

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 land in Vermont which is held for less 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 less 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. 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 commissioner's certificates, and may adjust the tax amount on the certificate.

Land Gains Tax Returns must be filed for every sale or transfer of land.

Three Filing Options

There are three filing options for the Land Gains Tax, which are outlined in 32 V.S.A. Chapter 236 § 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, and the seller files Form LGT-178, the Land Gains Tax Return, 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. In this case, the buyer is responsible for any additional tax due.

Option 2

The buyer files Form LGT-177 with the Department with a payment in the amount equal to 10% of the amount paid to the seller, unless the land is exempt from tax. 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. This withholding payment cannot be held for more than 30 days. 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% 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 tax.vermont.gov or contact the Department's Division of Property Valuation and Review at tax.rett@vermont.gov or (802) 828-5860.

Disclaimer: The information provided here is intended to be an overview only. Vermont tax statutes, regulations, Vermont Department of Taxes rulings, or court decisions supersede information presented here.

Iss. 01/2018 • Pub. FS-1155