

FORM LGT-178 Instructions

Vermont Land Gains Tax Return

General Information

When is a Land Gains Tax Return Required to be Filed?

The Land Gains Tax is a tax on the gain from the sale or exchange of Vermont land that was held for less than six years. The definition of land may include the sale of timber or timber rights. Anyone who sells Vermont land that was held by the Transferor (seller) for less than six years is required to file this return within 30 days of the sale to establish the amount of the Transferee's (buyer's) liability in the event the conditions for exemptions are not met.

Timber/Timber Rights

When the underlying land is sold separately from timber or timber rights and both sales occur within six years of the purchase, the gain on the sale of the timber or timber rights shall be combined with the gain or loss on the sale of the land to determine the Land Gains Tax liability. If the sale of the land occurs first, and the Land Gains Tax on the sale has become due, before the timber or timber rights are sold, the taxpayer shall recalculate and file an amended Land Gains Tax Return to include the gain or loss from the sale of timber and timber rights sold within six years of purchase. This rule shall apply if the underlying land is or was part of more than 300 acres of contiguous land owned by the same taxpayer. If the land is subject to and in compliance with a forest management plan approved under 32 V.S.A. § 3755(b) or 10 V.S.A. § 2623(2), neither timber nor timber rights are taxable.

Exceptions to Filing Requirement

The seller is not required to file this return if the Transferee (buyer) or Transferor (seller) claims one of the exemptions on the Property Transfer Tax Return. See Form PTT-172 instructions for Line E3.

Also exempt from filing 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.

The transfer (but not the granting) 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 effectively entitles a buyer to use or occupy land. In the case of a contract for deed, enter the date consideration first passed to the seller under the contract. A mere promise to purchase land and payment of earnest money, or a deposit in escrow, to which the seller has no immediate right, does not constitute the passing of consideration.

A spouse who acquires property by reason of death or divorce may add to his or her holding period the period of time the property was held by the other spouse or by both spouses. The holding period of one spouse alone before the creation of a tenancy by the entirety may be added to the holding period of the tenancy by the entirety.

Consideration paid or to be paid, includes the amount of any liens on the property that are not removed at the time of transfer.

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 (seller). 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 affected 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 (buyer) 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 time held in years and months.

Section E Exemptions

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 multi-family 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 transferor’s domiciled principal residence is subject to tax. If the transferor has claimed this exemption in Section U on the property transfer tax return form 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 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 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 04) 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 32 V.S.A. § 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 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. If they are unable to comply with the conditions of the exemption claimed, you will need access to Line I5a on Form LGT-178 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 (choice 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 describe the type of buildings on the property at the time of transfer that will be conveyed because 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.

Section G

Line G1 Enter the “value to be paid or transferred for real property” as a result of this transfer (See Form PTT-172, Section J).

Line G2 Enter the selling price of any taxable timber or timber rights (to determine if you have taxable timber or timber rights please refer to “Timber/Timber Rights” on page 1 of these instructions).

Line G3 Add Lines G1 and G2 and enter the result on this line.

Line G4 If there were any selling expenses claimed on Schedule LGT-179, enter the total selling expenses from Line B5 of that schedule on this line.

Line G5 Subtract total selling expenses on Line G4 from the total paid for real property and timber on Line G3.

Section H

Line H1 To determine the total cost of the land when the Transferor (seller) acquired it, complete Schedule LGT-179, Section C and enter the figure from LGT-179, Line C6 here.

Line H2 To determine the total cost of the structures if applicable when the Transferor (seller) acquired it, complete Schedule LGT-179, Section D and enter the figure from LGT-179, Line D5 here.

Line H3 Enter the Transferor’s (seller’s) basis of any taxable timber or timber rights (to determine if you have taxable timber or timber rights please refer to “Timber/Timber Rights” on page 1 of these instructions).

Line H4 Add Lines H1 through H3 and enter the result on this line.

Section I

Line I1 Enter the total gain or loss here. To determine this value, subtract the total cost of land and structures on Line H4 from the adjusted selling price on Line G5.

Line I2 Divide Line I1 by Line H4 and round to the next highest whole number.

Line I3 If this was a transfer of land only (no buildings), enter the amount from Line I1.
If the transfer includes a building, complete Schedule LGT-179, Section A, and enter the amount from Schedule LGT-179, Line A5.
If you claimed an exemption on Line E1 (any value other than 00), complete Schedule LGT-179, Section F, and enter the amount from Schedule LGT-179, Line F7.

Line I3a If you used the statewide percentages from Technical Bulletin 34 to complete Schedule LGT-179, Section A, check “yes.” If you used the assessed value on Schedule LGT-179, Section A, Line A1, to determine land value, check “no.”

Line I4 Use the table below to determine your tax rate.

1. Compare the time held in Section D of this return to the left side of the table.
2. Find the row that matches the time this property was held.
3. Compare the percent on Line I2 of your return to the top portion of this table.
4. Find the column that matches your defined percentage of basis.
5. Follow that column to the row you found in step one of this process to find your tax rate.

| Years Land Held by Transferor (Line 8c) | Gain, as a Percentage of Basis (Line 16) | | |
|--|--|-----------|--------------|
| | 0-99% | 100%-199% | 200% or more |
| Less than 4 months | 60% | 70.0% | 80% |
| 4 months, but less than 8 months | 35% | 52.5% | 70% |
| 8 months, but less than 1 year | 30% | 45.0% | 60% |
| 1 year, but less than 2 years | 25% | 37.5% | 50% |
| 2 years, but less than 3 years | 20% | 30.0% | 40% |
| 3 years, but less than 4 years | 15% | 22.5% | 30% |
| 4 years, but less than 5 years | 10% | 15.0% | 20% |
| 5 years, but less than 6 years | 5% | 7.5% | 10% |

Line I5 Multiply Line I3 by Line I4 to calculate the Land Gains Tax Due for this transfer.
If you claimed the Affordable Housing Exemption A (Exemption 06), then only one-half of the tax due must be paid now. To determine this amount, multiply Line I3 by Line I4. Enter one-half of the result on this line, and the other half into Line I5a below. If any other exemption was claimed on Line E1, and Schedule LGT-179, Line F7 is -0-, you may enter -0- on this line but you must complete Line I5a below.

Line I5a If the Transferee (buyer) claims the Transferee’s principal residence (Exemption 01) or Builders exemption (Exemption 03), they agree to assume tax liability. If either of these exemptions were claimed, follow the instructions below to calculate the potential tax liability for the transferee.

If the land size in Section C of your return is 10 acres or less, and the building construction type on Line F3 of this return is “01 - None,” then multiply Line I3 by Line I4. If Line F3 is not “01 - None,” then multiply Schedule LGT-179, Line A5, by Line I4.

If the land size in Section C of your return is more than 10 acres and the transfer does not include a building, multiply Line I3 by Line I4, then subtract the amount shown on Line I5.

If the land size is more than 10 acres and the transfer includes a building, multiply the value shown on Schedule LGT-179, Line A5 by Line I4, then subtract the amount on Line I5.

If you claimed the Affordable Housing Exemption A (Exemption 06), enter one-half of the tax normally due (see instructions for Line I5 above).

If you claimed the Affordable Housing Exemption B (Exemption 07), multiply Line I3 by Line I4.

NOTE: No matter which of these methods you use, you must also enter this amount on the Land Gains Tax Withholding Return, Form LGT-177, Line E2.

Section J

Line J1 Enter the amount withheld by the Transferee (buyer) and remitted to the Department. If there was withholding, or if the seller remitted advance payment of tax to the Department, enter that amount here. If there was both withholding and advance tax payment, add both values together and enter the result here.

Line J2 Find the values listed on Lines J1 and I5. If Line I5 is less than Line J1, subtract Line I5 from Line J1 and enter result here. If Line J1 is less than Line I5, skip this line and move on to Line J3.

Line J3 If Line J1 is less than Line I5, subtract Line J1 from Line I5 and enter result here.

Section K

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

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