

* * * Land Gains Tax; Exemption for Certain Transfers

to the State of Vermont or Municipalities * * *

Sec. xx. 32 V.S.A. § 10002(q) is added to read:

(q) Also excluded from the definition of “land” is a transfer of land or easements to the State of Vermont or a municipality for a project that is part of the State’s Transportation Program established by the General Assembly pursuant to 19 V.S.A. § 10g or for an emergency project within the meaning of 19 V.S.A. § 10g(h), regardless of whether the State or the municipality has commenced any condemnation proceedings.

Current Condition:

- *The Vermont Land Gains Tax is imposed on the gain from the sale or exchange of land if held by the seller for less than six years or it’s not the primary residence. The tax applies to only the gain attributed to land (not buildings or structures). The purpose of the tax is to discourage short-term land speculation.*
- *The rationale for imposing the tax is absent when the transfer is triggered not by the seller’s voluntary decision to sell but by the need of the State (or a municipality) to acquire the land by condemnation (or by conveyance in lieu of condemnation).*
- *Moreover, VTrans, not the seller, ends up paying the tax. Since almost all VTrans’ right-of-way acquisitions are for federal-aid projects, they are subject to the federal regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. One such regulation, 49 C.F.R. § 24.106, requires VTrans (as the acquiring agency) to reimburse the seller for the Vermont Land Gains Tax, which is classified as a type of “transfer tax.”*

Proposed Changes:

- *The proposed amendment would add an explicit exemption to 32 V.S.A. § 10002 to clearly exempt acquisition of land or easements by the State or a municipality for highway or other improvements through condemnation or by conveyance in lieu of condemnation where the acquisition is for a project that is party of the State’s Transportation Program established by the General Assembly or for an emergency project within the meaning of of 19 V.S.A. § 10g(h).*