

1 H.633

2 Introduced by Representatives Masland of Thetford, Browning of Arlington,
3 Conquest of Newbury, Consejo of Sheldon, Deen of
4 Westminster, Ram of Burlington, Waite-Simpson of Essex,
5 Young of St. Albans City, Zenie of Colchester and Zuckerman
6 of Burlington

7 Referred to Committee on

8 Date:

9 Subject: Taxation; sales and use tax; rate of tax; services

10 Statement of purpose: This bill proposes to reduce the sales and use tax from
11 six percent to 3.5 percent and impose the sales and use tax on certain services.

12 An act relating to reducing the sales and use tax and imposing the sales and
13 use tax on certain services

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 Sec. 1. 32 V.S.A. § 9701(13) and (15) are amended to read:

16 (13) Use: means the exercise of any right or power over tangible
17 personal property by the purchaser thereof and includes, but is not limited to,
18 the receiving, storage, or any keeping or retention for any length of time,
19 withdrawal from storage, any installation, any affixation to real or personal

1 property, or any consumption of that property; or the use of a service in this
2 state.

3 (15) Property and services the use of which is subject to tax: means
4 ~~include~~ all property or services sold to a person within the state, whether or not
5 the sale is made within the state, the use of which property or service is subject
6 to tax under section 9773 of this title or will become subject to tax when such
7 property or service is received by or comes into the possession or control of
8 such person within the state or when such service is used within this state.

9 Sec. 2. 32 V.S.A. § 9701(48) is added to read:

10 (48) “Service” means: all activities engaged in for other persons for a
11 fee, retainer, commission, or other monetary charge, which activities involve
12 predominantly the performance of a service as distinguished from selling
13 property. In determining what is a service, the intended use, principal
14 objective, or ultimate objective of the contracting parties shall not be
15 controlling. For the purposes of this chapter, services rendered by an
16 employee for his or her employer are not taxable.

17 Sec. 3. 32 V.S.A. § 9702(3) and (4) are amended to read:

18 (3) Require any person required to collect tax to keep detailed records of
19 all receipts, amusement charges, received, charged, or accrued, including those
20 claimed to be nontaxable, and also of the nature, type, value, and amount of all
21 purchases, sales, admissions, services rendered, and other facts relevant in

1 determining the amount of tax due and to furnish that information upon request
2 to the commissioner;

3 (4) Publish and maintain, as he or she deems necessary, lists of specific
4 items of tangible personal property and services which are found to be exempt
5 from tax under section 9741 of this title;

6 Sec. 4. 32 V.S.A. § 9707(a) is amended to read:

7 (a) Before commencing business or opening new places of business, every
8 person required to collect any tax imposed by this chapter and every person
9 purchasing tangible personal property or services for resale shall apply for a
10 license in the manner prescribed by the commissioner. The commissioner
11 shall issue, without charge, to each registrant a license empowering him or her
12 to collect the tax. Each license shall state the place of business to which it is
13 applicable. The license shall be prominently displayed in the place of business
14 of the registrant. A registrant who has no regular place of doing business shall
15 attach the license to his or her cart, stand, truck, or other merchandising device,
16 or carry it on his or her person. The licenses shall be nonassignable and
17 nontransferable and shall be surrendered to the commissioner immediately
18 upon the registrant's ceasing to do business at the place named.

19 Sec. 5. 32 V.S.A. § 9741(48) is added to read:

20 (48) Services purchased by an engineer, architect, or surveyor on behalf
21 of a client in the performance of a contract for such client.

1 (49) The following services: health; educational; social; agricultural
2 except veterinarian and animal specialty; forestry; radio and television
3 broadcasting; railroad transportation; school busing; trucking and courier,
4 except air; farm product warehousing and storage; transportation on rivers and
5 canals; security and commodity brokerage; and credit counseling. The
6 following are also specifically exempt from the provisions of this chapter:
7 financial services of institutions subject to tax under subchapter 3 of chapter
8 151 of this title, including loan origination fees, late payment charges,
9 nonsufficient fund check charges, stop payment charges, safe deposit box rent,
10 exchange charges, commission on travelers checks, charges for administration
11 of trusts, interest charges, and points charged on loans; commissions earned, or
12 service fees paid by an insurance company to an agent or representative for the
13 sale of a policy; continuing education programs; tutoring; vocational
14 counseling, and motion picture rentals to a commercially operated theater
15 primarily engaged in the exhibition of motion pictures.

16 Sec. 6. 32 V.S.A. § 9771 is amended to read:

17 § 9771. IMPOSITION OF SALES TAX

18 Except as otherwise provided in this chapter, there is imposed a tax on retail
19 sales in this state. The tax shall be paid at the rate of ~~six~~ 3.5 percent of the
20 sales price charged for but in no case shall any one transaction be taxed under
21 more than one of the following:

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(9) The provision of services.

Sec. 7. 32 V.S.A. § 9773 is amended to read:

§ 9773. IMPOSITION OF COMPENSATING USE TAX

Unless property ~~has~~ or services have already been or will be subject to the sales tax under this chapter, there is imposed on every person a use tax at the rate of ~~six~~ 3.5 percent for the use within this state, except as otherwise exempted under this chapter:

* * *

(3) Of any tangible personal property, however acquired, where not acquired for purposes of resale, upon which any taxable services described in subdivision 9771(3) of this title have been performed; ~~and~~

(4) Specified digital products transferred electronically to an end user; and

(5) Of services provided.

Sec. 8. EFFECTIVE DATE AND TRANSITION RULE

This act shall take effect on July 1, 2010; provided, however, that receipts from services otherwise taxable under chapter 233 of Title 32 received after July 1, 2010, pursuant to a written contract entered into prior to April 1, 2010, and being performed prior to August 31, 2010, shall not be taxable.