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Agency of Administration

2022 LEGISLATIVE HIGHLIGHTS

ADMINISTRATIVE AND TECHNICAL TAX CHANGES

Technical and administrative changes to Vermont's tax laws, [Act 179 \(H.738\)](#)

Referred to as the "Miscellaneous Tax Bill," this Act amends multiple sections of statute which pertain, mostly, to taxation.

- Clarifies that the property transfer tax applies to enhanced life estate deeds in the same way as conventional life estate deeds, clarifies the valuation calculation, and provides for refunding in the case of revocation or revision.
- Clarifies penalty provisions and filing due dates for estimated tax payments.
- Amends the fund name for the Children's Trust Fund, and changes the recipient of donations, checked on the Vermont Form IN-111, to the Vermont Children's Trust Foundation.
- Creates a new reporting requirement and mechanism for partnerships to amend their Vermont tax returns after a federal audit or adjustment.
- Clarifies that the valuation of land underlying certain renewable energy plants or energy storage facilities is the same for municipal and education property taxes.
- Expands the sales and use tax exemption for manufacturing machinery and equipment. (See details under Sales and Use Tax, below.)
- Provides that Vermont 529 plans can be used for student loan repayment for approved post-secondary education institutions.

Conformity to federal tax laws, [Act 148 \(S.53\)](#), Sec. 7-8

Among other things (see Corporate Taxes, below), Act 148 enables Vermont to adopt federal tax laws, basing the Vermont tax code on Federal law.

- Effective retroactively to January 1, 2022, and applicable to taxable years beginning on or after January 1, 2022.



CORPORATE TAXES

Corporate tax reform, [Act 148 \(S.53\)](#)

Act 148 represents a significant shift in Vermont's taxation of corporations. It comprises four elements that change the way multi-state companies apportion income to Vermont and restructures the corporate minimum tax.

- The four elements of this corporate tax reform package include:
 - Move to Single Sales Factor
 - Moving from a three-factor apportionment formula (sales/property/payroll) to a method that only considers the share of sales in the state.
 - Repeal Throwback Rule
 - A taxpayer's Vermont sales factor no longer includes sales originating in Vermont to the federal government or to a state where those sales are not taxable.
 - Move from Joyce to Finnigan
 - "Joyce" and "Finnigan" represent two different jurisdictional methods to determine nexus and the calculation of in-state activity of unitary groups.
 - The Finnigan approach looks at the unitary group as a whole and treats the group as one taxpayer – either having nexus with the state or not.
 - Repeal Carve Out for 80/20 Companies.
 - Requires all US corporations to be included in a unitary group, a base broadening and modernization policy.
- This Act also includes:
 - Adjustments to Vermont Corporate Minimum Tax
 - Current law has three tiers for minimum corporate income taxes: \$300, \$500, or \$750. This Act creates five tiers: \$100, \$500, \$2,000, \$6,000, or \$100,000. The \$100,000 minimum applies to companies with more than \$300,000,000 in Vermont gross receipts.
- All corporate income tax changes are effective January 1, 2023.

Investment Companies, [Act 138 \(H.510\), Sec. 12](#)

Sec. 12 of Act 138 changes the annual renewal fee paid by investment companies doing business in Vermont.



- Increases annual renewal fee paid by investment companies from \$1,500 to \$1,650.
- Effective July 1, 2022.

MALT AND VINOUS TAX

Alcoholic beverages and the Department of Liquor and Lottery, [Act 177 \(H.730\)](#)

Act 177 defines and creates rules regarding taxation of both ready-to-drink spirit beverages (RTDs) and hard ciders.

- Regarding RTDs:
 - RTDs are defined, loosely, as an alcoholic beverage containing more than 1 percent but less than 12 percent alcohol by volume (ABV), and which may also contain non-alcoholic liquid and other additives.
 - See language in statute for a more complete definition.
 - RTDs shall be taxed at a rate of \$1.10 per gallon under Malt and Vinous Tax (formerly taxed as a spirit under Department of Liquor and Lottery's liquor tax).
 - RTDs shall not be packaged in containers holding greater than 24 fluid ounces.
 - Other restrictions and allowances regarding sale under special circumstances are specified in statute.
 - Such taxes shall be collected and paid by the packager or wholesaler dealer to the Commissioner of Taxes.
 - Effective beginning July 1, 2022.
- Regarding cider:
 - Cider is defined, loosely, as a beverage made from fermented apples or pears, and includes sweetener, flavoring, or carbonation, containing between 1 and 16 percent ABV.
 - See language in statute for a more complete definition.
 - The tax rates on cider shall be bifurcated:
 - Ciders containing more than 1 percent ABV but less than 7 percent ABV shall be subject to a tax of 26.5 cents per gallon.
 - Ciders containing more than 7 percent ABV shall be subject to a tax of 55 cents per gallon.
 - Such taxes shall be collected and paid by the packager or wholesale dealer to the Commissioner of Taxes.
 - Effective July 1, 2023.

MUNICIPALITIES

Municipal retention of property tax collections and creation of the State Appraisal and Litigation Assistance program, [Act 163 \(S.261\)](#)



This Act clarifies the current practice to allow municipalities to retain 0.225 of one percent of the property tax collected when making timely education property tax payments to the Education Fund or to school districts. It also looks to create a new State Appraisal and Litigation Assistance program within the Department of Taxes, Division of Property Valuation and Review (PVR). The latter is intended to aid in valuation of complex or unusual properties.

- This bill increases the cap on reimbursements to towns from the Education Fund related to property valuation appeals to \$1M, to be prorated amongst towns as necessary.
 - Effective January 1, 2023.
- Proposes to create a State Appraisal and Litigation Assistance program administered by PVR, as recommended by the Tax Structure Commission.
 - The Tax Commissioner needs to report on program cost to the legislature in January of 2023. (See Reports and Committees, below)
 - Contingently effective July 1, 2023 (assuming legislature funds the program).
- Permits PVR Director to refer complex property valuation appeals directly to Superior Court.
- Requires a report by the Department of Taxes proposing options for addressing the complexities of valuation of time share projects in Vermont. (See Reports and Committees, below)
 - Due January 15, 2023.

City of Montpelier, tax increment financing district, [Act 179 \(H.738\)](#), Sec. 26

- Allows the City of Montpelier to reset the original taxable value of its tax increment financing (TIF) district.

City of Barre charter changes, [Act M-15 \(H.444\)](#), Sec. 2

Sec. 2 of this Act approves a charter change for Barre City, adding a 1% Local Option Tax for sales to the existing Local Option Taxes for rooms, meals, and alcoholic beverages.

- Revenues from such Local Option Taxes shall be used for limited purposes.
- Effective May 24, 2022.
 - Collection to begin October 1, 2022.

Town of Montgomery charter changes, [Act M-18 \(H.745\)](#)

Amends the town charter to include a 1% Local Option Tax on sales, meals, rooms, and alcohol sales.



- To be used for a specific purpose: wastewater system.
- Expires 90 days after payment in full of the bond issued for the specific purpose.
- Effective June 7, 2022.
 - Collection to begin October 1, 2022.

Creation of the City of Essex Junction and the adoption of the city charter, [Act M-10 \(H.491\)](#)

Act M-10 creates the City of Essex Junction and approves the adoption of the City Charter.

- It also:
 - Provides for the transition of the Village of Essex Junction to the City of Essex Junction, including the City’s contribution to consolidated services with the Town of Essex.
 - Repeals the charter of the Village of Essex Junction.
- Effective July 1, 2022.

PERSONAL INCOME TAX

Tax reductions and other aid for Vermonters, [Act 138 \(H.510\)](#)

Act 138 provides tax and other financial relief to Vermont families with young children or dependents or both via a refundable Vermont Child Tax Credit and an increase to the Vermont percentage of the federal Child and Dependent Care Credit, as well as support to lower income Vermonters with earned income via an increase to the Vermont percentage of the federal Earned Income Tax Credit. Other provisions of this bill create a deduction for interest paid on student loans, provide income exclusions for Social Security beneficiaries as well as military and civil service retirees, and allocates money to support childcare worker retention and the Aid to the Aged, Blind, and Disabled program.

- Sec. 1, Child Tax Credit:
 - Provides a \$1000 credit per eligible child.
 - Eligible children are five years of age or younger.
 - Credit is [refundable](#).
 - Phase-out begins (for both single and joint filers) at \$125,000 of Adjusted Gross Income (AGI).
 - \$20 reduction in credit per \$1,000 of AGI over the threshold.
 - Completely phases out at \$175,000 of AGI.
- Secs. 2 and 3, Child and Dependent Care Tax Credit (CDCC):
 - Increases the Vermont credit to 72% of federal CDCC and makes it fully refundable for claimants.



- Sec. 4, Earned Income Tax Credit (EITC):
 - Increases the Vermont credit to 38% of federal EITC.
- Sec. 5, Student Loan Interest Deduction:
 - Creates a Vermont deduction for all interest paid on student loans.
 - Taxpayers whose AGI is \$120,000 or less for single filers and \$200,000 or less for married filers are eligible.
- Secs. 6 and 7, Retirement Income Exclusions:
 - Increases income eligibility thresholds for Social Security benefits exclusion by \$5,000.
 - Single taxpayers with AGI below \$50,000 and joint filers with AGI below \$65,000 receive a full exclusion.
 - Creates new exclusions for the first \$10,000 of retirement income from military, Civil Service Retirement System (CSRS), or other eligible retirement systems not covered by Social Security.
 - Subject to the same income thresholds as Social Security benefits.
 - Requires a taxpayer to elect only one such exclusion per taxable year.
- Sec. 9, Affordable Housing Tax Credit for Manufactured Homes:
 - Increases the amount available for affordable housing tax credits used for manufactured home purchase and replacement by \$250,000 per year.
 - Effective July 1, 2022.
- Sec. 13, Effective Dates:
 - Secs. 1–8 (income tax credits, deductions, and exclusions) take effect retroactively on January 1, 2022, and apply to taxable years beginning on and after January 1, 2022.

PROPERTY TAX

Setting the Education Property Tax yield, [Act 178 \(H.737\)](#)

Referred to as the “Yield Bill,” this Act sets the property dollar and income dollar equivalent yields for the purpose of setting the homestead property tax rates and the nonhomestead property tax rate. It also sets aside funds intended to make Vermont schools environmentally safer for students via removal of polychlorinated biphenyls (PCBs).

- This Act uses \$20,000,000 the Fiscal Year 2022 Education Fund surplus to reduce property tax rates.
- Secs. 2-3 reserve \$22,000,000 for PCB testing, assessment, and mitigation in schools.

Exempting property owned by Vermont-recognized native American tribes from property tax, [Act 90 \(H.556\)](#)



Act 90 exempts all property owned by Vermont-recognized Native American tribes or owned by a nonprofit organization that is organized for the benefit of and controlled by the tribes from the statewide education property tax and the municipal property tax. To be eligible for the exemption, the property must be used for purposes of the tribe and may not be leased or rented for profit.

- Tribes must be recognized pursuant to 1 V.S.A. chapter 23.
- Effective July 1, 2022.

Excluding the income of asylum seekers and refugees from household income, [Act 96 \(H.461\)](#)

Households in Vermont may volunteer to host families or individuals who are refugees, asylum seekers, or asylees on a temporary basis, and from whom they often receive little or no remuneration. This bill amends the definition of household for the purposes of the homestead Property Tax Credit, for which a taxpayer is required to complete the Household Income Form HI-144, excluding the income of such individuals from the calculation of income that the household is required to report.

- Effective January 1, 2021, and applicable to household members in residence on or after January 1, 2022.

Improving student equity by adjusting the school funding formula, [Act 127 \(S.287\)](#)

Act 127 makes changes to Vermont's education financing system by adjusting and/or adding differing pupil weights for grade levels, students from economically-deprived backgrounds, English learners, low population density districts, and small schools. It also establishes categorical aid of \$25,000 each for school districts with one to five English Learning (EL) students enrolled, and categorical aid of \$50,000 for school districts with six to 25 EL students enrolled. Changes to these weights are made effective for FY 2025. Because these updated weights will impact schools' tax rates differently, there is a transition provision that limits a district's tax rate annual increase to five percent over a maximum of five years.

- Updates pupil weights and limits, the degree to which homestead property tax rates can increase over fiscal years 2025–2029.
- Suspends the excess spending penalty during fiscal years 2024–2029, and the hold harmless provision and ballot language requirements during fiscal years 2025–2029.
- Requires the Agency of Education to implement the universal income declaration form for the 2023–24 school year.
- Sets out required English learner services to be offered by school districts and provides categorical aid for English learner services to districts with 25 or fewer English learners.
- Creates new positions at the Agency of Education.



- Amends the education quality standards.
- Requires an evaluation of the act in achieving the act's goals.
- Requires the Joint Fiscal Office to contract for services to review Career and Technical Education (CTE) funding and governance structures.
- Requires the Department of Taxes to make recommendations regarding the implementation of an income-based education tax system to replace the homestead property tax system. (See Reports, below)

SALES AND USE TAX

Sales and Use Tax applied to equipment and machinery used in manufacturing, [Act 179 \(H.738\)](#), Sec. 27

Referred to as the "Miscellaneous Tax Bill," Act 179 amends multiple sections of statute which pertain to taxation, including manufacturing inputs.

- Expands the sales and use tax exemption for manufacturing machinery and equipment and better defines the beginning and end of the manufacturing process.
- Exempts quality assurance, testing equipment, and packaging equipment even if used after the manufacturing process.

Regulating licensed small cannabis cultivation, [Act 158 \(S.188\)](#)

Among other things, this Act pertains to taxation of land and products used in the cultivation of cannabis.

- Sec. 2(f) makes equipment and supplies purchased by small cultivators subject to the same Sales and Use Tax exemptions that hemp cultivators or other agricultural producers receive.
- Sec. 2(f) allows small cannabis cultivators who are already enrolled in the Use Value Appraisal program (also known as the Current Use program) to remain eligible for enrollment, and the change of use to cannabis cultivation shall not constitute "development."
- Secs. 6 and 7 allow licensed cultivators to purchase and sell seeds and immature plants to one another, and licensed wholesalers to sell such products to licensed cultivators.

REPORTS OR COMMITTEES

Reports

Eligibility of reserve forestland for enrollment in the Use Value Appraisal Program, [Act 146 \(H.697\)](#)

This Act requires several reports:

- Sec. 3 requires that the Commissioner of Forests, Parks, and Recreation (FPR), in consultation with the Department of Taxes, submit a report regarding enrollment in the reserve forestland category including standards for management of reserve forestland established by the Commissioner of FPR, and a summary of how land already enrolled in Use Value Appraisal would transition between programs.
 - Report is due on or before December 31, 2022.
- Sec. 3 requires that the Commissioner of Taxes, in consultation with others, submit a report that examines strategies and rates for valuation of enrolled land and makes recommendations to ensure consistency between different categories of enrolled land.
 - Report is due on or before December 31, 2024.
- Sec. 4 requires that the Commissioner of FPR, in consultation with the Department of Taxes, submit a report that summarizes how enrollment of managed forestland has changed since passage of this act, the number of enrollees in the reserve forestland category, the impact of this Act on the managed forestland category, and makes recommendations on promoting long-term enrollment and protections of enrolled land.
 - Report is due on or before January 15, 2023.
- Sec. 5 requires that the Director of Property Valuation and Review include in the division's annual report an assessment of how enrollment in the Use Value Appraisal program has changed since the addition of the reserve forestland category.
 - Report is due on or before January 15, annually.

Valuation of time-share projects and creation of the State Appraisal and Litigation Assistance program, [Act 163 \(S.261\)](#)

Act 163 requires two actions by the Department of Taxes:

- Requires the Department to prepare a report proposing options for addressing the complexities of valuing time-share projects in the State.
 - Report shall be submitted to the legislature by Jan. 15, 2023.
- Instructs the Department to submit a cost estimate regarding the creation of a State Appraisal and Litigation Assistance Program.
 - Cost estimate shall be submitted to the legislature by Jan. 15, 2023.



Corporate tax reform, [Act 148 \(S.53\)](#)

Sec. 6 of Act 148 requires that the Department of Taxes:

- Adopt rules relating to unitary combined reporting (change from Joyce to Finnegan) and report to the legislature on proposed rules and any recommendations for legislation with respect to unitary combined reporting.
- Report is due January 15, 2024.

Improving student equity by adjusting the school funding formula, [Act 127 \(S.287\)](#)

Sec. 18:

- Requires the Department of Taxes, in consultation with the Agency of Education and the Joint Fiscal Office, to make recommendations regarding the implementation of an income-based education tax system to replace the homestead property tax system.
- Report is due January 1, 2023.

Sec. 19:

- Requires the Joint Fiscal Office, in collaboration with the Department of Taxes and the Agency of Education, to examine and provide options regarding:
 - Methods of cost containment that create equity in school districts' ability to spend sufficiently on education.
 - The mechanics for setting the yields in a manner so as to create adequate funding to meet student needs.
 - Funding school districts equitably.
- Report is due January 15, 2023.

Committees

Miscellaneous changes to education law, [Act 175 \(H.716\)](#), Sec. 5

This Act creates an income-based education tax study committee, which requires the assistance of the Department of Taxes, though the Department is not officially a member of the committee.

- Committee comprises three members of the House of Representative and three members of the Senate.
- Committee shall meet between July 15 and December 31, 2022.
- The Department of Taxes shall provide administrative, technical, and legal assistance as requested by the committee.
- The Committee's report is due to various legislative committees by December 30, 2022.



Sports betting, [Act 183 \(S.11\)](#), Sec. 56

- The Department of Taxes shall designate one representative to be a member of the new Sports Betting Study Committee.
- The committee shall study various models for legalizing, taxing, and regulating sports betting.
- The committee shall report to various legislative committees on or before December 15, 2022.

USE VALUE APPRAISALS (CURRENT USE PROGRAM)

Eligibility of reserve forestland for enrollment in the Use Value Appraisal Program, [Act 146 \(H.697\)](#)

This Act authorizes enrollment of reserve forestland in the Use Value Appraisal Program (UVA) as a new category of managed forestland where active growing and harvesting of forest crops would not be required. The purpose of adding the Reserve Forestland subcategory is to encourage attainment of old growth forest conditions for the purposes of biodiversity and to mitigate the impact of climate change by making additional parcels and acreage eligible for UVA.

- New minimum acceptable standards regarding this subcategory will be established by the Department of Forests, Parks, and Recreation.
- Reserve Forestland shall be eligible for enrollment in Use Value Appraisal, under Managed Forestland, beginning July 1, 2023.