

Vermont Department of Taxes
TECHNICAL BULLETIN

TAX:	Personal Income Tax Corporate Income Tax	TB-24
SUBJECT:	Exemption of Income of U.S. Government Obligations	ISSUED: 4/20/2014 (Replaces TB-24, dated 10/16/2003)

STATUTORY REFERENCES: 32 V.S.A. §§ 5823(a)(1), 5811(21)(B)(i), 5811(18)

This Bulletin discusses and provides examples of "[i]ncome exempted from state taxation under the laws of the United States" referred to in 32 V.S.A. § 5823(a)(1), "income from United States government obligations" referred to in 32 V.S.A. 5811 § (21)(B)(i), and "income which under the laws of the United States is exempt from taxation by states" referred to in 32 V.S.A. § 5811(18).

Section 5823(a) defines "Vermont income" of resident individuals, estates and trusts for Vermont income tax purposes. The statute provides, in pertinent part:

(a) For any taxable year, the Vermont income of a resident individual, estate or trust is the adjusted gross income of the taxpayers for that taxable year less:

(1) Income exempted from state taxation under the laws of the United States and not subtracted under subdivision 5811(21)(B) of this chapter

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Section 5811(21) defines Vermont "taxable income" of individuals, estates, and trusts. This statute provides, in pertinent part:

(21) "Taxable income" means federal taxable income:

* * * *

(B) decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

(i) income from United States government obligations;

* * * *

Section 5811(18) defines “Vermont net income” of corporations. This statute provides, in pertinent part:

(18) “Vermont net income” means. . .the taxable income of the taxpayer for that taxable year under the laws of the United States. . . excluding income which under the laws of the United States is exempt from taxation by the states. . . .

* * * *

The exempt income and income from United States government obligations referred to in the foregoing statutes is interest income from obligations of the United States government, as described in the general federal exemption statute, 31 U.S.C. 3124(a).

Section 3124(a) provides, in pertinent part, that:

(a) Stocks and obligations of the United States Government are exempt from taxation by a State or political subdivision of a State. The exemption applies to each form of taxation that would require the obligation, the interest on the obligation, or both, to be considered in computing a tax. . . .

Section 3124(a) is principally a restatement of the constitutional rule established in *McCulloch v. Maryland*, 17 U.S. 316 (1819), which says that states cannot impose taxes directly on the federal government or impose taxes the legal incidence of which falls on the federal government. *Memphis Bank & Trust Co. v. Garner*, 459 U.S. 392 (1983). The United States Supreme Court, in *Smith v. Davis*, 323 U.S. 111, 115 (1944), concluded that the United States obligations referred to in what is now Section 3124(a) are characterized by:

(1) written documents, (2) the bearing of interest, (3) a binding promise by the United States to pay specified sums at specified dates and (4) specific Congressional authorization which also pledged the faith and credit of the United States in support of the promise to pay.

In addition to the obligations described in the general exemption statute, 31 U.S.C. § 3124(a), income which is exempt from Vermont income tax under the above-described Vermont statutes, also includes interest income from United States government obligations which are specifically identified as exempt from state tax under various federal statutes.

To qualify for Vermont income tax exemption, United States government obligations must be directly owned by the taxpayer claiming the exemption. This rule notwithstanding, such obligations may be indirectly owned by the taxpayer to the extent the obligations are directly owned by mutual funds, trusts or partnerships in which the taxpayer has an ownership interest. The taxpayer's income from such entities will (if

included in federal taxable income) qualify as exempt income for Vermont income tax purposes to the extent such income comes directly from the interest income received by those owner-entities.

To qualify for Vermont income tax exemption, United States government obligations must be direct and primary obligations of the United States. For example, if the United States is merely an insurer or guarantor and has only a secondary or contingent liability, the obligation and its interest will not qualify.

Income from United States government obligations does not include income from the following:

- Gains from the sale or exchange of such obligations.
- Income derived from "repurchase agreements" involving such obligations.

"List A" below describes departments, agencies, and instrumentalities which issue United States government obligations whose interest is exempt from state taxation. "List B" describes organizations which do not issue such obligations.

The interest income from United States obligations must be included in the taxpayer's federal taxable income in order to be taken into account for Vermont income tax exemption purposes. In some cases, the income from United States government obligations described in "List A" will be excluded from income for federal income tax purposes, and will therefore not be taken into account for Vermont income tax purposes.

These Lists are not all-inclusive nor are they intended to be conclusive of the taxable or exempt status of any particular obligation issued by or in conjunction with a listed department, agency, instrumentality or other entity.

List A

(Exempt from State Taxation)

1. Federal Crop Insurance Corporation (7 U.S.C. § 1511)
2. Federal Reserve Banks (12 U.S.C. § 531)
3. Financing Corporation (12 U.S.C. § 1441(e)(7))
4. Resolution Funding Corporation (12 U.S.C. § 1441b(f)(7))
5. Federal Home Loan Banks (12 U.S.C. § 1433)
6. Mutual Mortgage Insurance Fund (12 U.S.C. § 1710(d))
7. Rental Housing Insurance (12 U.S.C. § 1713(i))

8. Rehabilitation and Neighborhood Conservation Housing Insurance (12 U.S.C. § 1715k(h)(7))
9. National Mortgage Association (12 U.S.C. § 1717(c))
10. War Housing Insurance (12 U.S.C. § 1739(d))
11. Insurance for Investments in Rental Housing (12 U.S.C. § 1747g(g))
12. Armed Services Housing Mortgage Insurance (12 U.S.C. § 1748b(f))
13. National Defense Housing Insurance (12 U.S.C. § 1750c(d))
14. Central Liquidity Facility (12 U.S.C. § 1795k(b))
15. Federal Deposit Insurance Corporation (12 U.S.C. § 1825)
16. Farm Credit Banks (12 U.S.C. § 2023)
17. Production Credit Associations (12 U.S.C. § 2077)
18. Federal Land Bank Associations (12 U.S.C. § 2098)
19. Banks for Cooperatives (12 U.S.C. § 2134)
20. Farm Credit System Assistance Board (12 U.S.C. § 2278a-11)
21. Farm Credit System Financial Assistance Corporation (12 U.S.C. § 2278b-10(b))
22. Commodity Credit Corporation (15 U.S.C. § 713a-5)
23. Tennessee Valley Authority (16 U.S.C. § 831n-4(d))
24. Student Loan Marketing Association (20 U.S.C. § 1087-2(l))
25. Bonds (31 U.S.C. § 3102; 31 U.S.C. § 3124)
26. Notes (31 U.S.C. § 3103; 31 U.S.C. § 3124)
27. Certificates of Indebtedness and Treasury Bills (31 U.S.C. § 3104; 31 U.S.C. § 3124)
28. Savings Bonds and Savings Certificates (31 U.S.C. § 3105; 31 U.S.C. § 3124)
29. Retirement and Savings Bonds (31 U.S.C. § 3106; 31 U.S.C. § 3124)
30. Tax and Loss Bonds (31 U.S.C. § 3109; 31 U.S.C. § 3124)
31. United States Postal Service (39 U.S.C. § 2005(d)(4))

32. Puerto Rico (48 U.S.C. § 745)
33. The Virgin Islands (48 U.S.C. § 1403; 48 U.S.C. § 1574(b)(iii)(A); 48 U.S.C. § 1574(b))
34. Guam (48 U.S.C. § 1423a)
35. American Samoa (48 U.S.C. § 1670(b))

List B
(Taxable)

1. Rural Telephone Bank (7 U.S.C. § 947(a))
2. Agricultural Credit Insurance Fund (7 U.S.C. § 1929(c))
3. Rural Development Insurance Fund (7 U.S.C. § 1929a(d))
4. Federal Home Loan Mortgage Corporation (12 U.S.C. § 1455(a))
5. National Mortgage Associations (12 U.S.C. § 1719(b))
6. Government National Mortgage Association (12 U.S.C. §§ 1721(d), 1723a(c))
7. Federal Financing Bank (12 U.S.C. § 2288)
8. Securities Investor Protection Corporation (15 U.S.C. § 78ddd(h))
8. Small Business Administration (15 U.S.C. § 633(c)(5)(A))
10. Small Business Investment Companies (15 U.S.C. § 683)
11. Electric and Hybrid Vehicle Development Fund (15 U.S.C. § 2509(e)(3)(c))
12. Bonneville Power Administration (16 U.S.C. § 838k(c))
13. Student Loan Marketing Association (20 U.S.C. § 1087-2(d))
14. Inter-American Development Bank (22 U.S.C. § 283h)
15. Asian Development Bank (22 U.S.C. § 285h)
16. International Monetary Fund (22 U.S.C. § 286k-1)
17. African Development Bank (22 U.S.C. § 290i-9)
18. Geothermal Resources Development Fund (30 U.S.C. § 1144(c))

19. Other states, municipalities, and District of Columbia (31 U.S.C. § 3124(b))
20. Assisted Housing (42 U.S.C. § 1437b(b))
21. Rural Housing Insurance Fund (42 U.S.C. § 1487(h))
22. United States Railway Association (45 U.S.C. § 720(e))

Approved:

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