

The Land Gains Certificate

Three Options for Filing Land Gains Tax

Vermont's Land Gains Tax is a tax on the sale or exchange of subdivided land in Vermont which is held for fewer than six years. The tax rate is proportional to the percentage of gain and inversely proportional to the time the land was held. In other words, the longer the land is held, the lower the tax rate. If a higher profit is made on the transaction, then the tax rate is also higher. The instructions for Form LGT-178, the Vermont Land Gains Tax Return, include a full rate schedule.

In some cases, transfers of land are exempt from the land gains tax that includes land transferred in a downtown district, a village center, growth center, or new town center development. A formal request, called a Land Gains Commissioner's Certificate Request, can be made by the buyer or the seller, but is not required. The certificate does not take the place of filing the Land Gains Tax Returns. Instead, it provides an early indication of the tax amount that is due, which may be \$0 in some cases. The Vermont Department of Taxes always reviews certificate requests, and may adjust the tax amount shown on the certificate.

There are three filing options for the Land Gains Tax, which are outlined in 32 V.S.A. § 10007(a), (b), and (c):

Option 1

At the same time the seller receives compensation for the land—typically at closing—the buyer files [Form LGT-177, the Land Gains Tax Withholding Return \(www.tax.vermont.gov/forms\)](http://www.tax.vermont.gov/forms), and the seller files [Form LGT-178, the Land Gains Tax Return \(www.tax.vermont.gov/forms\)](http://www.tax.vermont.gov/forms), with the Department of Taxes. When an LGT-177 and LGT-178 are filed at the same time, the amount reported on the LGT-178 is due to the Department at the time of filing. The filing and any payment are due to the Department within 30 days of the sale or exchange of land. If there is a discrepancy in the amount due, the buyer is responsible for any additional tax.

Option 2

The buyer files Form LGT-177 with the Department with a withholding payment in the amount equal to 10% of the purchase price of the land. The filing and payment must be sent at the time the seller is paid for the land, typically at closing. Within 30 days, the seller must file Form LGT-178. A buyer who fails to report withholding is personally liable for unpaid land gains tax. If the buyer's withholding payment was greater than the Land Gains Tax due on Form LGT-178, then the seller will include the refund amount due on the LGT-178.

Option 3

If the commissioner's certificate showing the amount of tax due—or that no tax is due—is obtained prior to closing, the buyer is relieved from any liability for tax due from the seller, above that amount shown on the certificate. This tax amount takes the place of the 10% withholding discussed in Option 2. The process and timing of filing returns and payments apply the same way as discussed in Option 1, above. If an audit of the returns finds that additional tax is due, the seller must pay the additional tax. The LGT-177 and LGT-178 must still be filed even if a commissioner's certificate has been issued.

To learn more, visit www.tax.vermont.gov or contact the Taxpayer Services Division at (802) 828-6851 or email tax.rett@vermont.gov.