

FORM FIT-161 Instructions

Fiduciary Return of Income

Please print in **BLUE** or **BLACK** ink only.

Please do not staple or bind your return.

You may use binder clips, paper clips, or rubber bands.

General Information

WHO MUST FILE A 2017 VT FIDUCIARY RETURN OF INCOME (Form FIT-161)?

A VT Fiduciary Return of Income must be filed for every estate and trust required to file a U.S. Income Tax Return for Estates and Trusts **AND** that earned or received more than \$100 of VT income **OR** received \$1,000 or more in gross income from the sources listed under VT Portion on Form FIT-166, Part III.

The fiduciary of a grantor trust is required to file with the Department an information return, Form FIT-161, along with a Schedule K-1 VT-F indicating the items of income, deduction, and credits against tax attributable to the trust treated as owned by the grantor/owner and send a copy of the Schedule K-1 VT-F to the grantor/owner, who is required to report the income, deductions, and credits on their individual Vermont income tax return.

A VT Fiduciary Tax Return must be filed for any Section 468B Designated and Qualified Settlement Funds required to file a Federal Form 1120-SF that earned or received more than \$100 of VT income **OR** that earned or received \$1,000 or more in gross income from the sources listed under VT Portion on Form FIT-166, Part III.

A VT Fiduciary Tax Return must also be filed for an Electing Small Business Trust required to file a Federal 1041.

A VT Fiduciary Tax Return filer may be entitled to certain State incentives or credits.

If you have any questions, contact the VT Department of Taxes at (802) 828-6820.

NOTE: Use VT Income Tax Form IN-111, not this form, to report income of a decedent from the beginning of the tax year to the date of death.

DEFINITIONS

Resident Estate

means the estate of a decedent who was domiciled in Vermont at the time of death.

VT Income of a Resident Estate or Trust

means the adjusted gross income of a resident less income exempted from state taxation under the laws of the United States.

VT Income of a Nonresident Estate or Trust

means the sum of the following items, to the extent the items are required to be included in Federal adjusted gross income:

- Rents and royalties from ownership of property located in VT
- Gains from the sale or exchange of VT property including the sale of timber or timber rights
- Wages, salaries, commissions or other income received for services performed in VT
- Income from every business, trade, profession or occupation conducted in VT, including money received **(1)** under an agreement not to compete with a business operation in VT, **(2)** for goodwill associated with the sale of a VT business, or **(3)** for contractual services associated with the sale of a VT business, unless it is shown that the compensation for services does not constitute income from the sale of the business
- VT income previously deferred under a non-qualified deferred compensation plan and income derived from such previously deferred income
- Examples of other income: gambling winnings including lotteries, raffles or a lump-sum payment from the sale of a right to receive a future lottery annuity.

VT Income of Part-Year Resident Estate or Trust

means any income described in VT Income of a Nonresident Estate or Trust and all items earned or received during the period of VT residency described in VT Income of a Resident Estate or Trust.

VT Taxable Income

means Federal taxable income with **(1)** the addition of interest, dividends or other distributions from non-VT state and local obligations to the extent this income is excluded from Federal adjusted gross income; the capital gain deferral in a previous year for investment in a qualified business upon disposition of the taxpayer's interest in the business; the difference between depreciation using standard MACRS on assets qualified for 2017 Federal bonus depreciation and the reported Federal depreciation on those qualified assets as a result of VT disallowance of the bonus depreciation; state and local income taxes deducted on Form 1041, Line 11 with **(2)** the subtraction of interest income from U.S. government obligations to the extent such income is included in Federal adjusted gross income; capital gains exclusion; and as a result of VT disallowance of the bonus depreciation, the difference between depreciation using standard MACRS on assets qualified for prior year Federal bonus depreciation and the reported Federal depreciation on those qualified assets.

VT Trust A trust is a VT trust if the settlor was a VT resident when the trust became irrevocable; or, if the trust is still revocable and the settlor was a VT resident when the trust was created. Also, a trust is a VT trust if the settlor was domiciled in VT at his/her death.

EXTENSION TO FILE THE VT FIDUCIARY TAX RETURN

To receive a five-and-a-half-month extension of time to file the fiduciary tax return, file the Application for Extension of Time to File Vermont Fiduciary Tax Return (Form FIT-168) requesting an extension of time on or before the due date. **NOTE:** An extension of time to file the Vermont Fiduciary Tax Return does not extend the due date for the tax payment. Interest and penalty accrue on any tax owed from the due date to receipt of payment.

LATE-FILED RETURNS

Returns without an extension of time may be filed up to 60 days after the due date without a late file penalty charge. Returns without an extension filed on the 61st day after the due date or later will be charged a \$50 late file penalty. Returns with an extension filed on or before the extended due date are not charged a late file penalty. However, returns with an extension filed one or more days after the extended due date are charged a \$50 late file penalty. **NOTE:** The late file penalty applies even if the return results in a refund or no tax due.

TAX DUE

Returns with tax due that are filed after the due date are assessed interest and late payment penalty charges on the unpaid tax.

AMENDING OR CORRECTING VT FIDUCIARY TAX RETURN INFORMATION

VT law requires an amended VT return be filed within 60 days of knowledge of the change, or receipt of the notice of change by IRS, or the filing of an amended return with the IRS. A late file penalty will be assessed if the amended VT return is not filed within the 60 days.

- **Change to VT income** An amended return is due even if the change is not the result of filing an amended Federal tax return or an adjustment made by the Internal Revenue Service; for example, the amount of income taxable to VT is different from the amount originally reported. The amended return must be filed within 3 years of the due date of the return, including extensions.
- **Change of Federal tax information by IRS** If the IRS adjusted the Federal taxable income, capital gains amount or any other change that affects the VT tax, an amended VT Fiduciary tax return must be filed within 60 days of notification by the IRS, even if this is past the 3-year limit. Attach a copy of all Federal forms showing changes to the VT amended return. The IRS and VT Department of Taxes routinely share information. Differences in the information on file with the IRS and the VT Department of Taxes, other than those allowed by VT law, are identified and may be audited.
- **Filing an Amended Federal tax return** Filing an amended VT return is required within 60 days of filing an amended return with the Internal Revenue Service if VT income is affected.

FORM FOR AMENDING VT FIDUCIARY TAX RETURN

Check the Amended box in the upper mid-section on the applicable tax year(s) Form FIT-161.

NET OPERATING LOSSES

No VT refund is available for a carryback. The VT carryback or carryforward election for a net operating loss must be the same as elected for Federal purposes.

Line-by-Line Instructions

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| Line 1 | Enter the taxable income amount from Federal Form 1041, Line 22. For Qualified Settlement Funds, enter the amount from Federal Form 1120-SF. |
| Line 2a | Enter the calculation of Non-VT State & Local Obligations from Form FIT-166, Part I. For nonresident taxpayers, use Form FIT-166, Part II, Line 8 to adjust for Non-VT State and Local Obligations. |
| Line 2b | Federal Bonus Depreciation VT does not recognize the bonus depreciation allowed under Federal law for 2017. Enter the difference between the depreciation calculated by standard MACRS methods and the depreciation calculated using the Federal bonus depreciation for assets placed in service in 2017. Go to www.tax.vermont.gov "Publications" to see Technical Bulletin 44 for information on calculating the amount to add back to taxable income. |
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Line 2c	State and Local Income Taxes Enter the amount of state and local income taxes which are included on Federal Form 1041, Line 11, that are not calculated in DNI.
Line 4a	<p>Interest Income from U.S. Obligations Interest income from U.S. government obligations (such as U.S. Treasury Bonds, Bills, and Notes) is exempt from VT tax under the laws of the United States. Enter the amount of interest income from U.S. Obligations on this line.</p> <p>Interest income is exempt when received directly from the U.S. Treasury or from a trust, partnership, or mutual fund that invests in direct obligations of the U.S. government.</p> <p>Income from the sale of U.S. government obligations is taxable in VT. Income from repurchase agreements, securities of FNMA, FHMC or GNMA or other investments that are not direct obligations of the U.S. government are also taxable. See Technical Bulletin 24 for more information.</p> <p><u>Supporting Documentation Required</u> No attachment to return required. However, obtain statements for the taxpayer's records in the event the Department requests such documentation.</p> <p>Acceptable statements need to show the sources of U.S. government interest income and the percentage from each source. Summary information from a K-1, or just a statement "U.S. government securities" without further identification is not acceptable.</p> <p>NOTE: If U.S. interest is distributed on Line 18 of the Federal 1041, the deduction is lost.</p>
Line 4b	Capital Gains Exclusion See Schedule FIT-162 and instructions to calculate the capital gains exclusion for 2017. See Technical Bulletin 60 on our website under "Publications". Schedule FIT-162 is not included here. It may be downloaded at www.tax.vermont.gov in the "Forms" section, or mailed to you by calling (802) 828-2515.
Line 4c	Adjustment for Bonus Depreciation on Prior Year Property Enter the difference between the depreciation calculated by standard MACRS methods and the depreciation calculated at the Federal level. For information on calculating the amount that can be subtracted from taxable income, see Technical Bulletin 44.
Line 5	Subtract Line 4d from Line 3. This is the VT taxable income.
Line 6	Using the tax rate schedule on page 2 of the FIT-161, compute the tax on the VT taxable income and enter the tax here.
Line 7	Additions to VT tax from Form FIT-166, Line 1c enter here.
Line 8	Subtractions from VT tax from Form FIT-166, Line 2d enter here.
Line 10	Most taxpayers should enter 100% on this line. However, a nonresident or part-year resident estate or trust should first complete Form FIT-166, Part III to determine the income adjustment.
Line 12	Credit for Income Tax Paid to Other State or Canadian Province (FOR FULL-YEAR AND SOME PART-YEAR RESIDENT ESTATES & TRUSTS) Complete Form FIT-167 and enter the amount here.
Line 14a	From 1099. Enter the amount of VT income tax withheld. Attach the copy of the 1099 or other payment statement(s) to verify the amount.
Line 14b	Estimated payments are required to be made for trusts and estates beginning for tax year 2016. The rules are the same as for individual estimates. Use Form FIT-165 to make your estimated payments.
Line 14c	<p>From Form RW-171, VT Real Estate Withholding. If VT real estate was sold during the year and the buyer withheld VT income tax from the sales price, enter the amount withheld shown on Form RW-171, Vermont Withholding Tax Return for Transfer of Real Property, Schedule A, Line 12 here less any amounts allocated to beneficiaries via Sch. K-1VT-F.</p> <p><u>Installment sales</u> - for information on installment sales, go to www.tax.vermont.gov under "Publications" see Technical Bulletin 10.</p>

Line 14d **Estimated Payments Made on Behalf of a Trust or Estate by a Business Entity for Nonresident Beneficiary.** NONRESIDENTS enter the estimated income tax payments made on behalf of the Trust or Estate by a partnership, limited liability company, or S corporation toward the annual VT Fiduciary income tax **less** any amounts allocated to beneficiaries via Sch. K-1 VT-F. The entity would have made these payments on Form WH-435. See Technical Bulletin 6.

Contacting the Department

Mail: VT Department of Taxes
 PO Box 1700
 Montpelier, VT 05601-1700

Phone: (866) 828-2865 (toll-free in VT)

Phone: (802) 828-6820 (local and out-of-state)

Fax: (802) 828-2720

E-mail: tax.estate@vermont.gov