

H.489

An act relating to revenue

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

* * * Individual Income Taxes * * *

Sec. 1. 32 V.S.A. § 5811(21) is amended to read:

(21) "Taxable income" means federal taxable income determined without regard to 26 U.S.C. § 168(k) and:

(A) Increased by the following items of income (to the extent such income is excluded from federal adjusted gross income):

(i) interest income from non-Vermont state and local obligations;

(ii) dividends or other distributions from any fund to the extent they are attributable to non-Vermont state or local obligations; ~~and~~

(iii) the amount ~~in excess of \$5,000.00~~ of State and local income taxes deducted from federal adjusted gross income for the taxable year, but in no case in an amount that will reduce total itemized deductions below the standard deduction allowable to the taxpayer; and

(iv) the amount of total itemized deductions, other than State and local income taxes, deducted from federal adjusted gross income for the taxable year, that is in excess of two and one-half times the standard deduction allowable to the taxpayer; and

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* * * Corporate Income Taxes * * *

Sec. 2. TAX HAVENS

On or before January 15, 2016, the Commissioner of Taxes shall report to the General Assembly with recommendations on how to include income from tax havens in the calculation of Vermont's corporate income tax.

* * * Current Use * * *

Sec. 3. 32 V.S.A. § 3757 is amended to read:

§ 3757. LAND USE CHANGE TAX

(a) Land which has been classified as agricultural land or managed forestland pursuant to this chapter shall be subject to a land use change tax upon the development of that land, as defined in section 3752 of this chapter. The tax shall be at the rate of ~~20~~ 10 percent of the full fair market value of the changed land determined without regard to the use value appraisal; ~~or the tax shall be at the rate of 10 percent if the owner demonstrates to the satisfaction of the Director that the parcel has been enrolled continuously more than 10 years.~~ If changed land is a portion of a parcel, the fair market value of the changed land shall be the fair market value of the changed land ~~prorated on the basis of acreage as a separate parcel~~, divided by the common level of appraisal. Such fair market value shall be determined as of the date the land is no longer eligible for use value appraisal. This tax shall be in addition to the annual property tax imposed upon such property. Nothing in this section shall be

construed to require payment of an additional land use change tax upon the subsequent development of the same land, nor shall it be construed to require payment of a land use change tax merely because previously eligible land becomes ineligible, provided no development of the land has occurred.

(b) Any owner of eligible land who wishes to withdraw land from use value appraisal shall ~~petition for a determination of the fair market value of the land at the time of the withdrawal~~ notify the Director, who shall in turn notify the local assessing official. In the alternative, if the Director determines that development has occurred, the Director shall notify the local assessing official of his or her determination. Thereafter, land which has been withdrawn or developed shall be appraised and listed at its full fair market value in accordance with the provisions of chapter 121 of this title and subsection 3756(d) of this title, according to the appraisal model and land schedule of the municipality. ~~The determination of the fair market value shall be used in calculating the amount of the land use change tax that shall be due when and if the development of the land occurs.~~

(c) ~~The~~ For the purposes of the land use change tax, the determination of the fair market value of the land ~~as of the date the land is no longer eligible for a use value appraisal, or as of the time of the withdrawal of the land from use value appraisal,~~ shall be made by the ~~Director~~ local assessing officials in accordance with the provisions of subsection (b) of this section and divided by

the municipality's most recent common level of appraisal as determined by the Director. The determination shall be made within 30 days after the Director notifies the local assessing officials of the date that the owner or assessing officials petition for the determination and shall be effective on the date of dispatch to the owner has petitioned for withdrawal from use value appraisal or that the Director or local assessing official has determined that development has occurred. The local assessing officials shall notify the Director and the owner of their determination, and the provisions for appeal relating to property tax assessments in chapter 131 of this title shall apply.

(d) The land use change tax shall be due and payable by the owner 30 days after the tax notice is mailed to the taxpayer. The tax shall be paid to the Commissioner for deposit into the General Fund who shall remit to the municipality the lesser of one-half the tax paid or \$2,000.00, and who shall deposit the remainder of the tax paid into the General Fund. The Commissioner shall issue a form to the assessing officials which shall provide for a description of the land developed, the amount of tax payable, and the fair market value of the land at the time of development or withdrawal from use value appraisal. The owner shall fill out the form and shall sign it under the penalty of perjury. After receipt of payment, the Commissioner shall furnish the owner with one copy, shall retain one copy, and shall forward one copy to the local assessing officials ~~and~~, one copy to the register of deeds of the

municipality in which the land is located, and one copy to the Secretary of Agriculture, Food and Markets if the land is agricultural land and in all other cases to the Commissioner of Forests, Parks and Recreation. ~~Thereafter, the land which has been developed shall be appraised and listed at its full fair market value in accordance with the provisions of chapter 121 of this title.~~

(e) The owner of any classified land receiving use value appraisal under this subchapter shall immediately notify the ~~director~~ Director, who in turn shall notify the local assessing officials and the Secretary of Agriculture, Food and Markets if the land is agricultural land, and in all other cases the Commissioner of Forests, Parks and Recreation of:

* * *

(f) ~~The~~ When the application for use value appraisal of agricultural and forestland, ~~once has been~~ approved by the State, the State shall be recorded record a lien against the enrolled land in the land records of the municipality ~~and~~ which shall constitute a lien to secure payment of the land use change tax to the State upon development. The landowner shall bear the recording cost. The land use change tax and any obligation to repay benefits paid in error shall not constitute a personal debt of the person liable to pay the same, but shall constitute a lien which shall run with the land. All of the administrative provisions of chapter 151 of this title, including those relating to collection and enforcement, shall apply to the land use change tax.

Sec. 4. 32 V.S.A. § 3757(d) is amended to read:

(d) The land use change tax shall be due and payable by the owner 30 days after the tax notice is mailed to the taxpayer. The tax shall be paid to the Commissioner who shall remit to the municipality the lesser of one-half the tax paid or \$2,000.00, ~~and who shall deposit the remainder of the tax paid into the General Fund.~~ The Director shall deposit three-quarters of the remainder of the tax paid in the Education Fund, and one-quarter of the remainder of the tax paid in the General Fund. The Commissioner shall issue a form to the assessing officials which shall provide for a description of the land developed, the amount of tax payable, and the fair market value of the land at the time of development or withdrawal from use value appraisal. The owner shall fill out the form and shall sign it under the penalty of perjury. After receipt of payment, the Commissioner shall furnish the owner with one copy, shall retain one copy, and shall forward one copy to the local assessing officials, one copy to the register of deeds of the municipality in which the land is located, and one copy to the Secretary of Agriculture, Food and Markets if the land is agricultural land and in all other cases to the Commissioner of Forests, Parks and Recreation.

Sec. 5. 32 V.S.A. § 3756(d) is amended to read:

(d) The assessing officials shall appraise qualifying agricultural and managed forestland and farm buildings at use value appraisal as defined in

subdivision 3752(12) of this title. If the land to be appraised is a portion of a parcel, ~~the assessing officials shall:~~

~~(1) determine the contributory value of each portion such that the fair market value of the total parcel is comparable with other similar parcels in the municipality; and~~

~~(2) notify the landowner according to the procedures for notification of change of appraisal. The portion of the parcel that is not to be appraised at use value shall be appraised at its fair market value~~ any portion not receiving a use value appraisal shall be valued at its fair market value as a stand-alone parcel, and, for the purposes of the payment under section 3760 of this chapter, the entire parcel shall be valued at its fair market value as other similar parcels in the municipality.

Sec. 6. 32 V.S.A. § 3752(12) is amended to read:

(12) “Use value appraisal” means, with respect to land, the price per acre which the land would command if it were required to remain henceforth in agriculture or forest use, as determined in accordance with the terms and provisions of this subchapter. With respect to farm buildings, “use value appraisal” means zero percent of fair market value. ~~The Director shall annually provide the assessing officials with a list of farm sales, including the town in which the farm is located, the acreage, sales price, and date of sale.~~

Sec. 7. 32 V.S.A. § 3756(i) is amended to read:

(i) ~~The~~ After providing 30 days' notice to the owner, the Director shall remove from use value appraisal an entire parcel of managed ~~forest land~~ forestland and notify the owner in accordance with the procedure in subsection (b) of this section when the Department of Forests, Parks and Recreation has not received a required management activity report or has received an adverse inspection report, unless the lack of conformance consists solely of the failure to make prescribed planned cutting. In that case, the Director may delay removal from use value appraisal for a period of one year at a time to allow time to bring the parcel into conformance with the plan.

Sec. 8. USE VALUE APPRAISAL "EASY-OUT"

(a) Notwithstanding any other provision of law, an owner of property enrolled in use value appraisal under 32 V.S.A. chapter 124 as of the passage of this act who elects to discontinue enrollment of the entire parcel may be relieved of the first \$50,000.00 of land use change tax imposed pursuant to 32 V.S.A. § 3757; provided that if the property owner does elect to discontinue enrollment and be relieved of the first \$50,000.00 of land use change tax, the owner shall pay the full property tax, based upon the property's full fair market value, for the 2015 assessment, and no State reimbursement shall be paid for that land. No property owner shall be relieved of more than \$50,000.00 in land use change tax under this provision.

(b) An election to discontinue enrollment under this provision is effective only if made in writing to the Director of Property Valuation and Review between July 1, 2015 and October 1, 2015; and an owner who elects to discontinue enrollment under this section or any successor owner may not reenroll the entire withdrawn parcel, or any portion less than the entire withdrawn parcel, in the succeeding five years.

(c) If the property owner withdraws less than the entire parcel, the provisions of this section do not apply. Property composed of less than an entire parcel that is withdrawn from use value appraisal shall be subject to the land use change tax under the provisions of 32 V.S.A. § 3757 in effect at the time of withdrawal.

(d) The “easy-out” provided for in this section shall not be available for any land that has been developed, as that term is defined in 32 V.S.A. § 3752(5), prior to July 1, 2015.

Sec. 9. MUNICIPAL REIMBURSEMENT PAYMENTS

(a) There is created a Use Value Appraisal Municipal Reimbursement Study Committee to examine the existing formula for municipal reimbursement payments (hold harmless payments) to determine if the payments are equitable and appropriate in light of the reallocation of land use change tax payments under this act and, if not, to propose an alternative formula. The Committee shall issue a report on or before January 15, 2016,

and the report shall be submitted to the House Committees on Agriculture and Forest Products and on Ways and Means and to the Senate Committees on Agriculture and on Finance. The members of the Study Committee shall be:

(1) the Director of Property Valuation and Review, who shall serve as the Chair of the Committee and shall call the first meeting of the Committee on or before September 1, 2015;

(2) the Secretary of Agriculture, Food and Markets or designee;

(3) the Commissioner of Forests, Parks and Recreation or designee;

(4) the Executive Director of the Vermont Assessors and Listers Association or designee;

(5) two representatives of the Vermont League of Cities and Towns, one from a rural community and one from an urban community, appointed by its Board of Directors;

(6) a member of the House appointed by the Speaker of the House;

(7) a member of the Senate appointed by the Committee on Committees; and

(8) a member of the public appointed by the Governor who shall be a land owner with land subject to use value appraisal.

(b) Members of the Committee who are not employees of the State of Vermont shall be entitled to compensation as provided in 32 V.S.A. § 1010. Legislative members of the Committee shall be entitled to the same per diem

compensation and reimbursement for necessary expenses for attendance at a meeting when the General Assembly is not in session as provided to members of standing committees under 2 V.S.A. § 406.

Sec. 10. ASSESSMENT OF PROPERTY

On or before April 15, 2016, the Director of Property Valuation and Review shall publish guidance for the local assessing officials concerning:

(1) how to assess land permanently encumbered by a conservation easement;

(2) how to assess land subject to a use value appraisal; and

(3) how to apply the methodologies in subdivisions (1) and (2) of this section in a consistent manner across the State.

* * * Lottery Products * * *

Sec. 11. 31 V.S.A. § 654 is amended to read:

§ 654. POWERS AND DUTIES

The ~~commission~~ Commission shall ~~promulgate~~ adopt rules pursuant to 3 V.S.A. chapter 25 of Title 3, governing the establishment and operation of the ~~state lottery~~ State Lottery. The rules may include, ~~but shall not be limited to,~~ the following:

* * *

(7) ~~Ticket sales~~ Lottery product sales locations, which may include ~~state~~ State liquor stores and liquor agencies; private business establishments, except

establishments holding first- or first- and third-class licenses pursuant to Title 7; fraternal, religious, and volunteer organizations; town clerks' offices; and ~~state~~ State fairs, race tracks and other sporting arenas;

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* * * Effective Dates * * *

Sec. 12. EFFECTIVE DATES

(a) This section shall take effect on July 1, 2015.

(b) Sec. 1 (itemized deductions) shall take effect retroactively on January 1, 2015.

(c) Sec. 2 (tax havens) shall take effect on July 1, 2015.

(d) Secs. 3 (land use change tax) and 5 (value of portions of a parcel) shall take effect on October 2, 2015.

(e) Sec. 4 (deposit of funds) shall take effect on July 1, 2016 and apply to fiscal year 2017 and forward.

(f) Secs. 6 (use value appraisals), 7 (notice), 8 (current use easy out), 9 (municipal reimbursements), 10 (assessment guidance) and 11 (lottery products) shall take effect on July 1, 2015.