

FORM LGT-177 Instructions

Vermont Land Gains Withholding Tax Return

Important Information and answers to FAQ's

This form is used by the transferee (buyer) to report withholding for Vermont Land Gains Tax. This withholding can be used as a credit by the transferor (seller) when they report the Land Gains Tax due on Form LGT-178, Land Gains Tax Return.

If the transferor is a nonresident of Vermont on the date of closing, the transferee is also required to report withholding for Vermont Income Tax using Form REW-171, Vermont Withholding Tax Return for Transfer of Real Property.

The transfer of an option is considered a transfer of title to land.

The sale or exchange of shares in a corporation or other entity is also considered a transfer of title to land if it entitles a transferee to use or occupy land.

A promise to purchase land, amounts paid as earnest money, amounts paid in deposit, or escrow to which the transferor has no immediate right are not considered the passing of consideration. In the case of a contract for deed, the date consideration first passes to the transferor under the contract is considered the date of closing.

Who is Required to Withhold Land Gains Tax Payment?

A transferee (buyer) purchasing Vermont property that was held by the transferor (seller) for less than six years must withhold Land Gains Tax Payment. The transferee (buyer) is required to withhold 10% of the purchase price of the land and remit the withholding to the Vermont Department of Taxes at the time any payment is made including partial payments. A transferee (buyer) who fails to report the withholding is personally liable for unpaid land gains tax. The transferee must pay up to 10% of the purchase price of the land plus statutory interest and penalty, unless one or more of the following circumstances apply to their transfer:

1. The transferee (buyer) and transferor (seller) simultaneously file Form LGT-177 and Form LGT-178, and the transferor (seller) pays the full amount of land gains tax due as shown on Form LGT-178. Transferees (buyers): please take note if the transferor (seller) fails to pay the full amount of tax due, the transferee (buyer) may be liable for the underpayment of up to 10% of the purchase price of the land.
2. A certificate from the Commissioner of Taxes is obtained prior to the closing that states that no tax is due. The transferee (buyer) is still required to file a Form LGT-177.
3. A certificate from the Commissioner of Taxes is obtained prior to the closing that states an amount other than the 10% of the purchase price of the land is to be withheld. The transferee (buyer) is required to file Form LGT-177 and withhold the amount shown on the certificate.
4. The transferee (buyer) files Form LGT-177 and the transferor (seller) files Form LGT-178 to certify that the entire transaction is exempt from tax.

Who is Required to File a Land Gains Tax Return?

Anyone who purchases Vermont property that was held by the transferor (seller) for less than six years is required to file even if no tax is due. Exemptions from the filing requirement are listed in the instructions for Form PTT-172, Property Transfer Tax Return, Line E3. If there is a sale of property held less than six years and the parties do not file Land Gains Tax Returns, an exemption must be claimed on Form PTT-172 or either party may be billed.

Also exempt from filing Land Gains Returns are transfers of property to the State of Vermont or a Municipality for a project that is authorized under the State's enacted transportation program or for an emergency project within the meaning of 19 V.S.A. § 10g(h), regardless of whether the State or the municipality has commenced any condemnation proceedings. Please check with the Agency of Transportation to determine if this transfer falls into the authorization of that program.

Line-by-Line Instructions

Section A Enter the full name, mailing address, Social Security or federal identification number, daytime telephone number, and email address of the transferor. This individual will be responsible for receiving all correspondence from the Department including, but not limited to, bills and refunds from the Department. They are responsible for sharing this information with all other involved parties.

Section B Enter the full name, mailing address, Social Security or federal identification number, daytime telephone number, and email address of the transferee who agrees to be responsible for receiving all correspondence from the Department including, but not limited to, bills and refunds from the Department. They are responsible for sharing this information with all other affected parties.

Section C Enter the number and street or road name of the physical location of the property. List the city or town the property physically lies in. Enter the total amount of acreage transferred even if the property lies in more than one city or town. If the property lies in more than one city or town, check the box to indicate that and attach a listing of the School Property Account Number (SPAN) and physical address and town or city name for each additional city or town. If this property is a subdivision and has not yet been assigned a SPAN, enter the first six digits for the town and then "99999" for the last five digits for the SPAN.

Section D Enter the date the transferor acquired the property and the date this closing occurred. Then, calculate the time the property was held by the transferor (seller) and enter the years and months held.

Section E

Line E1 If you select an option other than "00- None," the exemption must also be claimed by the transferor (seller) when they file Form LGT-178. Both parties must certify an exemption was claimed.

00 None

01 Transferee's Principal Residence Exemption - Sale of a dwelling and up to 10 acres of land which the transferee will occupy within one year of purchase as their domiciled principal residence, **or** if no dwelling exists, land on which the transferee will construct and occupy a domiciled principal residence within two years from purchase. If local zoning requires more than 10 acres for residential property, then the acreage specified in the ordinance will be exempted up to a maximum of 25 acres. Principal residences can include multifamily and partial commercial properties as defined in 32 V.S.A. § 10002a.

- 02 Transferor's Principal Residence Exemption.** - Sale of a dwelling and over 10 acres of land, or if local zoning requires more for residential property than over the max 25 acres allowed for exemption that was used by the transferor as their domiciled principal residence. This exemption is claimed on this return only if a portion of the Transferors domiciled principal residence is subject to tax. If the transferor has claimed this exemption on Form PTT-172 and the entire parcel is exempt, STOP. You are not required to file this return.
- 03 Builder's Exemption.** - Sale of up to 10 acres of land or if local zoning requires more than 10 acres for residential property, the acreage specified in the ordinance will be exempted up to a maximum of 25 acres on which the transferor (builder) must begin construction of a dwelling within one year. They must complete construction within two years and sell the dwelling to a transferee who will occupy it as their domiciled principal residence within three years of the date of closing. If the land is divided and sold as more than one parcel by the builder, each parcel must meet these conditions.
- The builder must certify each phase of the exemption has been completed within the time allowed and a subsequent Form PTT-172 showing that the property will be used by transferee as their domiciled principal residence must be filed when each parcel is sold.
- 04 Agricultural Exemption A** - Sale of agricultural land by a farmer to the farmer's grandparent, parent, step-parent, brother, sister, or child. The transferee must use the land as agricultural land for a period of time which, when added to the time the land was used as agricultural land by the transferor, equals or exceeds six years. To qualify as a farmer an individual must earn at least 50% of his or her gross annual income from the business of farming. Agricultural land must be at least 25 acres or produce an annual gross income of \$2,000 from the sale of farm crops within three of the five preceding calendar years.
- 05 Agricultural Exemption B** - Sale of up to 25 acres to a farmer (as defined in exemption 4) for active and direct use by that farmer and which, upon transfer all acreage not actively being used by that farmer meets the definition of agricultural or forest land as defined in V.S.A. 32 § 3752. The acreage must continue to meet this definition for at least six years after the transfer.
- 06 Affordable Housing Exemption A** – Transfer of land to an organization that qualifies under section 501(c)(3) of the Internal Revenue Code and also meets the public support test of section 509(a)(2). To qualify, the organization must have included in their purpose statement that they will provide affordable housing. If the land will be held by the organization for six years or more following the sale, then 50% of the tax otherwise imposed is due. If the organization fails to hold the land for six years following the sale, the organization is liable for the remainder of the tax.
- 07 Affordable Housing Exemption B** - Transfer of land to an organization that both qualifies under section 501(c)(3) of the Internal Revenue Code and also meets the public support test of section 509(a)(2). No tax is due if the organization sells the land within 12 months of the transfer to a transferee who qualified to purchase under an affordable housing program and will occupy a dwelling on the land as their domiciled principal residence as required by 32 V.S.A. § 10002(b).
- If the organization fails to transfer the land within 12 months to a qualified transferee, the organization is liable for the tax due on the original transfer and the transfer by the organization.

If the land is transferred without a dwelling and the qualified transferee fails to construct a domiciled principal residence dwelling within two years of purchase from the organization, the organization is liable for the tax on the first transfer, the transferee is liable for the tax on the subsequent transfer.

08 Other Exemptions – This can be selected when there is another reason the transfer is considered to be exempt from tax such as federal exemptions also recognized by the State of Vermont. You must enter the reason on Line E1a.

Line E1a If you selected option 08 on Line E1, you must enter a description of the reason the transfer is exempt on this line.

Line E2 If a Vermont Commissioner’s Certificate was issued, enter Certificate number here.

Line E3 Indicate “Yes” or “No” if the transferor is concurrently file a Form LGT-178 and paying the full amount of tax due.

Section F

Line F1 Enter the amount of the sales price attributable to land. The sales price attributed to the land would either require the fair market value of the land as assessed by town (listers card), an appraised value (USPAP qualified appraiser), or calculating a land value by following the instructions in Technical Bulletin TB-34.

Line F2 Enter the amount of any installment sale payment subject to withholding

Line F3 Line F3 indicates the withholding tax rate of 10%.

Line F4 Enter the result of Line F1 or Line F2 multiplied by Line F3,
or
Enter the amount of withholding indicated on the Commissioner’s Certificate, if issued,
or
If transferor and transferee are simultaneously filing Forms LGT-177 and LGT-178, enter the amount shown due on Form LGT-178, Line I5,
or
Enter -0- if an exemption was claimed on Line E1, or, if over allowable acreage from Form LGT-179, enter the amount due shown on Form LGT-178, Line I5.

Section G

The signature of the Primary Transferee or their power of attorney must be executed here. If you wish to allow the Department to discuss your return with the preparer who is filling it out, you must check “yes” to indicate this. If you do not wish for the Department to disclose any return information to the preparer, check “no.” Enter the information for the person who completed this return into the preparer’s information section. If we have questions and you allow us to talk to the preparer (if other than yourself), we will contact this person to request further information. Please complete all information for the preparer to ensure we can contact them with questions.

Contacting the Department

Mail: Vermont Department of Taxes
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Montpelier, VT 05633

Phone: (802) 828-6851

E-mail: tax.rett@vermont.gov