

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 the Land Gains Tax Return Form (LGT-178)

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.

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 report 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 is liable for the underpayment 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 the LGT-177 and the LGT-178 and the transferor (seller) pays the full amount of land gains tax due as shown on the 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 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 the land gains tax has been paid or that no tax is due. The transferee (buyer) is still required to file a Vermont Land Gains Withholding Tax Return, 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 a Vermont Land Gains Withholding Tax Return, Form LGT-177, and withhold the amount shown on the certificate.
4. The transferee (buyer) files the LGT-177 and the transferor (seller) files the 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 Line E3 of the Property Transfer Tax Return Form (PTT-172). 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 the 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 e-mail 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 e-mail 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 SPAN number 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. If this property is a timeshare, enter the first six digits for the town and then "00000" for the last five digits of 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 ten 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 ten 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 ten 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 in Section U on the property transfer tax return form (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 ten acres of land or if local zoning requires more than ten 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 3 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 Property Transfer Tax Return showing that the property will be used 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 one-half 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 one-half 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 and 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 the transferee has assumed the tax liability, enter the amount of tax due from them if they have are unable to comply with the conditions of the exemption claimed. See Form LGT-178, Line I5a, to find this value.

Section F

Line F1 Enter the corresponding number to the choice below that describes how the Transferor (seller) acquired the property. If the property was acquired under other circumstances (reason 04), you must enter an explanation on Line F1a.

- 01** The Transferor (seller) purchased the property
 - 02** The Transferor (seller) inherited the property
 - 03** The Transferor (seller) was gifted the property
 - 04** If other circumstances apply, select this option and enter an explanation on Line F1a
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Line F1a If you selected option 04 on Line F1, enter a description of how the Transferor (seller) acquired the property.

Line F2 Enter the corresponding number to the choice below that describes the interest that will be conveyed as a result of this transfer.

- 01** Fee Simple
 - 02** Undivided ½ interest
 - 03** Lease
 - 04** Easement or ROW
 - 05** Timeshare
 - 06** Resale of Option
 - 07** Specified ____% Interest (must specify % on Line F2a)
 - 08** Other (must define other interest on Line F2b)
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Line F2a If you selected option 07 on Line F2, enter the specific percent of interest that will be conveyed as a result of this transfer.

Line F2b If you selected option 08 on Line F2, enter the description of the interest that will be conveyed as a result of this transfer.

Line F3 Enter the corresponding number to the choice below that describes the type of buildings on the property at the time of transfer that will be conveyed as a result of this transfer. If this is a transfer of land only, select option 01.

- 01 None
- 02 Single Family Dwelling
- 03 Seasonal Dwelling
- 04 Mobile Home
- 05 Condominium (must enter # of units transferred on Line F3a)
- 06 Multi Family (must enter # of dwelling units transferred on Line F3b)
- 07 Farm Buildings
- 08 Residential New Construction
- 09 Office Buildings
- 10 Store / Retail
- 11 Restaurant
- 12 Gas Station/Garage
- 13 Auto Sales
- 14 Factory
- 15 Hotel/Motel
- 16 School/Dorm
- 17 Parking Area
- 18 Cell Tower
- 19 Church/Religious
- 20 Other (must enter a description on Line F3c)

Line F3a If you selected option 05 on Line F3, enter the number of units that will be conveyed as a result of this transfer.

Line F3b If you selected option 06 on Line F3, enter the number of dwelling units that will be conveyed as a result of this transfer.

Line F3c If you selected option 20 on Line F3, enter a description of the other type of building construction that will be conveyed as a result of this transfer.

Line F4 Enter the “value to be paid or transferred for real property” as a result of this transfer (See Form PTT-172, Section J).

Section G Sales Price Attributable to Taxable Land

If the entire parcel is subject to tax, see instructions below for Line G4 and enter that amount onto Line G5.

If the entire parcel is exempt from tax, enter zero on Line G5.

If you claimed an exemption but the amount of acres being transferred is more than your exemption allows, follow the steps below.

Line G1 Enter the total number of acres or square feet being sold.

Line G2 To determine the total number of taxable acres or square feet subtract the number of acres allowed by the exemption claimed from the number of acres you entered on Line G1. Enter the result on Line G2.

NOTE: If you are claiming the transferee or transferor's principal residence exemption and the dwelling will be used in part for non-exempt purposes such as rental or commercial use, you must reduce the exempt area by the total amount of square feet being used for non-exempt purposes.

Line G3 Divide Line G2 by Line G1 and enter the result on this line.

Line G4 If this is a transfer of land only, enter the fair market value of the land as assessed by the town, or appraised value as determined by a USPAP qualified appraiser if there are buildings on the property enter the value determined by the appraiser for the land only. If you enter an appraised value, you must attach a copy of the appraisal. If you do not have an appraised value, you may allocate gain between land and buildings by using either of the following methods:

1. You will need a copy of the Town Listers card for the property. Contact the Town Office for a copy of this.
 - a) Divide the listed value of the land plus improvements (e.g., septic system or well) by the total listed value of the land improvements and buildings combined.
 - b) Multiply the result by the value to be paid or transferred for real property from the PTT-172 for this transfer (this value should also be on Line F4 of this return).
 - c) Attach the sheet showing your calculation and enter the result on Line G4.
2. You will need basic information about the property which might include location, type of property (ex. Condominium), and amount of acres and Technical Bulletin 34 (TB-34). (You can find TB-34 on our website www.tax.vermont.gov)
 - a) Go to section C of the bulletin "Allocation Between Land and Buildings." Section (2)(b) provides statewide percentages based on property type and location, find the description of your property.
 - b) Multiply value to be paid or transferred for real property from Form PTT-172 for this transfer (this value should also be on Line F4 of this return) by the percentage used for your property type and enter the result on Line G4. Attach a note stating that you used the percentage listed in TB-34 to allocate your gain.

NOTE: Any of the above methods are subject to review and audit by the Department. Make sure to make note of TB-34 percentage used and attach a sheet showing your calculation. The Department may question a claimed loss on the sale. If special circumstances exist, you should explain them on an attachment to your return.

Line G5 Multiply Line G3 by Line G4 and enter the result on this line.

Section H **Installment Sales ONLY**

This section is used to calculate the amount of the initial payment for an installment sale that is subject to withholding. To qualify as an installment sale the land must have been held by the transferor (seller) for at least one year, the total land gains tax liability must be over \$2,000 and payments must be made directly to the transferor (seller) in installments after the transfer. It is not an installment sale if there is a financing arrangement in which the transferor is paid in full at the closing.

Line H1 Enter the amount of the initial installment payment that will be made at the closing.

Line H2 Divide the sale price attributable to land on Line G5 by the value to be paid or transferred for real property from Form PTT-172 for this transfer on Line F4. (**NOTE:** This line will be a percent.)

Line H3 Multiply the initial installment payment on Line H1 by the percent on Line H2. This is the amount of the initial installment payment that is subject to withholding for land gains tax.

Section H NOTE: All future Land Gains Withholding payments for your installment sale must be accompanied by the Land Gains Installment Payment Voucher form (Form LGT-174). (You can file this form on our website www.tax.vermont.gov.)

Section I

Line I1 Enter the amount from Line G5 unless this is an installment sale.
If this is for an installment sale, enter the amount from Line H3.

Line I2 A 10% withholding tax rate applies to all sales.

Line I3 Multiply Line I1 by Line I2. Submit this form with your payment for this amount at the time of closing, unless one of the following three situations applies to this transfer:

1. If a Commissioners Certificate was obtained prior to the sale, enter the amount of withholding due as shown on the certificate issued, enter the certificate number on Line G4, and submit this form with your payment for this amount.
 2. If the transferor is simultaneously filing and paying the amount of tax due, the transferee is not required to pay the withholding tax, but if the transferor fails to pay the full amount of tax due, the transferor is personally liable for the amount of any unpaid tax due.
 3. If the sale qualified for the Affordable Housing Exemption A (exemption 06), enter one half of the tax due and submit this form with your payment for this amount.
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Line I4 If a Commissioners Certificate was obtained prior to the closing, enter the Certificate number found in the upper right hand corner of the certificate on this line.

Line I4a If you have applied for a Commissioners Certificate but have not yet received one and are paying the full withholding, please check this box to notify the Department.

Line I5 Check “yes” or “no” to indicate if the seller is simultaneously filing the Land Gains Tax Return form (Form LGT-178) and paying the full amount of tax due. If “yes,” you are not required to withhold. If “no,” please refer to the instructions for Line I3.

Contacting the Department

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