plan in the preceding year. This requirement shall sunset on July 1, 2022.
  - Secs. 16-20 of this Act are effective retroactive to January 1, 2019, and applicable to taxable years beginning January 1, 2019 and thereafter.
- **Annual Link to Federal Statutes, [Act 51 \(H.514\)](#) Secs. 5-6**
  - Updates Vermont's tax laws to conform to federal tax law in effect on December 31, 2018.
  - Effective retroactive to January 1, 2019, and applicable to taxable years beginning January 1, 2018 and thereafter.
- **Capital Gains Exclusion, [Act 71 \(H.541\)](#) Sec. 1**

- Effective July 1, 2019, the 40% capital gains exclusion for certain types of capital gain is limited to \$350,000. This means the benefit of this exclusion phases out at capital gains of \$875,000.
- **Health Insurance, Individual Mandate, [Act 63 \(H.524\)](#)**
  - Provides new religious exemptions to the requirement that individuals maintain minimum essential healthcare coverage for themselves and their dependents.
  - Does not impose a penalty for failure to maintain minimum essential coverage.
  - Secs. 1-2:
    - Effective January 1, 2020, and for tax year 2020 and thereafter, requires that taxpayers report, on their Vermont income tax return, whether they had minimum essential coverage for the entire taxable year.
    - Effective January 1, 2020, creates a new confidentiality exception allowing the Department to share health insurance data with the Department of Vermont Health Access for the purposes of outreach and education.
- **Medical Deductions, [Act 71 \(H.541\)](#) Sec. 2**
  - Effective January 1, 2019 for tax year 2019 and forward, creates a new deduction for medical expenses within the personal income tax.
    - Taxpayers will be able to deduct the amount of their itemized deduction for medical expenses taken at the federal level, minus the following:
      - the amount of the Vermont standard deduction and personal exemptions; and,
      - any amount deducted at the federal level for entrance fees or monthly payments to a continuing care retirement community, which exceeds federal deductibility limits for premiums paid on qualified long-term care insurance contracts.
- **Solar Energy Investment Income Tax Credit, [Act 51 \(H.514\)](#) Sec. 4**
  - Clarifies the recapture provision to limit recapture of the amount of federal tax credit attributable to the Vermont portion of the investment.
  - Removes a reference to a “business” solar credit, which is no longer available.
  - Effective retroactive to January 1, 2019, and applicable to taxable years beginning January 1, 2019 and thereafter.

## Property Owners

### Education Property Tax

- **Changes “Nonresidential” to “Nonhomestead,” [Act 46 \(H.536\)](#), Sec. 1-2**
  - Changes the name and all statutory references to the “nonresidential” education grand list and property tax rate to “nonhomestead.”
  - Effective January 1, 2020.
- **Current Use Definitions, [Act 51 \(H.514\)](#) Sec. 34**
  - Redefines “development,” as it relates to Land Use Change Tax and is used in this section, to include subdivision resulting from the transfer of parcel(s) to an ex-spouse in a divorce settlement.
  - Changes perpetual lease language from “exceeds 999 years” to “for a minimum of 999 years” in the definition of “owner.”

- Effective June 10, 2019.
- **Current Use, Land Use Change Tax Liens, [Act 20](#), (S.154)**
  - Effective July 1, 2019, sec. 108 changes the type of lien recorded with municipalities at the time of current use application to a “contingent” lien.
    - Contingent lien shall convert to a lien at the time of development of enrolled land.
    - Lien shall be in the amount of the Land Use Change Tax.
    - Liens previously recorded with municipalities, on or after April 17, 1978, shall be considered a contingent lien.
  - Effective July 1, 2020, sec. 109 repeals the land use change tax lien subordination.
- **Definition: Homestead, [Act 51](#) (H.514) Sec. 22**
  - Amends definition of “homestead” to include the “principal dwelling of a widow or widower when the dwelling is owned by the estate of the deceased spouse and it is likely that the dwelling will pass to the widow or widower on settlement of the estate.
  - Effective July 1, 2019.
- **Definition: Household Income, [Act 51](#) (H.514) Sec. 23**
  - Redefines “household income” for the purposes of property tax income sensitivity adjustment so as not to include:
    - income of a spouse or former spouse if the taxpayer is either separated or divorced during the taxable year, or if the spouse is subject to a protection (restraining) order; and,
    - income attributable to cancellation of debt.
  - Effective July 1, 2019.
- **Definition: Income Sensitivity Adjustment, [Act 51](#) (H.514) Secs. 29-33**
  - Renames the property tax income sensitivity adjustment as a “property tax credit.”
  - Effective June 10, 2019.
- **Education Property Tax Rates, [Act 46](#) (H.536), Sec. 6**
  - Sets the fiscal year 2020 yield amounts necessary for calculating education property tax rates:
    - Property dollar equivalent yield is \$10,648;
    - Income dollar equivalent yield is \$13,081; and,
    - The non-residential property tax rate for fiscal year 2020 is set at \$1.594 per \$100 of equalized education property value.
  - Effective July 1, 2019.
- **Land Gains Tax Modernization, [Act 71](#) (H.541) Secs. 16-17**
  - Makes significant changes to the Land Gains Tax such that it would only apply to transfers of land which have been recently purchased and subdivided.
    - Only land subdivided by the transferor within six years of purchase would be subject to the tax.
    - Exempts land transferred in a downtown development district, a village center, growth center, or new town center development.
  - Effective January 1, 2020.
- **Property Transfer Tax, Controlling Interest, [Act 71](#) (H.541) Secs. 9-15**
  - Expands the tax base for the Property Transfer Tax and Clean Water Surcharge to include transfers of controlling interests in a property.

- This would include property transfers where a business or entity takes a majority ownership stake in a property without a title change.
- Effective July 1, 2019.

---

## Sales and Use Tax

- **Automotive Parts, [Act 51 \(H.514\)](#) Sec. 39**
  - Expands the sales and use tax exemption relating to motor vehicles to exempt motor vehicle parts purchased by a registered dealer, when used to recondition a used motor vehicle owned by the dealer in its inventory for resale.
  - Effective July 1, 2019.
- **Marketplace Facilitators, [Act 46 \(H.536\)](#), Secs. 3-4**
  - Places a Vermont sales tax collection and remittance requirement on out-of-state marketplace facilitators who have facilitated sales by marketplace sellers to destinations within Vermont of at least \$100,000 or totaling at least 200 individual transactions during any 12-month period.
    - Out-of-state marketplace sellers making additional sales, other than through a marketplace, are required to collect and remit sales tax on those additional sales after specific thresholds are met.
    - These requirements begin in June 2019, which means that the first filing and payment due date for marketplace facilitators is July 25, 2019.
- **Timber Harvesting Equipment, [Act 29 \(H.82\)](#)**
  - Expands the sales and use tax exemption relating to machinery used for forestry-related activities, to include the following list of accessory parts:
    - Traction enhancement accessories
    - Tire chains
    - Track systems
    - Winch cables
  - Effective May 23, 2019.
- **Veterinary Medicine and Supplies, [Act 46 \(H.536\)](#)**
  - Removes the veterinary supplies category from the agricultural exemption and creates specific treatment for the following products intended for animal use:
    - Prescription drugs are exempt
    - Durable medical equipment is exempt
    - Veterinary supplies are exempt
    - Over-the-Counter medicine is taxable
      - Human over-the-counter medication remains exempt.
  - Effective July 1, 2019.

---

## Studies and Outreach

- **Report: Corporate Tax, [Act 51 \(H.514\)](#) Sec. 9**



- The Department shall provide a report to the General Assembly by December 15, 2019, analyzing specific issues related to corporate income tax, including:
    - Moving from the current apportionment formula to a single sales factor;
    - Eliminating exclusions related to overseas business organizations;
    - The Bank Franchise Tax;
    - Other alternatives to Vermont's corporate income tax.
  - Effective June 10, 2019.
  - **Report: Tax Data Analysis, [Act 51 \(H.514\)](#) Sec. 15**
    - Requires the Department, in cooperation with other State executive agencies, to analyze how federal and State tax data could be used to identify opportunities for State executive agencies to maximize the eligibility of Vermonters for federal and State programs.
    - Effective June 10, 2019.
  - **Outreach: Prewritten Software, [Act 71 \(H.541\)](#) Sec. 23**
    - Requires the Department to develop and implement a program of outreach and education for the technology sector to focus on:
      - The current sales tax exemption for prewritten software accessed remotely;
      - Industry responsibilities under current law; and,
      - A possible repeal of the exemption.
- 

## Tax Credits

- **Affordable Housing Tax Credits and Down Payment Assistance, [Act 71 \(H.541\)](#) Sec. 3**
    - Expands the cap on the Affordable Housing Tax Credit and the First Time Homebuyer Tax Credit by \$125,000 each.
    - Effective June 18, 2019.
  - **Downtown Tax Credit Program, [Act 71 \(H.541\)](#) Sec. 4**
    - Expands the cap on the Downtown and Village Center Tax Credit Program from \$2.4 million to \$2.6 million.
    - Effective July 1, 2019.
-