

HIGHLIGHTS OF 2015 TAX LEGISLATION

Administrative Provisions

Unless a statute specifies otherwise, semiweekly will mean twice per week. The semiweekly filing status is not affected by this provision. Effective upon passage. Act 57, Sec. 34. 1 V.S.A. § 149.

Quarterly prize limit for charitable gaming is increased from \$20,000 to \$50,000. Effective upon passage. Act 57, Sec. 38. 13 V.S.A. § 2143(e).

PVR may certify presenters for list training. Effective upon passage. Act 57, Sec. 39. 32 V.S.A. § 3436(a).

The Joint Fiscal Office must develop a strategy to evaluate the “effectiveness” of each Vermont tax expenditure in the Tax Expenditure Report. The Joint Fiscal Office will need to establish a schedule and approach for evaluating tax expenditures, specific metrics, sources of data, etc. and present its findings on January 15, 2016. Act 33. Session law.

Cigarette and Tobacco Taxes

The tax on cigarettes is increased from 137.5 to 154 mills per cigarette or little cigar (\$0.33 on a 20-pack from \$2.75 to \$3.08) effective July 1, 2015. Act 54, Sec. 49. 32 V.S.A. § 7771(d).

The tax on snuff is increased from \$2.29 to \$2.57 per ounce. The tax on new smokeless tobacco is increased from \$2.29 to \$2.57 per ounce or if the new smokeless tobacco is packaged for sale to a consumer in a package that contains less than 1.2 ounces the tax is increased from \$2.75 to \$3.08. These increases are also effective July 1, 2015. Act 54, Sec. 50. 32 V.S.A. § 7811.

Floor stock taxes are imposed on retail dealers that hold \$500 or more in wholesale value of snuff, more than 10,000 cigarettes or little cigars and on each cigarette stamp in the possession or control of the wholesaler on July 1, 2015. Act 54, Sec. 51. 32 V.S.A. § 7814.

Changes were made to tobacco and cigarette statutes in Titles 32 and 33 to conform to 2013 Acts and Resolves No. 14, which made definitional changes, eliminated redundant terms, and made numerous other technical changes to the cigarette and tobacco tax statutes, and required certain nonparticipating manufacturers to post bond. These amendments are all in the nature of housekeeping changes. Act 57, Sec. 73-86.

Compliance and Collections

The Tax Department may use administrative garnishment and attachment to collect delinquent debt. The Department cannot initiate garnishment or attachment until 90 days after the end of the appeal period for underlying debt. After that time, the Department must provide a 30 day notice and then a 15-day notice of limited appeal. Garnishment and attachment is suspended during the appeals period. The Department is required to apply most state and federal exemptions for wages and property, except the Department must exempt the greater of 80% of wages or 40 times federal minimum wage. The

Department must communicate to taxpayers opportunities for resolving tax disputes, including payment plans, offer in compromise, etc. The Department must also contract with an independent advocate and discuss details with banks and credit unions prior to start of program. Effective July 1, 2015, as long as Tax contracts for independent advocate services and consults with banks and credit unions. Act 57, Sec. 41-44. 32 V.S.A. §§ 3201(a), 3207, 3208, 3101(b).

The Department of Taxes must establish a collections unit and enact rules for uniform collection of state debt. Agencies may have the Department collect their debts on their behalf. Effective July 1, 2016. Act 57, Sec. 45-46. 32 V.S.A. §§ 3301-3303.

Medicaid providers will be treated as contractors with the state and will have their payments offset to pay delinquent taxes. Effective July 1, 2015. Act 57, Sec. 47. 32 V.S.A. § 3113(d).

Corporation Taxes

Clarifies that the Tax Department administrative provisions and income tax provisions on interest and penalty, appeal, and collection process apply to various franchise taxes, including insurance and telephone taxes. Act 57, Sec. 87. 32 V.S.A. § 8146

Current Use

There have been several changes with the Land Use Change Tax:

- The Land Use Change Tax (LUCT) is changing from 20%/10% of the land withdrawn from the program based on a pro-rated value per acre to 10% of the fair market value of the actual parcel removed. Effective date of October 2, 2015. Act 57, Sec. 48 and 50. 32 V.S.A. § 3757.
- Municipal listers will set the value on the withdrawn land and will receive 50% of the Land Use Change Tax up to \$2,000. Effective date of October 2, 2015. Act 57, Sec. 48. 32 V.S.A. § 3757.
- There will be an “easy out” with the first \$50,000 in LUCT waived for landowners who withdraw **any part of their** undeveloped parcel between July 1, 2015 and October 1, 2015. Owners of the withdrawn land will pay the full amount of property taxes for the 2015 tax year on the withdrawn land. As a result, the towns will need to re-send bills for the withdrawn land during the “easy out.” Withdrawn land may not be re-enrolled in the program for five years. Act 57, Sec. 53. Session Law.
- Currently all of the revenue from the LUCT goes into the general fund; starting on July 1, 2016, the revenue will go into the general fund and education fund at the same ratio as the property tax. Act 57, Sec. 49 and Sec. 99, Effective Dates. 32 V.S.A. § 3757(d).

It has been clarified that the State lien against land enrolled in current use that is filed in the land records will be a separate document rather than the entire current use application as in the past. Act 57, Sec. 48. 32 V.S.A. § 3757(f).

The Department of Taxes/Director of PVR is no longer required to provide the assessing officials with a list of farm sales. Act 57, Sec. 51. 32 V.S.A. § 3752(12).

The Department of Taxes/Director of PVR will provide 30 days' notice when removing forestland from the current use program due to receiving an adverse inspection report or failure to receive a required managed activity report. Prior law required removal upon notice. Act 57, Sec. 52. 32 V.S.A. § 3756(i).

There will be a Use Value Appraisal Municipal Reimbursement Study Committee to examine existing formula for municipal reimbursement payments and report by January 1, 2016. Act 57, Sec. 54.

The Department of Taxes/Director of PVR shall publish guidance for local assessing officials concerning how to assess lands under conservation easement and in current use in a consistent manner across the state. Effective date July 1, 2015. Guidance must be published by April 15, 2016. Act 57, Sec. 55.

Annually, the Department of Taxes/PVR shall audit 3 towns to ensure that parcels in current use are valued consistently. If, as a result of an audit, PVR determines that the town's appraisal of a property is over or understated by more than 10%, the Department/PVR will substitute its appraisal for that of the local assessing official. Act 57, Sec. 56. 32 V.S.A. § 3760a.

By September 1 every year, the owner of agricultural lands or buildings in current use shall certify they continue to meet requirements for current use. Act 57, Sec. 57. Session Law.

If, after a due process hearing, a landowner enrolled in the current use program is not compliant with water quality requirements, the agricultural land and farm buildings may be removed from the current use program. Act 64, Sec. 23. 32 V.S.A. § 3756(i).

By January 15, 2016, the Department of Forests, Parks and Recreation will report whether land used for maple syrup production on forestland should be enrolled in the current use program as managed forestland and not agricultural land. Act 64, Sec. 50. Session law.

Economic Development

Effective July 1, 2015, out-of-state businesses coming into Vermont during a disaster response period of 10 days prior to and 60 days after declaration of a State disaster or emergency will not be considered as having established a nexus for state tax purposes. Out-of-state businesses must still register, collect, and remit sales tax if making retail sales of tangible personal property. Out-of-state businesses are also subject to fuel tax, sales and use, meals and room, and car rental taxes. Act 51, Sec. A.1. Title 11, chapter 16.

For tax years 2014 and 2015, a payment in the amount of two percent of the wages paid by an employer for services performed in designated counties associated with the manufacture of finished wood products is available to the employer in the year the county qualifies and for one year after the qualification ends. The counties will be designated by the Secretary of Commerce and Community Development annually based on high rates of unemployment. Act 51, Sec. G.9. Session law amending 2014 Acts and Resolves No. 179, Sec. G. 100(b).

Limited use/limited application elevators are eligible for a downtown and village center tax credit up to \$40,000 as a “qualified code of technology improvement project.” Act 57, Sec. 71-72. 32 V.S.A. §§ 5930aa(3) and 5930cc(c).

The total cap for the downtown and village center tax credit for improvement credits is increased from \$25,000 to \$50,000. Act 57, Sec. 72. 32 V.S.A. § 5930cc(c).

A number of changes were made to the Vermont Employment Growth Incentive (VEGI) program that will apply to the 2015 tax year:

- Employers must provide at least three of the following benefits:
 - Health care benefits with 50 percent or more of the premium paid by the employer
 - Dental assistance
 - Paid holidays
 - Child care
 - Retirement benefits
 - Other paid time off, including sick days
 - Other extraordinary employee benefits
- Decreases wage threshold from 60 to 40 percent above minimum wage (but not less than \$13/hour) for areas where the average annual unemployment rate is higher than State average.
- The Vermont Economic Progress Council must receive authorization from the Emergency Board before exceeding the \$1 million cap for awards.
- The Vermont Economic Progress Council must receive authorization from the Emergency Board before exceeding the \$10 million aggregate program cap.
- Businesses that cannot meet targets due to circumstances beyond their control may make a request to the VEPC Board to extend their award periods. Award Period One may be extended for an additional two reporting periods (meaning that the total grace period could be four reporting periods) Award Period Two may be extended for one additional reporting period (meaning that the total grace period could be three reporting periods).
- Creates an enhanced training incentive for businesses that work with the Vermont Training Program or a Workforce Education and Training Fund program.

Act 51, Sec. G.1-G.4. 32 V.S.A. § 5930a-b, 10 V.S.A. § 531(d), and session law.

Education Property Tax

The fiscal year 2016 education property tax rates are \$0.99 for homesteads and \$1.535 for nonresidential property. The percentage of household used to calculate the property tax adjustment is 1.80 and the base education amount is \$9,459.00. Act 46, Sec. 35-36. Session Law.

Effective upon passage, the definition of “homestead” is amended to clarify that residents who own property but lease it on April 1 may still claim it as a homestead as long as it is leased for 182 days or less. Act 57, Sec. 59. 32 V.S.A. § 5401(7).

Effective retroactively to January 1, 2014, the property tax exemption certificate for VHFA qualified rental units may be renewed once after 10 years if VHFA finds that the property meets all requirements. Act 57, Sec. 60. 32 V.S.A. § 5404a(a)(6).

TIF annual reporting requirements apply to municipalities that use CPAs as well as those who have a town auditor. Date change for report from January 15 to February 15 of each year. Act 57, Sec. 62. 24 V.S.A. § 1901(3).

Under TIF, special assessments will not be considered property taxes if used exclusively for operating expenses and not improvements within the district. Effective July 1, 2015 and applied to special assessments enacted after that date. Act 57, Sec. 63. 24 V.S.A. § 1896(c).

Gasoline Tax

The motor fuel transportation infrastructure assessment will have a floor of \$0.0396. Act 40, Sec. 23. 23 V.S.A. § 3106.

Income Tax

For tax year 2015, the state and local income tax deduction is eliminated. All state and local income taxes deducted from federal adjusted gross income will be considered taxable income. Act 57, Sec. 64. 32 V.S.A. § 5811(21).

For tax year 2015, all deductions, except for charitable and medical deductions, are limited to two and one half times the standard deduction for state income tax purposes. Act 57, Sec. 64. 32 V.S.A. § 5811(21).

For tax year 2015, if federal adjusted gross income exceeds \$150,000, then the taxpayer will pay the greater of state income tax or three percent of federal adjusted gross income. Act 57, Sec. 65 § 5822(a)(6).

As of July 1, 2015, employers must provide the total cost of employer-sponsored health care coverage on box 12 of W-2s. Act 57, Sec. 67. 32 V.S.A. § 5841(c).

As of July 1, 2015, employers who are required to withhold on a semiweekly basis for federal purposes will now be required to withhold on a semiweekly basis for state taxes. This replaces the \$9,000 threshold. Employers who need to set up this payment can call Business Tax at 802-828-2551, option 3. Act 57, Sec. 68. 32 V.S.A. § 6842(a)(2).

For tax year 2016, trusts and estates are required to make estimated payments of income tax liability in the same manner as individuals. Act 57, Sec. 69. 32 V.S.A. § 5852(a).

Publicly-traded partnerships are not liable for withholding and paying income taxes for their shareholders if the partnership provides detailed information about its partners in an electronic format

to the Department. The Department will publish guidelines for the reporting requirements. Act 57, Sec. 70. 32 V.S.A. § 5920(h).

Local Option Tax

As of October 1, the Town of Colchester will have a one percent sales tax, one percent rooms tax, and one percent meals and alcoholic beverage tax. Act M-10. 24 App. V.S.A. § 703.

Meals and Rooms Tax

As of July 1, 2015, the meals tax applies to food or beverage sold through a vending machine. A vending machine is defined as a machine that dispenses food or beverages and is operated by coin, currency, credit card, slug, token, coupon, or similar device. An operator who sells taxable meals through a vending machine is not required to hold a license for each individual machine. Act 57, Sec. 88-89. 32 V.S.A. §§ 9202 and 9271.

Interest paid on a meals and rooms tax refund shall begin to run from 45 days after the refund request was made. This conforms to the calculation of both income tax and sales tax refunds. Act 57, Sec. 90. 32 V.S.A. § 9245.

Property Tax Adjustments

See change to definition of homestead above in Education Property Tax.

Property Transfer Tax and Land Gains Tax

Effective June 17, 2015, there will be a surcharge of 0.2 percent added to the 1.25 percent rate, except for the first \$200,000 for a principal residence purchased with a mortgage through VHFA or the USDA. This surcharge will sunset on July 1, 2018. Act 64, Sec. 38-39. 32 V.S.A. § 9602a.

Land transferred for highway purposes is exempt from the property transfer tax if the consideration for the transfer is \$10,000 or less. Act 40, Sec. 32. 32 V.S.A. § 9606(d).

A transfer of land to the State of Vermont or a municipality for a project under the Transportation Program or for an emergency project is not subject to the land gains tax, regardless of whether the State or municipality has started condemnation proceedings. Act 40, Sec. 33. 32 V.S.A. § 1002(q).

Sales and Use Tax

As of July 1, 2015, the sales and use tax includes soft drinks. Soft drinks are beverages that contain natural or artificial sweeteners but do not contain milk, milk substitute, or over 50 percent vegetable or fruit juice. Soft drinks purchased through the SNAP program (food stamps) are not taxable. Act 57, Sec. 91-92. 32 V.S.A. §§ 9701 and 9741.

On January 15, 2016, the Department of Taxes will report on extending the sales and use tax to consumer services most commonly taxed in other states for two scenarios: raising \$15 million and \$30

million in revenue on an annual basis. State economists will analyze the fiscal impact of extending Vermont's sales and use tax to a broader range of consumer services. Act 57, Sec. 94. Session law.

For tax year 2015, the percentage of adjusted gross income a taxpayer may elect to report as use tax on the taxpayer's income tax return in lieu of attesting to actual use tax is increased from 0.10 to 0.15 percent of adjusted gross income. Act 57, Sec. 95. 32 V.S.A. § 5870.

For tax year 2016, the percentage of adjusted gross income a taxpayer may elect to report as use tax on the taxpayer's income tax return in lieu of attesting to actual use tax is increased from 0.15 to 0.20 and will be indexed annually based on the Consumer Price Index after 2016. Act 57, Sec. 96. 32 V.S.A. § 5870.

Effective July 1, charges for the right to access remotely accessed prewritten software shall not be considered charges for tangible personal property. This legislation reflects the evolution of the market and legal principles to the point that transactions involving charges for access over the cloud are more accurately characterized as transactions involving services or intangibles for purposes of Vermont taxation at this time and are not subject to the sales tax. The new legislation addresses only software accessed remotely. Prewritten software in other forms, including download, would continue to fall within the Section 9701(1) definition of tangible personal property. Specified digital products also remain taxable. Vermont specifically imposes the sales tax on digital audio-visual works, digital audio works, digital books and ringtones that are transferred electronically. Act 51, Sec. G.8.