*** * * Corporate Income Taxes * * ***

(include income from tax havens in computation of income for an affiliated group)

OPTION #1: Tax Department publishes list by 9/1/15

Sec. X. 32 V.S.A. § 5811(24) is amended to read:

(24) “Overseas business organization” means a business organization that ordinarily has 80 percent or more of its payroll and property outside the 50 states and the District of Columbia, but not located in a tax haven.

Sec. X. TAX HAVENS

On or before September 1, 2015, the Commissioner of Taxes shall publish a list of jurisdictions that are considered tax havens as of that date under the criteria specified in 32 V.S.A. § 5811(28)(B)(i)-(vi). The Commissioner’s decision concerning which jurisdictions are tax havens under this section is final and not subject to further review.

Sec. X. 32 V.S.A. § 5811(28) is added to read:

(28)(A) “Tax haven” means the jurisdictions identified by the Commissioner of Taxes and published on or before September 1, 2015.

(B) Annually, on or before January 15, the Department of Taxes shall recommend whether to add or subtract any jurisdictions to the list in this subdivision (28) by considering whether the jurisdiction:

(i) during the tax year in question has no or nominal effective tax on corporate income;

(ii) has laws or practices that prevent effective exchange of information for tax purposes with other governments on taxpayers benefiting from the tax regime;

(iii) has a tax regime which lacks transparency, which means the details of the legislative, legal, or administrative provisions of that regime are not open and apparent or are not consistently applied among similarly situated taxpayers, or if the information needed by tax authorities to determine a taxpayer’s correct tax liability, such as accounting records and underlying documentation, is not adequately available;

(iv) facilitates the establishment of foreign-owned entities without the need for a local substantive presence or prohibits these entities from having any commercial impact on the local economy;

(v) explicitly or implicitly excludes the jurisdiction’s resident taxpayers from taking advantage of the tax regime’s benefits or prohibits enterprises that benefit from the regime from operating in the jurisdiction’s domestic market; or

(vi) has created a tax regime which is favorable for tax avoidance, based upon an overall assessment of relevant factors, including whether the jurisdiction has a significant untaxed offshore financial or other services sector relative to its overall economy.

*** * * Corporate Income Taxes * * ***

(include income from tax havens in computation of income for an affiliated group)

OPTION #2: List in statute

Sec. X. 32 V.S.A. § 5811(24) is amended to read:

(24) "Overseas business organization" means a business organization that ordinarily has 80 percent or more of its payroll and property outside the 50 states and the District of Columbia, but not located in a tax haven.

Sec. X. 32 V.S.A. § 5811(28) is added to read:

(28)(A) "Tax haven" means the following jurisdictions: Andorra, Anguilla, Antigua and Barbuda, Aruba, the Bahamas, Bahrain, Barbados, Belize, Bermuda, British Virgin Islands, Cayman Islands, Cook Islands, Cyprus, Dominica, Gibraltar, Grenada, Guernsey-Sark-Alderney, Isle of Man, Jersey, Liberia, Liechtenstein, Luxembourg, Malta, Marshall Islands, Mauritius, Monaco, Montserrat, Nauru, Netherlands Antilles, Niue, Panama, Samoa, San Marino, Seychelles, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Turks and Caicos Islands, U.S. Virgin Islands, and Vanuatu.

(B) Annually, by January 15, the Department of Taxes shall recommend whether to add or subtract any jurisdictions to the list in this subdivision by considering whether the jurisdiction:

(i) during the tax year in question has no or nominal effective tax on corporate income;

(ii) has laws or practices that prevent effective exchange of information for tax purposes with other governments on taxpayers benefiting from the tax regime;

(iii) has a tax regime which lacks transparency, which means the details of the legislative, legal, or administrative provisions of that regime are not open and apparent or are not consistently applied among similarly situated taxpayers, or if the information needed by tax authorities to determine a taxpayer's correct tax liability, such as accounting records and underlying documentation, is not adequately available;

(iv) facilitates the establishment of foreign-owned entities without the need for a local substantive presence or prohibits these entities from having any commercial impact on the local economy;

(v) explicitly or implicitly excludes the jurisdiction's resident taxpayers from taking advantage of the tax regime's benefits or prohibits enterprises that benefit from the regime from operating in the jurisdiction's domestic market; or

(vi) has created a tax regime which is favorable for tax avoidance, based upon an overall assessment of relevant factors, including whether the jurisdiction has a significant untaxed offshore financial or other services sector relative to its overall economy.