

## HIGHLIGHTS OF TAX LEGISLATION PASSED IN 2004

### Corporate Income Tax

**Unitary combined reporting** is adopted effective with tax years beginning January 1, 2006 and after. This is a corporate income tax system that apportions the taxable income of an entire multistate group of affiliated corporations that is engaged in a unitary business rather than the separate accounting income of only the corporations actually doing business in Vermont. The definition of “affiliated group” excludes corporations with 80% or more of property or payroll overseas and captive insurance companies. H. 784, secs. 2, 7.

**Corporate tax rates** are reduced for taxable years beginning on or after January 1, 2006 from 7% to 6% (\$0 to \$10,000 income bracket), from 8.10% to 7% (\$10,001 to \$25,000 income bracket), 9.20% to 8.75% (\$25,000 to \$250,000 income bracket) and 9.75% to 8.9% (income of \$250,001 and over). H. 784, sec. 3.

The rates are further reduced for taxable years beginning on or after January 1, 2007 for corporations with Vermont net income of \$25,001 and over, to 8.5%. H. 784, sec. 4.

Vermont’s **apportionment formula**, which currently gives equal weight to sales, property and payroll, in determining the portion of a corporation’s multistate income that is Vermont income is modified to double weight the sales factor. This change applies to taxable years beginning on or after January 1, 2006. H. 784, sec. 5.

The law that limited the corporate income tax of **holding companies** to minimum tax is repealed for taxable years beginning on or after January 1, 2006. A holding company is usually a member of an affiliated group and will be included in the combined return of the group. H. 784, 8.

The **financial services development credit** statute was clarified to provide that the credit is available only to businesses or the business owners for a pass-through entity, not to an employee who perform these services as part of the job, and is not available for investment services performed for the claimant’s family members. Act 70, sec. 43.

Taxpayers that make an eligible cash contribution to an **affordable housing** project are entitled to a tax credit against their individual income, corporate or bank franchise tax. Formerly, the credit was available only to the owner of the project. The amount of the credit is specified on a “credit certificate” issued by the Vermont Housing Finance Agency. Act 74.

The formation of the **Vermont Seed Capital Fund** is authorized for the purpose of increasing the amount of investment capital provided to new Vermont firms or to existing Vermont firms for the purpose of expansion. The first \$2 million of capitalization shall be eligible for a credit. The credit may be taken against personal income, corporate income, bank franchise or insurance premiums tax and is the lesser of 20 percent of the taxpayer's contribution or 50 percent of the taxpayer's liability for that taxable year. The credit is available for the year of the investment and the four years following. However, the total credit is limited to 50% of the taxpayer's contribution. The credit applies to contributions made in taxable years 2004 and after. S. 42, sec. 6.

### **Personal Income Tax**

**Lottery prizes** will no longer be exempt from Vermont income tax for taxable years beginning on or after January 1, 2005. Non residents are taxable on prizes if they purchased the ticket in Vermont. If a lottery winner sells the right to future lottery annuity payments, the lottery winner will be taxable on the proceeds of that sale. H. 784, secs. 13, 14.

See Affordable Housing tax credit above.

See Vermont Seed Capital Fund tax credit above.

### **Sales and Use Tax**

There will be two sales tax holidays - August 7 through 9 and October 9 through 11, 2004 – during which no sales or use tax will be imposed or collected on sales of **personal computers** to individuals for personal use. As in 2003, the Commissioner will publish a list of personal computers and components thereof that qualify for the exemption. Act 121, sec. 51.

The date that the provisions of the **Streamlined Sales and Use Tax Agreement** may become effective is move back from no sooner than January 1, 2005 to no sooner than July 1, 2005. H.784, sec. 27.

Various technical amendments were made to the sale tax laws to conform with Streamlined Agreement provisions. These changes, like those enacted in the 2003 legislative session, will become effective no sooner than July 1, 2005. H. 784, secs. 15 –21.

The exemption for **agricultural items** codified at 32 V.S.A. § 9741(3) is expanded to include sheets of plastic for bunker covers. The requirement that silage bags and wrap be recyclable in order to qualify for sales and use tax exemption is eliminated. Effective on passage. Act 121, sec. 88.

Bulk sale provisions (requiring notification to the department) apply to transfer of business assets structured as a long-term lease as well as a sale. Effective March 1, 2004. Act 70, sec. 34.

### **Bank Franchise Tax**

Banks pay a tax on their deposits in lieu of paying corporate income tax. Current law limits the bank tax to no more than the bank's federal taxable income, but not less than \$5000. This limitation is repealed and banks may not use it to limit their taxes for 2004 or after. H. 784, sec. 6.

### **Telephone Tax**

Certain telephone companies (those with less than \$50 million in annual gross operating revenues within the state in the preceding taxable year) have the option to pay a gross receipts tax in lieu of the personal property tax and the income tax. H. 784 provides that no election to pay the gross receipts tax may be made by a taxpayer that did not make the election in the previous year. Effective upon passage. Sec. 10.

### **NEW Heating Oil Tax**

Beginning July 1, 2004, a tax of one-half cent per gallon of heating oil or kerosene is imposed on every seller receiving more than \$10,000 annually for the retail sale of heating oil or kerosene not used to propel a motor vehicle. Monies from this tax will be deposited into the petroleum cleanup fund to fund cleanup and restoration of contaminated soil and groundwater caused by releases of petroleum from storage tanks and to pay third party claims for compensation. The tax terminates April 1, 2008. H. 412.

### **Education Property Tax**

The **education property tax rates** are reduced for fiscal year 2005 (property taxes for the 2004-2005 school year) from \$1.10 to \$1.05 on homesteads and from \$1.59 to \$1.54 on nonresidential property (all property other than homestead). This is a one-year reduction. The homestead tax is adjusted for local spending decisions. A correlative change is made to "applicable percentage" (1.9 percent) for income sensitivity. Act 76, sec. 6.

The **homestead declaration** law is changed in several ways:

- (1) The **penalty** for not filing a required declaration by April 15 or filing an incorrect declaration is reduced from 3 or 8 percent to 1 percent in all cases.

- (2) Towns may keep any penalties collected. Towns have authority to **abate penalties** and interest due to late or incorrect homestead declarations in cases of hardship. Hardship is defined in the law.
- (3) Towns will issue new property tax bills reflecting a reduced tax only for late, revised or rescinded declarations filed *before* **December 1** of each year. Any reduction in tax due to a new, revised or rescinded declaration shall be paid to the taxpayer no later than May 15 of the fiscal year. Any additional tax due to the filing of a declaration or failure to file a declaration may be assessed without regard to the December 1 date. This additional tax and interest shall constitute a penalty which the towns may assess and collect in the same manner as a property tax under chapter 133.

Act 76, sec. 2 and H. 756, sec. 18a.

Income sensitivity adjustment payments will be based on the proper tax, even if the claimant originally forgot to declare a homestead declaration. Act 76, sec. 4.

The method for calculating amounts due from towns to the education fund is simplified. The **education tax rates** adjusted by common level of appraisal, and for the homestead rate by district education spending, are applied to the town's education grand list. A **preliminary calculation** of education fund payments will be done based on grand list information given to Property Valuation and Review by August 15 and a **final calculation** will be done after December 31. This calculation will reflect any change in taxes due to late or incorrect homestead declarations not reflected in the preliminary calculation. Refunds due from a town to a taxpayer on account of the taxpayer's new, revised or rescinded declaration shall be paid no later than May 15 of the fiscal year. Act 76, sec. 6 and Act 107, sec. 18a.

Prior law, dating to 1961, had allowed a town to vote to exempt up to \$15,000 of grand list value of **new residential construction**. This amount is updated to \$ 75,000. This exemption may be voted for up to three years, but does not affect the education grand list unless approved by Vermont Economic Progress Council. Act 76, sec. 31.

The education tax break for **qualified rent-restricted units** is retained, but as a grand list value reduction certified by Vermont Housing Finance Agency (instead of as a credit). Act 76, sec.7 and H. 772, sec. 33.

### **Property Tax Adjustment Payments**

Under the **debt set-off** payments due from Tax Department are diverted to pay a taxpayer's or claimant's debt to another State agency. Effective March 1, 2004, property tax adjustment payments and rebates will be apportioned

between the debtor and non-debtor spouse based on homestead ownership (as opposed to income earned which is the rule for income tax refunds). Act 70, sec.45.

### **Solid Waste Tax**

A moratorium on collection of solid waste franchise tax was enacted with respect to tax that could be assessed on the **earth material** portion of any waste resulting from mining, extraction, or mineral processing operations for any period of time before July 1, 2005. The Secretary of the Agency of Natural Resources shall report to the Legislature by May 1, 2005 on whether the tax applies to such materials, but even if the report is affirmative, no tax shall be assessed for earth materials from operations prior to July 1, 2005.

### **Current Use**

Agricultural land must be in active use to be eligible for enrollment in the current use program. The definition of "active use" is amended to include otherwise eligible land that is enrolled in a **conservation enhancement program** for agricultural lands through a contract with the state or federal government. This allows, for example, the portion of land along a river that the owner agrees not to plow for conservation reasons to qualify for enrollment. H. 778, sec. 11.

### **Miscellaneous Tax Changes**

The annual license fee on **amusement machines** is repealed and the sales tax law is clarified. The sales tax applies to charges for "access to any game or gaming or amusement machine, apparatus or device" but excludes from these categories any "video game, pinball, musical, vocal or visual entertainment machines which are operated by coin, token or bills." Effective upon passage. H. 784, sec.11, 12.

The franchise tax on **car and transportation companies** is repealed for taxable years beginning on or after January 1, 2006. H 784, sec. 9. These companies continue to be subject to corporate income tax.

**Estate tax law** is amended to clarify that the special treatment of farm businesses (whereby tax is reduced by the percentage which the value of the farm business bears to the value of the federal adjusted gross estate) is limited to a Vermont farm business. Act 70, sec. 51.

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