

## 2021 Legislative Highlights

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### Administrative Changes

#### Payment methods accepted by the Department of Taxes, [Act 73 \(H.436\) Sec. 4-8](#)

- Clarifies several statutory references to payments accepted by the Department.
- Defines circumstances under which the Commissioner may require that payment be made by electronic transfer.
- Effective July 1, 2021.

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### Annual Link to Federal Tax Statutes

#### Annual Link Up to Federal Tax Statutes, [Act 73 \(H.436\) Sec. 23-25](#)

- Sec. 23 updates the date of conformity of Vermont income tax laws to federal statutes in effect on March 31, 2021, capturing the [American Rescue Plan Act](#) changes applicable to tax year 2021.
- Sec. 24 clarifies that Vermont conformity to federal statutes regarding estate and gift taxes in effect on December 31, 2020, will continue to be the law until amended.
- Sec. 25 repeals legislation passed in Act 9 (2021) Sec. 23c which would have included payroll protection program (PPP) loans forgiven in 2021 as taxable income, had the Vermont legislature chosen not to act otherwise. As a result, forgiven PPP loans are not taxable in Vermont.

#### Early session COVID-19 relief, annual link up, and other now-repealed link up legislation, [Act 9 \(H.315\)](#)

- Enacted on April 17, 2021, without signature by Governor Phil Scott, most sections of this bill pertain to COVID-19 relief and appropriations made in anticipation of federal funds provided for in the American Rescue Plan Act of 2021 (ARPA), enacted March 11, 2021.
- Sec. 23 links Vermont's income tax laws for tax year 2020 with federal income tax laws through December 31, 2020.
- Sec. 23b links up to federal income tax laws passed on March 11, 2021, in the American Rescue Plan Act, excluding the first \$10,200 of unemployment compensation benefits received by a taxpayer from Vermont taxable income for those whose 2020 modified adjusted gross income was less than \$150,000.
  - Clarifies that the definition of household income includes all unemployment compensation received in tax year 2020, including the first \$10,200 of benefits received.
  - Effective retroactive to January 1, 2021, and applicable to tax years beginning on or after January 1, 2020.

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## Meals and Rooms Tax

### Meal delivery platforms, [Act 73 \(H.436\) Sec. 1](#)

- Defines “Taxable meal facilitator” as an entity that “facilitates the sale and collects the charge for a taxable meal or alcoholic beverage through an Internet transaction or any other means.”
- Includes “taxable meal facilitators” under the definition of “operator,” making them liable for collection and remittance of meals tax.
- Clarifies that the Meals Tax is applied when a meal delivery platform delivers meals to consumers, and to any delivery or other facilitator charge.
- Effective August 1, 2021.

### Alcoholic Beverages, [Act 73 \(H.436\) Sec. 2](#)

- Amends definitions of taxable meal and alcoholic beverages to exempt alcoholic beverages from tax when sold under the same circumstances where food or beverage is exempt.
- Effective retroactively to April 1, 2021.

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## Miscellaneous Tax Changes

### Fiscal Year 2022 Workers Compensation contribution rates, [Act 73 \(H.436\) Sec. 16](#)

- The FY22 rate of contribution is unchanged from the FY21 rate:
  - 1.4% for workers’ compensation insurance premiums; and
  - 1% for self-insured workers’ compensation losses.

### Health care sunset extensions, [Act 73 \(H.436\) Sec. 13-14](#)

- Extends home health agency assessment sunset from July 1, 2021 to July 1, 2023.
- Extends allocation of health care claims tax revenues to Health IT-Fund sunset from July 1, 2021 to July 1, 2023.
- Effective July 1, 2021.

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## Municipalities

### TIF districts, [Act 73 \(H.436\) Sec. 26](#)

- Changes the audit schedule for Burlington Waterfront TIF District.
  - The first audit shall be conducted on or after October 1, 2021.
- Extends the periods for specific existing TIF districts to incur indebtedness by 1 year.

## **Town Clerk recording fees, [Act 73 \(H.436\) Sec. 12](#)**

- The fees and costs regarding the warrant and levy for delinquent taxes have been amended as follows:
  - The recording fee for a levy and extending of warrant in the town clerk's office has increased to \$15.
  - The fee for recording the return in the town clerk's office has increased to \$15 per page.
  - The fee for recording a collector's deed has decreased to \$15 per page.
- Effective July 1, 2021.

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## **Property Tax**

### **Property Tax Credit Claim form, [Act 73 \(H.436\) Sec. 3](#)**

- Allows claimants to amend certain lines of their Property Tax Credit claim form, including:
  - housesite value,
  - housesite education tax,
  - housesite municipal tax, and
  - ownership percentage.
- Effective July 1, 2021.

### **Property Tax exemption to support broadband development, [Act 71 \(H.360\) Sec. 12-13](#)**

- Provides an exemption for real and personal property, except land, owned by an electric distribution utility that comprises broadband infrastructure provided the infrastructure:
  - is leased to a Communications Union District (CUD) or an Internet Service Provider (ISP) working with a CUD;
  - is primarily for the purpose of providing broadband capable of speeds of at least 100 Mbps symmetrical;
  - is constructed on or after July 1, 2021.
- Effective July 1, 2021.

### **Energy storage facilities, [Act 54 \(H.431\)](#)**

- Clarifies taxation of energy storage facilities.
- Sec. 3 clarifies that the term "development" does not include the construction of energy storage facilities.
- Sec. 5 defines "energy storage facility" as a stationary device or system that captures and stores energy produced elsewhere, delivering that energy as electricity to the grid (customers) for use at a future time.
- Secs. 16-20 clarify tax treatment of energy storage facilities under the Uniform Capacity Tax, the education property tax, and municipal property tax.
  - For the purposes of the Uniform Capacity Tax, energy storage facilities having a plant energy rating of 600 kWh or larger, and which are not connected to a renewable energy

plant (e.g., solar), shall be assessed \$0.50 per kWh of plant rating, paid annually to the Department of Taxes.

- Energy storage facilities with an energy rating of less than 600 kWh shall be exempt from the Uniform Capacity Tax.
- The existence of an energy storage facility taxed under the Uniform Capacity Tax shall not alter the existing method of taxation applicable to the land underlying the facility.
- Buildings and fixtures of energy storage facilities that are subject to Uniform Capacity Tax are not subject to Education Property Tax. The law accomplishes this by excluding energy storage facilities subject to UCT from the definition of “nonhomestead property” in the Education Property Tax chapter of title 32.
- For the purposes of municipal property taxes, real and personal property comprising an energy storage facility with a plant energy rating of less than 600 kWh, not including the underlying land, shall be exempt.
- For the purposes of municipal property taxes, real and personal property comprising an energy storage facility with a plant energy rating of less than 600 kWh, not including the underlying land, shall be exempt.
- Except for the underlying land and other property that is exempt, for municipal property taxes the appraisal value of real and personal property comprising an energy storage facility shall be \$0.25 per kWh of plant energy rating.
- Effective July 1, 2021.

#### **Setting the yield for Education Property Tax, [Act 73 \(H.436\) Sec. 17](#)**

- Establishes the statewide education property tax yields and nonhomestead rate for fiscal year 2022.
  - property dollar equivalent yield: \$11,317
  - income dollar equivalent yield: \$13,770
  - nonhomestead rate: \$1.612
- Effective July 1, 2021.

#### **Moratorium on Excess Spending Penalty, [Act 59 \(S.13\)](#)**

- Sec. 5 temporarily suspends the excess spending penalty and instructs that calculations to determine a school district’s education property tax rate, for fiscal years 2022 and 2023, shall be made without regard to a district’s “excess spending.”

#### **Capital project costs excluded from Education Excess Spending Penalty, [Act 73 \(H.436\) Sec. 18](#)**

- Adds an exclusion from the excess spending penalty calculation for capital project costs when such project costs have been granted preliminary approval.
- Effective July 1, 2021.

#### **Correcting for declining enrollments, [Act 73 \(H.436\) Sec. 19](#)**

- For the purposes of determining a school district’s weighted membership, expands the 3.5% limit on pupil count decline (“hold harmless”) to all districts.

- Effective on passage.

### **Small School Grants, [Act 73 \(H.436\) Sec. 20](#)**

- Allows a school district that received a Small Schools Grant in Fiscal Year 2020 to continue to receive an annual Small Schools Grant under certain conditions:
  - Payment of the Small Schools Grant shall be discontinued in the fiscal year following the cessation of operations of the school that made the district eligible for the small school grant.
  - If the building that houses the school that made the district eligible for the Small Schools Grant is consolidated with another school into a new or renovated building, then the district shall continue to be eligible during the repayment term of any related bonded indebtedness.
- Effective on passage.

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## **Sales and Use Tax**

### **Electric bicycles, [Act 40 \(S.66\) Sec. 3](#)**

- Clarifies that an “electric bicycle” as defined is not a motor vehicle and shall be governed under Vermont law as a bicycle, including that electric bicycles shall be subject to Sales and Use Tax, not Purchase and Use Tax.
- Effective July 1, 2021.

### **Feminine hygiene products, [Act 73 \(H.436\) Sec. 11a](#)**

- Exempts feminine hygiene products used in connection with the human menstrual cycle from Sales and Use Tax.
- Effective July 1, 2021.

### **Wood pellets sold at retail for residential use, [Act 73 \(H.436\) Sec. 11a](#)**

- Clarifies that wood pellets sold to an individual on a vendor’s premises or delivered to a residence shall be presumed to be purchased for residential use and shall be exempt from Sales and Use Tax.
  - Clarifies that a certificate of exemption shall not be required for exempt retail sales of wood pellets to an individual.
- Effective July 1, 2021.

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## **Studies and Outreach**

### **Report: Appraising high-value or unique commercial properties, [Act \(H.436\) Sec. 21](#)**

- The Department shall provide a report to the General Assembly, by January 15, 2022, which proposes ways to assist towns with appraising high-value or unique commercial properties owned by utilities.
- This report shall be prepared in consultation with Vermont League of Cities and Towns (VLCT).

**Report: Options to collect and report data annually regarding secondary residences, [Act 73 \(H.436\) Sec. 22](#)**

- The Department shall provide a report to the General Assembly, by January 15, 2022, regarding options for annual collection and reporting of data relative to the number and grand list value of secondary residences within this State.
- This report shall be prepared in consultation with VLCT and the Vermont Municipal Clerks and Treasurers Association.

**Providing technical assistance to Task Force studying implementation of Pupil Weighting Factors Report, [Act 59 \(S.13\)](#)**

- Sec. 2 creates a Task Force to develop and recommend an action plan, including proposed legislative changes, to implement the Pupil Weighting Factors Report of 2019.
  - The goal of this action plan is to ensure that all public school students have equitable access to education opportunities.
  - The Task Force shall be comprised of legislators.
  - Among other things, the Task Force shall consider and recommend ways to mitigate the impacts on residential property tax rates as well as tax equity between school districts and shall make recommendations regarding use of the excess spending threshold.
  - The Department of Taxes and other entities shall provide technical assistance to the Task Force.
  - The Report shall be submitted to the Education and Finance committees of both Chambers (House and Senate) by December 15, 2021.
- Sec. 3 states that the Task Force shall oversee the creation and use of a simulator that will allow users to model the impact of proposed changes in weights on all school district tax rates.
- Sec. 4 requires that the General Assembly consider the Task Force’s action plan and proposed legislation during the second year of the 2021-2022 biennium with the intention of passing legislation during this biennium that implements changes to how education is funded in Vermont, and that ensures that all public school students have equitable access to educational opportunities.
- Effective upon passage.

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**Use Value Appraisals (Current Use Program)**

**Eligibility for Current Use, [Act 43 \(H.88\) Sec. 1](#)**

- In the event that a Current Use enrollee fails to certify eligibility on or before November 1 of every year, the Commissioner of Taxes may, based on other means of determining eligibility, waive the certification requirement.
- To maintain eligibility for enrollment in the Current Use program, an applicant or existing beneficiary must be in good standing with the Department of Taxes.
- Effective July 1, 2021.

**Development, with respect to small solar installations, [Act 43 \(H.88\) Sec. 2](#)**

- The installation of a solar generation facility on land that is, in the aggregate, located on 0.1 acre or less, and which land otherwise qualifies for Current Use as agricultural land or open land (the latter of which shall qualify as managed forestland as per the Commissioner of Forest, Park and Recreation), shall not be considered development for the purposes of disqualification from Current Use.
- Effective July 1, 2021.

**Application for Current Use, approval of form, [Act 43 \(H.88\) Sec. 3](#)**

- The form used for annual Current Use eligibility by current enrollees or new applicants shall be determined by the Director of the Division of Property Valuation and Review, Department of Taxes, and shall not require approval by any other entity.
  - Effective July 1, 2021.
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