



State of Vermont
Department of Taxes
133 State Street
Montpelier, VT 05633-1401

Agency of Administration

March 18, 2015

The Honorable Senator Tim Ashe, Chair
Senate Committee on Finance
State House, Room 6
115 State St.
Montpelier, VT 05633 -5301

Dear Senator Ashe:

The House of Representatives recently passed H. 272, an act relating to current use and technical tax changes. The House Committee on Ways and Means approached the Administration's proposals for the miscellaneous tax bill by dividing the proposals into nonrevenue and revenue bills. H. 272 is the nonrevenue bill with the committee's addition of changes to the land use change tax. H. 272 incorporates many of the Administration's proposals for technical tax changes; however, there are a few technical provisions that were not included. The Department of Taxes requests that the Senate Committee on Finance add the following provisions to H. 272:

Requirement to report change of income for property tax adjustment: Requires property tax adjustment claimant to notify the Department if the claimant becomes aware of changes to income within 3 years of filing a claim. Currently claimants are allowed to amend their claim for the property tax adjustment, but are not required to do so. This parallels the income tax notice requirement that claimants report change in income and will help ensure accurate property tax adjustment claims. Ways and Means discovered that part of the original proposed language referred back to the income tax and would not work in the context of the property tax adjustment. The enclosed language reflects the Department's correction.

Parking garages as municipal property: Expands the exclusion of municipal property from nonresidential property subject to education tax to include parking garages that are built, owned, and managed by a municipality in a designated center.

Publicly Traded Partnerships: The Department has worked with representatives of publicly traded partnerships who suggest that a reporting requirement is a more appropriate alternative to withholding for their type of investing and investors. This language was not in our original bill, although the Department testified in favor of the proposed provision to Ways and Means and urges the Committee to include it.

Current use technical provision: The Administration's proposal to tax farm buildings at 30 percent of fair market value is under consideration for the revenue tax bill; however, the Administration proposed one technical change to current use on lien recording which is currently



at Section 6(f) of H. 272 in the land use change tax portion. Should the land use change tax section come out of the bill, the Committee should keep this technical section in H. 272.

In addition to these technical changes, the Department of Taxes proposes the following change:

“Click through advertising” implementation: In 2011, Vermont passed a tax on sales resulting from the referrals of Vermont residents who are compensated by retailers to make such referrals. This legislation was designed to put pressure on Congress to enact the Marketplace Fairness Act and would only go into effect once the Attorney General has determined that 15 or more states enacted similar legislation. Despite the fact that no such determination has been made at this time, Amazon recently cut its advertising contacts with Vermont’s online companies. The Administration proposes changing the requirement from 15 states to 25 states. This will keep the pressure on Congress to enact the Marketplace Fairness Act for our bricks and mortar sellers while supporting our online merchants.

Thank you for considering these changes to H. 272. The legislative language for the relevant provisions is enclosed. Please feel free to contact me for further information.

Sincerely,

Mary Peterson
Commissioner

cc:

John Campbell, Senate President pro tempore
Shap Smith, Speaker of the House
Justin Johnson, Secretary of Administration
Jim Reardon, Commissioner of Finance and Management
Stephen Klein, Legislative Chief Fiscal Officer
Representative Janet Ancel, Chair of the House Committee on Ways and Means

Requirement to report change of income for property tax adjustment:

Sec. X. 32 V.S.A. §6074 is amended to read:

§ 6074. AMENDMENT OF CERTAIN CLAIMS; SUPPLEMENTAL INFORMATION;
CHANGES IN FEDERAL INCOME

(a) At any time within three years after the date for filing claims under subsection 6068(a) of this chapter, a claimant who filed a claim by October 15 may file to amend that claim to correct the amount of household income reported on that claim.

(b) If, within three years after filing a claim under this chapter, a taxpayer

(1) becomes aware of any information which makes that claim materially false, inaccurate, or incomplete; or

(2) is notified of any assertion by the United States, whether under Section 6212 of the Internal Revenue Code of 1986 or otherwise, that the taxpayer's taxable income under the laws of the United States is other than the amount stated in the return; or

(3) files an amended return under the laws of the United States,
the claimant shall, within 60 days of the receipt of that information or notification of that assertion or filing that amended return, notify the Commissioner thereof, and of such particulars as may be relevant to the amount of any claim under this chapter.

(c) A taxpayer required to notify the Commissioner under this section shall be subject to interest under section 3202 of chapter 103 and penalty under section chapter 154 of this title on any overpayment of a claim under this chapter.

Parking garages as municipal property:

Sec. X. 32 V.S.A. § 5401(10) is amended to read:

(10) "Nonresidential property" means all property except:

(F) Property owned by a municipality which is located within that municipality and which is used for municipal purposes including the provision of utility services, including off-street parking garages built, owned, and managed by a municipality in a designated center as determined in accordance with 24 V.S.A. § 2793. For the purpose of this section, public use of a municipal garage may include the leasing of the garage to multiple commercial tenants for part of the day, provided that substantially all of the garage parking spaces are open to the general public during evenings and weekends.

Publicly Traded Partnerships:

Sec. X. 32 V.S.A. § 5920 is amended to read:

(d) Notwithstanding provisions in this Section, a publicly traded partnership as defined in section 7704(b) of the Internal Revenue Code, 26 U.S.C. 7704(b), that is treated as a partnership for the purposes of the Internal Revenue Code is exempt from any applicable income tax liabilities under provision (c) if certain information is provided to the department by the due date of their return. This information includes the name, address, taxpayer identification number, and annual Vermont source of income greater than five hundred dollars (\$500) of each partner that had an interest in the partnership during the tax year. This information must be provided in an electronic format approved by the department.

“Click through advertising” implementation:

Sec. X. Sec. 36a of Act No. 45 of 2011 is amended to read:

(13) Sec. 36a (Internet affiliate sales tax) shall take effect on the date on which, through legislation, rule, agreement, or other binding means, 125 or more other states have adopted requirements that are the same, substantially similar, or significantly comparable to the

requirements contained in Sec. 36a. The attorney general shall determine when this date has occurred.