

1 H.536

2 Introduced by Committee on Ways and Means

3 Date:

4 Subject: Taxation; sales tax; statewide education property tax; yields;
5 nonresidential rate

6 Statement of purpose of bill as introduced: This bill proposes to change the
7 term “nonresidential” to “nonhomestead” in statute, clarify the applicability of
8 the sales tax to third-party sales made over the Internet, and to set the
9 statewide education property tax yields and nonresidential rate for fiscal year
10 2020.

11 An act relating to education finance

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

13 * * * Definitions; Homestead; Nonhomestead * * *

14 Sec. 1. 32 V.S.A. § 5401 is amended to read:

15 § 5401. DEFINITIONS

16 As used in this chapter:

17 * * *

18 (10) “~~Nonresidential~~ Nonhomestead property” means all property
19 except:

1 * * *

2 Sec. 2. CONFORMING REVISIONS

3 When preparing the Vermont Statutes Annotated for publication, the Office
4 of Legislative Council shall make the following revisions throughout the
5 statutes as needed for consistency with Sec. 1 of this act, as long as the
6 revisions have no other effect on the meaning of the affected statutes:

7 (1) replace “nonresidential” with “nonhomestead” in Title 32 and
8 Title 16; and

9 (2) make revisions that are substantially similar to those described in
10 subdivision (1) of this subsection in other titles of the Vermont Statutes
11 Annotated.

12 * * * Sales and Use Tax; Marketplace Facilitators * * *

13 Sec. 3. 32 V.S.A. § 9701 is amended to read:

14 § 9701. DEFINITIONS

15 Unless the context in which they occur requires otherwise, the following
16 terms when used in this chapter mean:

17 * * *

18 (9) “Vendor” means:

19 * * *

20 (J) A marketplace facilitator who has facilitated sales by marketplace
21 sellers to destinations within this State of at least \$100,000.00, or totaling at

1 least 200 individual sales transactions, during any 12-month period preceding
2 the monthly period with respect to which that person's liability for tax under
3 this chapter is determined.

4 (K) A marketplace seller who has combined sales to a destination
5 within this State and sales through a marketplace to a destination within this
6 State of at least \$100,000.00, or totaling at least 200 individual sales
7 transactions, during any 12-month period preceding the monthly period with
8 respect to which that person's liability for tax under this chapter is determined.

9 * * *

10 (14) "Persons required to collect tax" or "persons required to collect any
11 tax imposed by this chapter" means every vendor of taxable tangible personal
12 property or services, and every recipient of amusement charges. These terms
13 also include marketplace facilitators with respect to retail sales made on behalf
14 of a marketplace seller. These terms shall also include any officer or employee
15 of a corporation or other entity or of a dissolved entity who as that officer or
16 employee is under a duty to act for the corporation or entity in complying with
17 any requirement of this chapter.

18 * * *

19 (56) "Marketplace facilitator" means a person who contracts with
20 marketplace sellers to facilitate for consideration, regardless of whether
21 deducted as fees from the transaction, the sale of the marketplace sellers

1 products through a physical or electronic marketplace operated by the person
2 and engages:

3 (A) directly or indirectly through one or more affiliated persons, in
4 any of the following:

5 (i) transmitting or otherwise communicating the offer or
6 acceptance between purchasers and marketplace sellers;

7 (ii) owning or operating the infrastructure, electronic or physical,
8 or technology that brings purchasers and marketplace sellers together;

9 (iii) providing a virtual currency that purchasers are allowed or
10 required to use to purchase products from marketplace sellers; or

11 (iv) software development or research and development activities
12 related to any of the activities described in subdivision (B) of this subdivision
13 (56), if such activities are directly related to a physical or electronic
14 marketplace operated by the person or an affiliated person; and

15 (B) in any of the following activities with respect to the marketplace
16 sellers products:

17 (i) payment processing services;

18 (ii) fulfillment or storage services;

19 (iii) listing products for sale;

20 (iv) setting prices;

21 (v) branding sales as those of the marketplace facilitator;

1 (vi) order taking;

2 (vii) advertising or promotion; or

3 (viii) providing customer service or accepting or assisting with
4 returns or exchanges.

5 (57) “Marketplace seller” means a person who has an agreement with a
6 marketplace facilitator and makes retail sales of tangible personal property,
7 taxable services, or digital goods through a marketplace owned, operated, or
8 controlled by a marketplace facilitator, even if the person would not be
9 required to collect and remit the sales tax had the sale not been made through
10 the facilitated marketplace.

11 (58) “Marketplace” means the physical or electronic processes, systems,
12 places, and infrastructure, including a website, through which a marketplace
13 facilitator engages in any of the activities described in subdivision (56) of this
14 section.

15 (59) “Affiliated person” means a person who, with respect to another
16 person:

17 (A) has an ownership interest of more than five percent, whether
18 direct or indirect, in the other person; or

19 (B) is related to the other person because a third person, or group of
20 third persons who are affiliated persons with respect to each other, holds an

1 ownership interest of more than five percent, whether direct or indirect, in the
2 related persons.

3 Sec. 4. 32 V.S.A. § 9713 is added to read:

4 § 9713. MARKETPLACE FACILITATORS AND MARKETPLACE

5 SELLERS

6 (a) Marketplace facilitators shall collect and remit the sales tax on retail
7 sales by marketplace sellers through a marketplace. Marketplace sellers shall
8 collect and remit the sales tax on any retail sales within this State that are not
9 made through a marketplace.

10 (b) A marketplace facilitator shall certify to its marketplace sellers that it
11 will collect and remit the sales tax under this chapter on the sale of taxable
12 items made through its marketplace. A marketplace seller that accepts a
13 certification from a marketplace facilitator in good faith shall exclude sales
14 made through the marketplace from its obligation as a vendor under this
15 chapter.

16 (c) A marketplace facilitator is relieved from liability under this chapter if
17 it can demonstrate to the Commissioner that its failure to collect the correct
18 amount of tax was due to incorrect information given to the marketplace
19 facilitator by the marketplace seller.

1 * * * Statewide Education Property Tax Yields and Nonresidential Rate* * *

2 Sec. 5. PROPERTY DOLLAR EQUIVALENT YIELD, INCOME

3 DOLLAR EQUIVALENT YIELD, AND NONRESIDENTIAL

4 RATE FOR FISCAL YEAR 2020

5 (a) Pursuant to 32 V.S.A. § 5402b(b), for fiscal year 2020 only, the
6 property dollar equivalent yield shall be \$10,705.00.

7 (b) Pursuant to 32 V.S.A. § 5402b(b), for fiscal year 2020 only, the income
8 dollar equivalent yield shall be \$13,164.00.

9 (c) Notwithstanding any other provision of law, the nonresidential rate for
10 fiscal year 2020 shall be \$1.582 per \$100.00 of equalized education property
11 value under 32 V.S.A. § 5402(a)(1).

12 * * * Effective Dates * * *

13 Sec. 6. EFFECTIVE DATES

14 (a) This section shall take effect on passage.

15 (b) Secs. 1–2 (nonhomestead) shall take effect on January 1, 2019 and
16 apply to grand lists lodged after that date.

17 (c) Secs. 3–4 (marketplace facilitators) shall take effect on June 1, 2019.

18 (d) Sec. 5 (yields and nonresidential rate) shall take effect on July 1, 2019
19 and apply to fiscal year 2020.