SENATE PROPOSAL OF AMENDMENT

H. 783

An act relating to miscellaneous tax provisions

The Senate proposes to the House to amend the bill as follows:

First: By striking out Sec. 1 in its entirety (tax expenditure report).

Second: By striking out Sec. 9 in its entirety (VAST trails).

Third: By striking out Sec. 13 in its entirety and inserting in lieu thereof a new Sec. 13 to read as follows:

Sec. 13. 32 V.S.A. § 9605(a) is amended to read:

(a) The tax imposed by this chapter shall be paid to ~~a town clerk~~ the commissioner at the time of ~~the delivery to that clerk for recording of a deed evidencing a~~ transfer of title to property subject to the tax.

Fourth: By striking out Sec. 16 in its entirety and inserting in lieu thereof a new Sec. 16 to read as follows:

Sec. 16. 32 V.S.A. § 9608(a) is amended to read:

(a) Except as to transfers which are exempt pursuant to subdivision 9603(17) of this title, no town clerk shall record, or receive for recording, any deed to which ~~has not been affixed an acknowledgment of return and tax payment under section 9607 of this title~~ is not attached a properly executed transfer tax return, complete and regular on its face, and a certificate in the form prescribed by the land use panel of the natural resources board and the commissioner of the department of taxes signed under oath by the seller or the seller's legal representative, that the conveyance of the real property and any development thereon by the seller is in compliance with or exempt from the provisions of chapter 151 of Title 10. The certificate shall indicate whether or not the conveyance creates the partition or division of land. If the conveyance creates a partition or division of land, there shall be appended the current "Act 250 Disclosure Statement," required by 10 V.S.A. § 6007. A town clerk who violates this section shall be fined $50.00 for the first such offense and $100.00 for each subsequent offense. A person who purposely or knowingly falsifies any statement contained in the certificate required is punishable by fine of not more than $500.00 or imprisonment for not more than one year, or both.

Fifth: By striking out Secs. 19–24 in their entirety and inserting in lieu thereof the following:

Sec. 19. 32 V.S.A. § 6061(5) is amended to read:

(5) "Modified adjusted gross income" means "federal adjusted gross income":

(A) before the deduction of any trade or business loss, loss from a partnership, loss from a small business or "subchapter S" corporation, loss from a rental property, or capital loss, except that in the case of a business which sells a business property with respect to which it is required, under the Internal Revenue Code, to report a capital gain, a business loss incurred in the same tax year with respect to the same business may be netted against such capital gain;

(B) with the addition of the following, to the extent not included in adjusted gross income: alimony, support money other than gifts, gifts received by the household in excess of a total of $6,500.00 in cash or cash-equivalents, cash public assistance and relief (not including relief granted under this subchapter), cost of living allowances paid to federal employees, allowances received by dependents of servicemen and women, the portion of Roth IRA distributions representing investment earnings and not included in adjusted gross income, railroad retirement benefits, payments received under the federal Social Security Act, ~~and~~ all benefits under Veterans' Acts, ~~and~~ federal pension and annuity benefits not included in adjusted gross income; nontaxable interest received from the state or federal government or any of its instrumentalities, workers' compensation, the gross amount of "loss of time" insurance, and the amount of capital gains excluded from adjusted gross income, less the net employment and self-employment taxes withheld from or paid by the individual (exclusive of any amounts deducted to arrive at adjusted gross income or deducted on account of excess payment of employment taxes) on account of income included under this section, less any amounts paid as child support money if substantiated by receipts or other evidence that the commissioner may require; ~~and~~

(C) without the inclusion of: any gifts from nongovernmental sources other than those described in subdivision (B) of this subdivision (5); surplus food or other relief in kind supplied by a governmental agency; or the first $6,500.00 of income earned by a full-time student who qualifies as a dependent of the claimant under the federal Internal Revenue Code; the first $6,500.00 of income received by a person who qualifies as a dependent of the claimant under the Internal Revenue Code and who is the claimant's parent or disabled adult child; or payments made by the state pursuant to chapters 49 and 55 of Title 33 for foster care, or payments made by the state or an agency designated in ~~section~~ 18 V.S.A. § 8907 ~~of Title 18~~ for adult foster care or to a family for the support of an eligible person with a developmental disability. If the commissioner determines, upon application by the claimant, that a person resides with a claimant who is disabled or was at least 62 years of age as of the end of the year preceding the claim, for the primary purpose of providing attendant care services (as defined in ~~section~~ 33 V.S.A. § 6321 ~~of Title 33~~) or homemaker or companionship services, with or without compensation, which allow the claimant to remain in his or her home or avoid institutionalization,

the commissioner shall exclude that person's modified adjusted gross income from the claimant's household income. The commissioner may require that a certificate in a form satisfactory to the commissioner be submitted which supports the claim; and

(D) with the addition of an asset adjustment of two times the sum of interest and dividend income above $5,000.00, regardless of whether that dividend or interest income is included in adjusted gross income.

Sec. 20. 32 V.S.A. § 6061(4), (5), and (7) are amended to read:

(4) "Household income" means modified adjusted gross income, but not less than zero, received in a calendar year by:

(5) "Modified adjusted gross income" means "federal adjusted gross income":

(A) before the deduction of any trade or business loss, loss from a partnership, loss from a small business or "subchapter S" corporation, loss from a rental property, or capital loss, except that in the case of a business which sells a business property with respect to which it is required, under the Internal Revenue Code, to report a capital gain, a business loss incurred in the same tax year with respect to the same business may be netted against such capital gain;

(B) with the addition of the following, to the extent not included in adjusted gross income: alimony, support money other than gifts, gifts received by the household in excess of a total of $6,500.00 in cash or cash-equivalents, cash public assistance and relief (not including relief granted under this subchapter), cost of living allowances paid to federal employees, allowances received by dependents of servicemen and women, the portion of Roth IRA distributions representing investment earnings and not included in adjusted gross income, railroad retirement benefits, payments received under the federal Social Security Act, all benefits under Veterans' Acts, federal pension and annuity benefits not included in adjusted gross income; nontaxable interest received from the state or federal government or any of its instrumentalities, workers' compensation, the gross amount of "loss of time" insurance, amounts deducted pursuant to 26 U.S.C. § 199, and the amount of capital gains excluded from adjusted gross income, less the net employment and self-employment taxes withheld from or paid by the individual (exclusive of any amounts deducted to arrive at adjusted gross income or deducted on account of excess payment of employment taxes) on account of income included under this section, less any amounts paid as child support money if substantiated by receipts or other evidence that the commissioner may require; ~~and~~

* * *

(7) ~~"Rent constituting property taxes"~~ "Allocable rent" means for any housesite and for any taxable year~~, at the claimant's option, (A)~~ 21 percent of the gross rent ~~or (B) that portion of the gross rent which equals the property tax assessed for payment in the calendar year allocable to the claimant's rental unit for the period rented by the claimant~~. "Gross rent" means the rent actually paid during the taxable year by the individual or other members of the household solely for the right of occupancy of the housesite during the taxable year. ~~If a claimant's rent is government-subsidized, the property tax allocable to the claimant's rental unit shall be reduced in the same proportion as the rent is reduced by the subsidy. "Rent constituting property taxes"~~ "Allocable rent" shall not include payments made under a written homesharing agreement pursuant to a nonprofit homesharing program, or payments for a room in a nursing home in any month for which Medicaid payments have been made on behalf of the claimant to the nursing home for room charges.

Sec. 21. 32 V.S.A. § 6066(a) is amended to read:

(a) An eligible claimant who owned the homestead on April 1 of the year in which the claim is filed shall be entitled to an adjustment amount determined as follows:

(1)(A) For a claimant with household income of $90,000.00 or more:

(i) the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year;

(ii) minus (if less) the sum of:

* * *

~~(D) A claimant whose household income does not exceed $90,000.00 shall also be entitled to an additional adjustment amount under this section of $10.00 per acre, up to a maximum of five acres, for each additional acre of homestead property in excess of the two-acre housesite. The adjustment amount under this section shall be shown separately on the notice of property tax adjustment to the claimant.~~

* * *

(4) Credit limitation. In no event shall the credit provided for in subdivision (3) of this subsection exceed the amount of the reduced property tax.

Sec. 22. 32 V.S.A. § 6069 is amended to read:

§ 6069. LANDLORD CERTIFICATE

~~(a) Upon written request by a tenant before January 1, the owner of the rental unit shall provide to that tenant, by January 31, a certificate of rent constituting property tax for the preceding calendar year, which shall include a certificate of property tax allocable to the rental unit indicating the proportion~~

~~of total property tax on that unit or parcel which was assessed for municipal property tax, for local share property tax and for statewide property tax.~~

~~(b)~~(a) By January 31 of each year, the owner of land rented as a portion of a homestead in the prior calendar year shall furnish a certificate of rent to each claimant who owned a portion of the homestead and rented that land as a portion of a homestead in the prior calendar year. The certificate shall indicate the proportion of total property tax on that parcel which was assessed for municipal property tax, for local share property tax and for statewide property tax.

~~(c)~~(b) The owner of each rental property consisting of more than ~~four~~ one rented homestead shall, not later than January 31 of each year, furnish a certificate of rent to each person who rented a homestead from the owner at any time during the preceding calendar year. All other owners of rented homestead units shall furnish such certificate upon request of the renter. If a renter moves prior to December 31, the owner may either provide the certificate to the renter at the time of moving or mail the certificate to the forwarding address if one has been provided by the renter or in the absence of a forwarding address, to the last known address. ~~An owner is not required to furnish a certificate under this section to a tenant who, at the time he or she entered into the rental agreement, or any later date, signed a waiver of the right to receive the certificate. The waiver shall not be a part of any written lease, but shall be a separate document. The tenant may revoke the written waiver at any time by providing the owner with written notice of the revocation. An owner shall not demand or require a tenant to sign a waiver as a condition of entering into or continuing a rental agreement. An owner shall not charge a higher rent, change any other condition of a rental agreement, or terminate a rental agreement because a tenant has failed or refused to sign a waiver or has revoked a waiver previously signed.~~

~~(d)~~(c) A certificate under this section shall be in a form prescribed by the commissioner and shall include the name of the renter, the address and any property tax parcel identification number of the homestead, notice of the requirements for eligibility for the property tax adjustment provided by this chapter, and any additional information which the commissioner determines is appropriate.

~~(e)~~(d)(1) An owner who knowingly fails to furnish a certificate to a renter as required by this section shall be liable to the commissioner for a penalty of ~~$100.00~~ $200.00 for each failure to act. An owner shall be liable to the commissioner for a penalty equal to the greater of ~~$100.00~~ $200.00 or the excess amount reported who:

~~(1)~~(A) willfully furnishes a certificate that reports total ~~rent constituting property taxes~~ allocable rent in excess of the actual amount paid; or

~~(2)~~(B) reports a total amount of ~~rent constituting property taxes~~ allocable rent that exceeds by ten percent or more the actual amount paid.

(2) Penalties under this subsection shall be assessed and collected in the manner provided in chapter 151 for the assessment and collection of the income tax.

~~(f)~~(e) Failure to receive a rent certificate shall not disqualify a renter from the benefits provided by this chapter.

Sec. 23. STATUTORY REVISION

The legislative council is directed to revise the Vermont Statutes Annotated to reflect the change from "rent constituting property taxes" to "allocable rent."

Sec. 24. FISCAL YEAR 2011 EDUCATION PROPERTY TAX RATE

(a) For fiscal year 2011 only, the education property tax imposed under 32 V.S.A. § 5402(a) shall be reduced from the rate of $1.59 and $1.10 and shall instead be at the following rates:

(1) the tax rate for nonresidential property shall be $1.36 per $100.00; and

(2) the tax rate for homestead property shall be $0.87 multiplied by the district spending adjustment for the municipality per $100.00 of equalized property value as most recently determined under 32 V.S.A. § 5405.

(b) For claims filed in 2011 only, "applicable percentage" in 32 V.S.A. § 6066(a)(2) shall be reduced from 2.0 percent and instead shall be 1.8 percent multiplied by the fiscal year 2011 district spending adjustment for the municipality in which the homestead residence is located; but in no event shall the applicable percentage be less than 1.8 percent.

Sixth: By striking out Secs. 27 and 28 in their entirety (capital gains).

Seventh: By adding a new Sec. 31A after the heading "* * * Petroleum Cleanup Fund * * *" to read as follows:

Sec. 31A. 10 V.S.A. § 1941(b)(1)(A) is amended to read:

(A) an underground storage tank defined as a category one tank after the first $10,000.00 of the cleanup costs have been borne by the owners or operators of tanks used for commercial purposes, or after the first $250.00 of the cleanup costs have been borne by the owners or operators of tanks with capacities equal to or less than 1,100 gallons used for farms or residential purposes. Disbursements on any site shall not exceed ~~$990,000.00~~ $1,240,000.00. These disbursements shall be made from the motor fuel account;

Eighth: By striking out Secs. 34, 35, 36, and 37 in their entirety (state collection of education property tax; education finance study; tax on nonprescription dietary supplements).

Ninth: By striking out Secs. 41 and 42 in their entirety and inserting in lieu thereof new Secs. 41 and 42 to read as follows:

Sec. 41. 32 V.S.A. chapter 151, subchapter 11M is added to read:

Subchapter 11M. Machinery and Equipment Investment Tax Credit

§ 5930ll. MACHINERY AND EQUIPMENT TAX CREDIT

(a) Definitions.

(1) "Full-time job" has the same meaning as defined in subdivision 5930b(a)(9) of this title.

(2) "Investment period" means the period commencing January 1, 2010, and ending December 31, 2014.

(3) "Qualified capital expenditures" means expenditures properly chargeable to a capital account by a qualified taxpayer during the investment period, totaling at least $20 million for machinery and equipment to be located and used in Vermont for creating, producing, or processing tangible personal property for sale.

(4) "Qualified taxpayer" means a taxpayer that:

(A) is an existing business on January 1, 2010 with an aggregate average annual employment, including all employees of its related business units with which it files a combined or consolidated return for Vermont income tax purposes, during the investment period of no fewer than 200 full-time jobs in Vermont;

(B) is a taxable corporation under Subchapter C of the Internal Revenue Code;

(C) is a business whose operations at the time of application to the Vermont economic progress council are located in a Rural Economic Area Partnership (REAP) zone designated by the United States Department of Agriculture Rural Development Authority, engaged primarily in the creation, production, or processing of tangible personal property for sale; and

(D) proposes to make qualified capital expenditures in a Vermont REAP zone and such expenditures will contribute substantially to the REAP zone's economy.

(5) "Qualified taxpayer's Vermont income tax liability" means the corporate income tax otherwise due on the qualified taxpayer's Vermont net income after reduction for any Vermont net operating loss as provided for under section 5382 of this title. For a qualified taxpayer that is a member of an

affiliated group and that is engaged in a unitary business with one or more other members of that affiliated group, its Vermont net income includes the allocable share of the combined net income of the group.

(b) Certification.

(1) A qualified taxpayer may apply to the Vermont economic progress council for a machinery and equipment investment tax credit certification for all qualified capital expenditures in the investment period on a form prescribed by the council for this purpose.

(2) The council shall issue a certification upon determining that the applicant meets the requirements set forth in subsection (a) of this section.

(c) Amount of credit. Except as limited by subsections (e) and (f) of this section, a qualified taxpayer shall be entitled to claim against its Vermont income tax a credit in an amount equal to ten percent of the total qualified capital expenditures.

(d) Availability of credit.

(1) The credit earned under this section with respect to qualified capital expenditures shall be available to reduce the qualified taxpayer's Vermont income tax liability for its tax year beginning on or after January 1, 2012, or, if later, the first tax year within which the qualified taxpayer's aggregate qualified capital expenditures exceed $20,000,000.00. A taxpayer claiming a credit under this subchapter shall submit with the first return on which a credit is claimed a copy of the qualified taxpayer's certification from the Vermont economic progress council.

(2) The credit may be used in the year earned or carried forward to reduce the qualified taxpayer's Vermont income tax liability in succeeding tax years ending on or before December 31, 2026.

(e) Limitations.

(1) The credit earned under this section, either alone or in combination with any other credit allowed by this chapter, may not be applied to reduce the qualified taxpayer's Vermont income tax liability in any one year by more than 80 percent, and in no event shall the credit reduce the taxpayer's income tax liability below any minimum tax imposed by this chapter.

(2) The total amount of credit authorized under this section shall be $8,000,000.00 and in no event shall the credit in any one tax year exceed $1,000,000.00. The credit shall be available on a first-come first-served basis by certification of the Vermont economic progress council pursuant to subsection (b) of this section.

(f) Recapture.

(1) A qualified taxpayer who has earned credit under this section with respect to its qualified capital expenditures shall notify the Vermont economic progress council in writing within 60 days if the taxpayer's trade or business is substantially curtailed in any calendar year prior to December 31, 2023.

(2) A qualified taxpayer's business shall be considered to be substantially curtailed when the average number of the taxpayer's full-time jobs in Vermont for any calendar year prior to December 31, 2023, is less than 60 percent of the highest average number of its full-time jobs in Vermont for any calendar year in the investment period. For purposes of the preceding calculation, the qualified taxpayer's full-time jobs in Vermont shall include all full-time jobs in Vermont of its related business units with which it files a combined or consolidated return for Vermont income tax purposes. A business shall not be considered to be substantially curtailed when the assets of the business have been sold but the business continues to be located in Vermont provided that the employment test of this subdivision is met.

(3) In the event that a qualified taxpayer has substantially curtailed its trade or business, then:

(A) the credit certification for such tax year and all succeeding tax years of the taxpayer shall be terminated;

(B) any credit previously earned and carried forward shall be disallowed; and

(C) any credit which has been previously used by the taxpayer to reduce its Vermont income tax liability shall be subject to recapture in accordance with the following table:

Years between the close of the tax year when credit was earned and year when business was substantially curtailed:	Percent of credits to be repaid (%):
2 or less	100
More than 2, up to 4	80
More than 4, up to 6	60
More than 6, up to 8	40
More than 8, up to 10	20
More than 10	0

(4) The recapture shall be reported on the income tax return of the taxpayer who claimed the credit for the tax year in which the taxpayer's trade or business was substantially curtailed, or the commissioner may assess the recapture in accordance with the assessment and appeal provisions provided for in subchapter 8 of this chapter.

(5) Within 60 days of the close of the qualified taxpayer's tax year in which the taxpayer's trade or business was substantially curtailed, the taxpayer may petition the commissioner for a reduction in the amount of the credit subject to recapture and the disallowance of credit previously earned and carried forward. The commissioner shall hold a hearing within 45 days of the receipt of the taxpayer's petition. The commissioner shall have the discretion to reduce the amount of the credit subject to recapture and disallowance upon a showing of circumstances that contributed to the substantial curtailment of the taxpayer's trade or business. The decision of the commissioner shall be final and shall not be subject to judicial review.

(g) Reporting.

(1) Any qualified taxpayer who has been certified under subsection (b) of this section shall file a report with the Vermont economic progress council on a form prescribed by the council for this purpose and provide a copy of the report to the commissioner of the department of taxes.

(2) The report shall be filed for each year following the certification until the year following the last year the taxpayer claims the credit to reduce its Vermont income tax liability, or 2027, whichever occurs first.

(3) The report shall be filed by February 28 each year for activity the previous calendar year and include, at a minimum:

(A) The number of full-time jobs in each quarter and the average number of hours worked per week.

(B) The level of qualifying capital investments made if reporting on a year within an investment period; and

(C) The amount of tax credit earned and applied during the previous calendar year.

Sec. 42. REPEAL

Subchapter 11M of chapter 151 of Title 32 is repealed July 1, 2026, and no credit under that section shall be available for any taxable year beginning after June 30, 2026; provided, however, that if no qualified capital expenditures are made during the investment period, both terms as defined in 32 V.S.A. § 5930ll(a) of this act, the subchapter shall be repealed effective January 1, 2015.

Tenth: By striking out Secs. 43, 44 and 45 in their entirety.

Eleventh: By striking out Sec. 47 in its entirety and inserting in lieu thereof a new Sec. 47 to read as follows:

Sec. 47. 20 V.S.A. § 1548 is added to read:

§ 1548. VERMONT VETERANS' FUND

(a) There is created a special fund to be known as the Vermont veterans' fund. This fund shall be administered by the state treasurer and shall be paid out in grants on the recommendations of a nine-member committee comprised of:

(1) The adjutant general or designee;

(2) The Vermont veterans home administrator or designee;

(3) The commissioner of the department of labor or designee;

(4) The secretary of the agency of human resources or designee;

(5) The commissioner of buildings and general services or designee;

(6) The director of the White River Junction VA medical center or designee;

(7) The director of the White River Junction VA benefits office, or designee; and

(8) two members of the governor's veterans' council to be appointed by that council.

(b) The purpose of this fund shall be to provide grants or other support to individuals and organizations:

(1) For the long-term care of veterans.

(2) To aid homeless veterans.

(3) For transportation services for veterans.

(4) To fund veterans' service programs.

(c) The Vermont veterans' fund shall consist of revenues paid into it from the Vermont veterans' fund checkoff established in 32 V.S.A. § 5862e and from any other source.

(d) For purposes of this section, "veteran" means a resident of Vermont who served on active duty in the United States armed forces or the Vermont national guard or Vermont air national guard and who received an honorable discharge.

Twelfth: By adding a new section to be numbered Sec. 47a to read as follows:

Sec. 47a. 32 V.S.A. § 6067 is amended to read:

§ 6067. CREDIT LIMITATIONS

(a) Only one individual per household per taxable year shall be entitled to a benefit under this chapter. An individual who received a homestead exemption or adjustment with respect to property taxes assessed by another state for the taxable year shall not be entitled to receive an adjustment under this chapter.

No taxpayer shall receive total adjustments under this chapter in excess of $8,000.00 related to any one property tax year.

(b) To be eligible for an adjustment under this chapter a claimant shall verify on a form prescribed by the commissioner that the aggregate net worth of all members of the household does not exceed $1,000,000.00. If the claim for adjustment is prepared by a professional tax preparer, the preparer shall affirm, after reasonable inquiry that, to the best of his or her knowledge, the claim regarding net worth is accurate and complete. For purposes of this subsection, "net worth" means the excess of total assets over total liabilities; provided, however, that in determining net worth, the claimant shall disregard the following:

(1) The value of and the liability, if any, on the claimant's primary residence; and

(2) The value of any non-revocable trust fund established for the benefit of a minor or a disabled adult.

Thirteenth: By adding a new section to be numbered Sec. 47b to read as follows:

Sec. 47b. 32 V.S.A. § 9743(3)(B) is amended to read:

(B) Amusement charges by, and sales to or uses by such organizations shall be exempt from the tax under this chapter; except performances jointly produced or presented by a qualified organization and another person shall not be exempt from amusement tax under this section unless the organization bears the entire risk of loss of the production; the other person does not share in the profits of, and is not a party to any contracts with the performers related to, the production; and the organization is solely responsible for collection of all receipts and payment of all expenses associated with the production and accounts for the receipts and expenses on its books and records. A performance shall not be considered to be jointly produced or presented with another person, nor will another person be considered to be sharing in the profits of a production, solely by reason of the organization's payment of all or a portion of gross revenues realized from the production, directly to the performer who provides entertainment at the performance, including artists, dancers, actors, singers, comedians, musicians and other performance artists, or to a business entity on behalf of the performer, as compensation for the performance.

Fourteenth: By adding 11 new sections to be numbered Secs. 48A-48K to read as follows:

* * * Campaign Finance Checkoff * * *

Sec. 48A. REPEAL

32 V.S.A. § 5862c (providing for a checkoff on Vermont income tax returns for the Vermont campaign fund) is repealed effective for taxable years beginning on and after January 1, 2010.

* * * Transferability of Downtown Tax Credits * * *

Sec. 48B. 32 V.S.A. § 5930dd(f) is added to read:

(f) In lieu of using a tax credit to reduce its own tax liability, an applicant may request the credit in the form of an insurance credit certificate that an insurance company may accept in return for cash and for use in reducing its tax liability under subchapter 7 of chapter 211 of this title in the first tax year in which the qualified building is placed back in service after completion of the qualified project or in the subsequent nine years. The amount of the insurance credit certificate shall equal the unused portion of the credit allocated under this subchapter, and an applicant requesting an insurance credit certificate shall provide to the state board a copy of any returns on which any portion of the allocated credit under this section was claimed.

Sec. 48C. 32 V.S.A. § 5930ff is amended to read:

§ 5930ff. RECAPTURE

If, within five years after completion of the qualified project, either of the following events occurs, the applicant shall be liable for a recapture penalty in an amount equal to the total tax credit claimed plus an amount equal to any value received from a bank for a bank or insurance credit certificate; and any credit allocated but unclaimed shall be disallowed to the applicant:

* * *

* * * Rutland-Clarendon Municipal Agreement * * *

Sec. 48D. REPEAL

No. M-4 of 1981 of the Acts of 1981 (relating to the agreement between Rutland City and Clarendon) is repealed effective upon passage of this act.

* * * Property Tax Exemption for Certain Skating Rinks * * *

Sec. 48E. Sec. 40 of No. 190 of the Acts of the 2007 Adj. Sess. (2008) is amended to read:

Sec. 40. EDUCATION PROPERTY TAX EXEMPTION FOR SKATING RINKS USED FOR PUBLIC SCHOOLS

Real and personal property operated as a skating rink, owned and operated on a nonprofit basis but not necessarily by the same entity, and which, in the most recent calendar year, provided facilities to local public schools for a sport officially recognized by the Vermont Principals' Association shall be exempt from education property taxes for fiscal years 2009 ~~and~~, 2010, and 2011 only.

* * *Current Use Advisory Board * * *

Sec. 48F. CURRENT USE ADVISORY BOARD USE VALUE CALCULATION

The current use advisory board established pursuant to 32 V.S.A. § 3753 has provided to the general assembly a document entitled Methodology and Criteria used in the Determination of Vermont's Use Values for the Current Use Program" and dated April 12, 2010. The general assembly hereby deems that said document shall have the force and effect of administrative rules adopted pursuant to chapter 25 of Title 3 of the Vermont Statutes Annotated.

Sec. 48G. 32 V.S.A. § 7702 is amended to read:

* * *

(6) "Little ~~cigars~~ cigar" means any ~~rolls of tobacco wrapped in leaf tobacco or any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of subdivision (1) of this section) and as to which 1,000 units weigh not more than three pounds~~ roll for smoking made wholly or in part of tobacco (other than any roll of tobacco which is a cigarette within the meaning of subdivision (1) of this section) which includes a cellulose acetate filter or other integrated filter, or as to which 1,000 units weigh not more than three pounds.

* * *

(21) "Integrated filter" means a component attached to the mouth end of a roll of tobacco, typically consisting of cellulose acetate, but which may incorporate or consist of other materials, which filters smoke prior to the smoke's entering the mouth.

Sec. 48H. 32 V.S.A. § 7771 is amended to read:

§ 7771. RATE OF TAX

(a) A tax is imposed on all cigarettes, little cigars, and roll-your-own tobacco held in this state by any person for sale, unless such products shall be:

(1) in the possession of a licensed wholesale dealer;

(2) in the course of transit and consigned to a licensed wholesale dealer or retail dealer; or

(3) in the possession of a retail dealer who has held the products for 24 hours or less.

(b) Payment of the tax on cigarettes under this ~~subsection~~ section shall be evidenced by the affixing of stamps to the packages containing the cigarettes. Where practicable, the commissioner may also require that stamps be affixed to packages containing little cigars or roll-your-own tobacco. Any cigarette, little cigar, or roll-your-own tobacco on which the tax imposed by this

~~subsection~~ section has been paid, such payment being evidenced by the affixing of such stamp or such evidence as the commissioner may require, shall not be subject to a further tax under this chapter. Nothing contained in this chapter shall be construed to impose a tax on any transaction the taxation of which by this state is prohibited by the constitution of the United States. The amount of taxes advanced and paid by a licensed wholesale dealer or a retail dealer as herein provided shall be added to and collected as part of the retail sale price on the cigarettes, little cigars, or roll-your-own tobacco.

~~(b)~~(c) A tax is also imposed on all cigarettes, little cigars, and roll-your-own tobacco possessed in this state by any person for any purpose other than sale, as follows:

(1) This tax shall not apply to:

(A) products bearing a stamp affixed pursuant to this chapter; or

(B) products bearing a tax stamp affixed pursuant to the laws of another jurisdiction with a tax rate equal to or greater than the rate set forth in subsection (c) of this section; or

(C) products purchased outside the state by an individual in quantities of 400 or fewer cigarettes, little cigars, and ~~0.09~~ 0.0325 ounce units of roll-your-own tobacco, and brought into the state for that individual's own use or consumption. Products that are ordered from a source outside the state and delivered into this state are not "purchased outside the state" within the meaning of this subsection.

(2) There is allowed a credit against the tax under this subsection for cigarette, little cigars, or roll-your-own tobacco tax paid to another jurisdiction and evidenced by tax stamps affixed to the subject products pursuant to the laws of that jurisdiction.

(3) A person taxable under this ~~subsection~~ section shall, within 30 days of first possessing the products in this state, file a return with the commissioner, showing the quantity of products brought into the state. The return must be made in the form and manner prescribed by the commissioner and be accompanied by remittance of the tax due.

~~(c)~~(d) The tax imposed under this section shall be at the rate of 112 mills per cigarette or little cigar and for each ~~0.09~~ 0.0325 ounces of roll-your-own tobacco. The interest and penalty provisions of section 3202 of this title shall apply to liabilities under this section.

Sec. 48I. 32 V.S.A. § 7811 is amended to read:

§ 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

There is hereby imposed and shall be paid a tax on all tobacco products except roll-your-own tobacco and little cigars taxed under section 7771 of this

title possessed in the state of Vermont by any person for sale on and after July 1, 1959 which were imported into the state or manufactured in the state after said date, except that no tax shall be imposed on tobacco products sold under such circumstances that this state is without power to impose such tax, or sold to the United States, or sold to or by a voluntary unincorporated organization of the armed forces of the United States operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States. Such tax is intended to be imposed only once upon the wholesale sale of any tobacco product and shall be at the rate of 92 percent of the wholesale price for all tobacco products except snuff, which shall be taxed at ~~$1.66~~ $1.87 per ounce, or fractional part thereof, and new smokeless tobacco, which shall be taxed at the greater of ~~$1.66~~ $1.87 per ounce or, if packaged for sale to a consumer in a package that contains less than 1.2 ounces of the new smokeless tobacco, at the rate of ~~$1.99~~ $2.24 per package. Provided, however, that upon payment of the tax within 10 days, the distributor or dealer may deduct from the tax two percent of the tax due. It shall be presumed that all tobacco products within the state are subject to tax until the contrary is established and the burden of proof that any tobacco products are not taxable hereunder shall be upon the person in possession thereof. Wholesalers of tobacco products shall state on the invoice whether the price includes the Vermont tobacco products tax.

Sec. 48J. 32 V.S.A. § 7814 is amended to read:

§ 7814. FLOOR STOCK TAX

(a) Snuff and new smokeless tobacco. A floor stock tax is hereby imposed upon every retailer of snuff or new smokeless tobacco in this state in the amount by which the new tax exceeds the amount of the tax already paid on the snuff or new smokeless tobacco. The tax shall apply to snuff and new smokeless tobacco in the possession or control of the retailer at 12:01 a.m. ~~o'clock~~ on July 1~~, 2006,~~ following enactment of this act but shall not apply to retailers who hold less than $500.00 in wholesale value of ~~such~~ snuff and new smokeless tobacco. Each retailer subject to the tax shall, on or before July 25~~, 2006~~ following enactment of this act file a report to the commissioner in such form as the commissioner may prescribe showing the snuff on hand at 12:01 a.m. ~~o'clock~~ on July 1~~, 2006,~~ following enactment of this act and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before ~~August 25, 2006~~ July 25 following enactment of this act, and thereafter shall bear interest at the rate established under ~~section~~ 32 V.S.A. § 3108 ~~of this title~~. In case of timely payment of the tax, the retailer may deduct from the tax due two percent of the tax. Any snuff or new smokeless tobacco with respect to which a floor stock tax has been imposed and paid under this section shall not again be subject to tax under section 7811 of this title.

(b) ~~Cigarettes, little cigars, or roll~~ Roll-your-own tobacco. Notwithstanding the prohibition against further tax on ~~stamped cigarettes, little cigars, or~~ roll-your-own tobacco under section 7771 of this title, a floor stock tax is hereby imposed upon every dealer of ~~cigarettes, little cigars, or~~ roll-your-own tobacco in this state who is either a wholesaler, or a retailer who at 12:01 a.m. on July 1 following enactment of this act, has ~~more than 10,000 cigarettes or little cigars or who has~~ $500.00 or more of wholesale value of roll-your-own tobacco, for retail sale in his or her possession or control. The amount of the tax shall be the amount by which the new tax exceeds the amount of the tax already paid for ~~each cigarette, little cigar, or~~ the roll-your-own tobacco in the possession or control of the wholesaler or retailer at 12:01 a.m. on July 1 following enactment of this act~~, and on which cigarette stamps have been affixed before July 1 following enactment of this act. A floor stock tax is also imposed on each Vermont cigarette stamp in the possession or control of the wholesaler at 12:01 a.m. on July 1 following enactment of this act, and not yet affixed to a cigarette package, and the tax shall be at the rate of $0.25 per stamp.~~ Each wholesaler and retailer subject to the tax shall, on or before July 25 following enactment of this act, file a report to the commissioner in such form as the commissioner may prescribe showing the ~~cigarettes, little cigars, or~~ roll-your-own tobacco ~~and stamps~~ on hand at 12:01 a.m. on July 1 following enactment of this act, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before July 25 following enactment of this act, and thereafter shall bear interest at the rate established under ~~section~~ 32 V.S.A. § 3108 ~~of this title~~. In case of timely payment of the tax, the wholesaler or retailer may deduct from the tax due two and three-tenths of one percent of the tax. Any ~~cigarettes, little cigars, or~~ roll-your-own tobacco with respect to which a floor stock tax has been imposed under this section shall not again be subject to tax under section 7771 of this title.

Sec. 48K. 32 V.S.A. § 5402b(b) is amended to read:

§ 5402B. STATEWIDE EDUCATION TAX RATE ADJUSTMENTS

(b) If the commissioner makes a recommendation to the general assembly to adjust the education tax rates under section 5402 of this title, the commissioner shall also recommend a proportional adjustment to the applicable percentage base and for homestead income-based adjustments under section 6066 of this title, but the applicable percentage base shall not be adjusted below 1.8 percent. The commissioner shall include in the recommendation specific information on the total amount of annual education property tax adjustments, the percentage of Vermont households that are provided an education property tax adjustment or renter rebate based on household income, and the dollar limitations that are used for each of the computations under this chapter. Based on the foregoing information, the commissioner shall make a recommendation regarding the dollar limitations

provided for in statute and whether such limitations should be increased or decreased in order to maintain the same percentage level of households from the previous fiscal year that are eligible for an education property tax adjustment or renter rebate based on household income.

Sec. 48L. 32 V.S.A. § 5402b(b) is amended to read:

§ 5402B. STATEWIDE EDUCATION TAX RATE ADJUSTMENTS

(b) If the commissioner makes a recommendation to the general assembly to adjust the education tax rates under section 5402 of this title, the commissioner shall also recommend a proportional adjustment to the applicable percentage base and for homestead income-based adjustments under section 6066 of this title, but the applicable percentage base shall not be adjusted below 1.8 percent. ~~The commissioner shall include in the recommendation specific information on the total amount of annual education property tax adjustments, the percentage of Vermont households that are provided an education property tax adjustment or renter rebate based on household income, and the dollar limitations that are used for each of the computations under this chapter. Based on the foregoing information, the commissioner shall make a recommendation regarding the dollar limitations provided for in statute and whether such limitations should be increased or decreased in order to maintain the same percentage level of households from the previous fiscal year that are eligible for an education property tax adjustment or renter rebate based on household income.~~

Fifteenth: By striking out Sec. 49 in its entirety and inserting in lieu thereof a new Sec. 49 to read as follows:

Sec. 49. EFFECTIVE DATES

This act shall take effect upon passage, except:

(1) Sec. 3 (collection assistance fees) shall apply to fees assessed on or after July 1, 2010.

(2) Sec. 5 (local option tax administration fee) shall apply to all returns filed with the department on or after July 1, 2010.

(3) Sec. 7 (Vermont economic growth incentive recapture) shall take effect retroactively on January 1, 2010.

(4) Secs. 11–15 (property transfer tax) shall apply to transfers occurring on or after January 1, 2011.

(5) Secs. 17 and 19 (definition of modified adjusted gross income; computation) shall apply to homestead property tax adjustments claims made in 2010 and after and shall apply to renter rebate claims made in 2011 and after.

(6) Secs. 18 and 20 (definitions of household income, modified adjusted gross income, and allocable rent; landlord certificate) shall apply to property tax adjustment and renter rebate claims made in 2011 and after.

(7) Sec. 23 (estate tax petition for refund) shall apply to decedents dying after December 31, 2009.

(8) Sec. 25 (link to Internal Revenue Code) shall apply to taxable years beginning on and after January 1, 2009.

(9) Sec. 27 (compensating use tax percentage) shall apply to taxable years beginning on and after January 1, 2010.

(10) Sec. 28 (increasing the per-site disbursement cap) shall apply to any remediation currently in progress and all future remediation.

(11) Sec. 29 (petroleum cleanup fund) shall take effect on July 1, 2010.

(12) Sec. 30 (fuel gross receipts tax) shall apply to sales of fuels on or after July 1, 2010.

(13) Sec. 31 (add-back of one-third of production activity deduction) shall apply to tax years beginning on and after January 1, 2010, and before January 1, 2012.

(14) Sec. 32 (full flow-through of production activity deduction) shall apply to tax years beginning on and after January 1, 2012.

(15) Sec. 34 (machinery and equipment investment tax credit) shall apply to taxable years beginning on and after January 1, 2012.

(16) Sec. 37 (income tax return checkoff for Vermont veterans' fund) shall apply to income tax returns for taxable years 2010 and after.

(17) Secs. 39 and 40 of this act (insurance credit certificates) shall take effect upon passage and shall apply to tax years beginning on or after January 1, 2010.

(18) Secs. 43–45 (tobacco taxes) shall take effect on July 1, 2010.

(19) Sec. 47b of this act (amusement tax exemption for 501(c)(3) organizations) shall take effect upon passage and apply to all related amusement charges on and after January 1, 2006.

(20) Sec. 48L shall take effect on April 15, 2011.

And by renumbering all sections and cross-references to be numerically correct.