

## Senate proposal of amendment

### H. 954

An act relating to miscellaneous tax provisions

The Senate proposes to the House to amend the bill as follows:

First: By striking out Sec. 4, property tax collection, in its entirety and inserting in lieu thereof:

Sec. 4. [Deleted.]

Second: By striking out Sec. 8, 32 V.S.A. § 5870, in its entirety and inserting in lieu thereof:

Sec. 8. USE TAX SAFE HARBOR; REPORT

On or before January 15, 2021, the Department of Taxes, with the assistance of the Joint Fiscal Office, shall provide the General Assembly with a report on the remittance of the Vermont use tax on taxpayers' State individual income tax returns as provided under 32 V.S.A. § 5870. The report required under this section shall:

(1) analyze the fiscal impact on the remittance of the Vermont use tax of the following:

(A) the U.S. Supreme Court decision in *South Dakota v. Wayfair*, 138 S. Ct. 2080 (2108) and the conforming Vermont remote seller collection requirements imposed under 32 V.S.A. § 9701(9)(F) and (9)(G); and

(B) the enactment of marketplace facilitator collection requirements in 2019 Acts and Resolves No. 46; and

(2) recommend options for amending the alternative reporting of use tax that a taxpayer may elect under 32 V.S.A. § 5870(a), including a reduction of the amount that is a percentage of a taxpayer's adjusted gross income, given the fiscal impact analysis required under subdivision (1) of this section.

Third: After Sec. 10, noncollecting vendor reporting, by adding a new Sec. 10a to read as follows:

Sec. 10a. 32 V.S.A. § 9741(54) is added to read:

(54) Sales of recyclable paper carryout bags to customers pursuant to 10 V.S.A. § 6693, provided that sales of recyclable paper carryout bags to stores and food service establishments as defined under 10 V.S.A. § 6691 shall not be exempt under this subdivision and shall not be considered sales for resale under 32 V.S.A. § 9701(5).

Fourth: By striking out Sec. 12, 32 V.S.A. § 9248, in its entirety and inserting in lieu thereof a new Sec. 12 to read as follows:

Sec. 12. 32 V.S.A. § 9248 is amended to read:

§ 9248. INFORMATIONAL REPORTING

The Department of Taxes ~~shall~~ may collect information on operators from persons providing an Internet platform for the short-term rental of property for occupancy in this State. The information collected shall include any information the Commissioner shall require, and the name, address, and terms of the rental transactions of persons acting as operators through the Internet platform. The failure to provide information as required under this section shall subject the person operating the Internet platform to a fine of \$5.00 for each instance of failure. The Commissioner is authorized to adopt rules and procedures to implement this section.

Fifth: By striking out Sec. 19, 32 V.S.A. § 5825a(b), in its entirety and inserting in lieu thereof the following:

Sec. 19. 32 V.S.A. § 5825a is amended to read:

§ 5825a. CREDIT FOR VERMONT HIGHER EDUCATION  
INVESTMENT PLAN CONTRIBUTIONS

(a) A taxpayer of this State, including each spouse filing a joint return, shall be eligible for a nonrefundable credit against the tax imposed under section 5822 of this title of 10 percent of the first \$2,500.00 per beneficiary, contributed by the taxpayer during the taxable year to a Vermont ~~higher education investment plan~~ Higher Education Investment Plan account under 16 V.S.A. chapter 87, subchapter 7, provided the account is provided directly by the Vermont Student Assistance Corporation to the participant.

(b) A taxpayer who has received a credit under subsection (a) of this section shall repay to the Commissioner 10 percent of any distribution from a higher education investment plan account, ~~which distribution is not used exclusively for costs of attendance at an approved postsecondary education institution as defined in 16 V.S.A. § 2822(6),~~ up to a maximum of the total credits received by the taxpayer under subsection (a) of this section minus any amount of repayment of such credits in prior tax years except when the distribution:

(1) is used exclusively for costs of attendance at an approved postsecondary education institution as defined in 16 V.S.A. § 2822(6);

(2) qualifies as an expense associated with a registered apprenticeship program pursuant to 26 U.S.C. § 529(c)(8); or

(3) is made after the death of the beneficiary or after the beneficiary becomes disabled pursuant to subdivisions (q)(2)(C) and (m)(7) of 26 U.S.C. § 72.

(c) Repayments under ~~this subsection~~ (b) of this section shall be subject to assessment, notice, penalty and interest, collection, and other administration in the same manner as an income tax under this chapter.

Sec. 19a. 16 V.S.A. chapter 87, subchapter 7 is amended to read:

\* \* \*

## § 2876. DEFINITIONS

As used in this subchapter, except where the context clearly requires another interpretation:

(1) “Beneficiary” means any individual designated by a participation agreement to benefit from payments for qualified postsecondary education costs ~~at an institution of postsecondary education.~~

(2) “Benefits” means the payment of qualified postsecondary education costs on behalf of a beneficiary ~~by the Corporation’s Investment Plan during the beneficiary’s attendance at an institution of postsecondary education from a participant’s investment plan account.~~

(3) “Corporation” means Vermont Student Assistance Corporation.

(4) “Internal Revenue Code” means the federal Internal Revenue Code of 1986, as amended, together with the regulations promulgated ~~thereunder~~ pursuant to that Code.

(5) “Qualified postsecondary education costs” means the ~~qualified costs of tuition and fees and other expenses for attendance at an approved postsecondary education institution~~ costs of tuition and fees for attendance at an approved postsecondary education institution, and other qualified higher education expenses as provided under 26 U.S.C. § 529.

(6) “Approved postsecondary education institution” means a postsecondary education institution as defined in section 2822 of this title.

(7) “Vermont Higher Education Investment Plan” or “Investment Plan” means ~~the program~~ one or more plans created pursuant to this subchapter.

(8) “Participant” means a person who has entered into a participation agreement pursuant to this subchapter intended for the ~~advance~~ payment of qualified postsecondary education costs on behalf of a beneficiary.

(9) “Participation agreement” means an agreement between a participant and the Corporation, pursuant to and conforming with the requirements of this subchapter.

## § 2877. VERMONT HIGHER EDUCATION INVESTMENT PLAN CREATED

(a) There is created a program of the State to be known as the Vermont Higher Education Investment Plan and a trust for that purpose to be administered by the Vermont Student Assistance Corporation as an instrumentality of the State. The program may consist of one or more different investment plans, including one or more plans that may be offered to a participant only with the assistance of a qualified financial advisor.

(b) In order to establish and administer the Investment Plan, the Corporation, in addition to its other powers and authority, shall have the power and authority to:

\* \* \*

(2) Enter into agreements with any ~~institution~~ of approved postsecondary education institution, the State, or any federal or other agency or entity as required for the operation of the an Investment Plan pursuant to this subchapter.

(3) Accept any grants, gifts, legislative appropriations, and other ~~moneys~~ monies from the State; any unit of federal, State, or local government; or any other person, firm, partnership, or corporation for deposit contribution to the account of the Investment Plan, or for the operation or other related purposes of the Corporation.

(4) Invest the funds received from participants in appropriate investment vehicles approved and held in trust for participants by the Corporation as selected by the participants, including education loans made by the Corporation.

(5) Enter into participation agreements with participants.

(6) Develop and use two or more types of participation agreements to provide a range of investment ~~structures~~ options for participants.

(7) Make payments to ~~institutions of postsecondary education on behalf of beneficiaries~~ as directed by the participants pursuant to participation agreements.

(8) Make refunds to participants upon the termination of participation agreements pursuant to the provisions, limitations, and restrictions set forth in this subchapter and the rules ~~and regulations~~, policies, and procedures adopted by the Corporation.

(9) Make provision for the payment of costs of administration and operation of ~~the an~~ an Investment Plan subject to the limitations on charges on participation agreements established in subdivision 2878(5) of this title.

(10) Adopt rules ~~and regulations~~, policies, and procedures to implement this subchapter and take all necessary action to ensure an Investment Plan is in conformance with the Internal Revenue Code and other applicable law.

\* \* \*

§ 2878. PARTICIPATION AGREEMENTS FOR INVESTMENT PLAN

The Corporation shall have the authority to enter into Investment Plan participation agreements with participants ~~on behalf of beneficiaries~~ pursuant to the provisions of this subchapter, including the following terms and agreements:

(1) A participation agreement shall stipulate the terms and conditions of the Investment Plan in to which the participant makes ~~deposits~~ contributions.

(2) A participation agreement shall clearly specify the method for calculating the return on the ~~deposit made by the participant, which may be a variable or adjustable rate of return~~ various investment options available and shall reference the relevant expenses and other pertinent information about the account.

\* \* \*

(4) A participation agreement shall clearly and prominently disclose to participants the risks associated with ~~depositing monies with the Corporation~~ the various investment options available under the applicable Investment Plan.

(5) Participation agreements shall be organized and presented in a way and with language that is easily understandable by the general public. A participation agreement shall clearly and prominently disclose to participants that the Corporation, the State, and any other governmental entity are not liable for, nor guarantee the return of or on the participant's contributions to an Investment Plan. A participation agreement shall also clearly and prominently disclose to participants the existence of any load charge or similar charge assessed against the accounts of the participants for administration, operation, or services. No fee or similar charge may be imposed with regard to an investment managed by the Corporation. Any fee, load, or similar charge with regard to any investment not managed by the Corporation shall be no greater than the cost determined by the Corporation to be required to administer the investment. The cost of originating and servicing any education loans made or acquired pursuant to participation agreements shall not be considered as load charges or similar charges.

\* \* \*

§ 2878a. PARTICIPATION AGREEMENTS FOR INVESTMENT PLAN;  
INDIVIDUAL DEVELOPMENT INVESTMENT ACCOUNTS

The Corporation may participate in the Individual Development Investment Program established under 33 V.S.A. § 1123, in accordance with the rules of the Agency of Human Services adopted thereunder, in connection with an individual or family who, at the time of ~~depositing~~ contributing funds into an

account created pursuant to a Vermont Higher Education Investment Plan, receives public assistance or is otherwise an eligible saver under 33 V.S.A. § 1123.

#### § 2879. INVESTMENT AND PAYMENTS

All money paid by a participant in connection with a participation agreement shall be deposited credited to the participant's account as received, held by the Corporation in trust for the benefit of the participant, and shall be promptly invested by the Corporation as selected by the participant from the investment options available under the participation agreement. ~~Deposits and earnings thereon accumulated on behalf of participants in the Investment Plan~~ Contributions and earnings accumulated in a participant's Investment Plan account may be used, as provided in the participation agreement, for payments to any institution of postsecondary education including for payments of qualified postsecondary education costs. The trust shall continue in existence as long as it holds any funds belonging to a participant.

\* \* \*

#### § 2879c. TAX EXEMPTION

\* \* \*

(b) Contributions to an account held under ~~the~~ a Vermont Higher Education Investment Plan that is provided directly by the Corporation to a participant shall be eligible for a credit against Vermont income tax as provided under 32 V.S.A. § 5825a.

#### § 2879D. PROPERTY RIGHTS TO ASSETS IN THE PLAN

The assets of the Vermont Higher Education Investment Plan shall at all times be held in trust for the benefit of the participant, shall not be commingled with any other funds of the Corporation or the State, shall be preserved, invested, and expended solely and only for the purposes set forth in this chapter and in accordance with the participation agreements, and no property rights therein shall exist in favor of the Corporation or the State. Amounts held in, or withdrawn from, a participant's Investment Plan account under a participation agreement shall not be subject to liens, attachment, garnishment, levy, seizure, claim by creditors of the contributors, participants, or any beneficiary, or subject to any involuntary sale, transfer, or assignment by any execution or any other legal or equitable operation of law, including bankruptcy or insolvency laws.

\* \* \*

Sixth: By inserting a Sec. 25a to read as follows:

Sec. 25a. 32 V.S.A. § 5933(a) is amended to read:

(a) A claimant agency may submit any debt of ~~\$50.00~~ \$45.00 or more to the Department for collection under the procedure established by this chapter. This setoff debt collection remedy is in addition to and not in substitution for any other remedy available by law.

Seventh: By striking out Sec. 27, effective dates, and its reader assistance heading in their entirety and inserting in lieu thereof Secs. 27–29 and their reader assistance headings to read as follows:

\* \* \* Land Use Change Tax Lien Subordination \* \* \*

Sec. 27. 2019 Acts and Resolves No. 20, Sec. 109 is amended to read:

Sec. 109. REPEALS

(a) 32 V.S.A. § ~~3757(f)~~ 3777 (land use change tax lien subordination) is repealed on July 1, 2020.

\* \* \*

\* \* \* Interest Rate; Overpayments and Underpayments \* \* \*

Sec. 28. 32 V.S.A. § 3108(a) is amended to read:

(a) Not later than December 15 of each year, the Commissioner shall establish an annual rate of interest applicable to unpaid tax liabilities and tax overpayments that shall be equal to the average prime rate charged by banks during the immediately preceding 12 months commencing on October 1 of the prior year, rounded upwards to the nearest quarter percent. ~~Not later than December 15 of each year, the Commissioner shall establish an annual rate of interest applicable to unpaid tax liabilities, which in each instance shall be equal to the annual rate established for tax overpayments plus 200 basis points.~~ The ~~rates~~ rate established hereunder shall be effective on January 1 of the immediately following year. As used in this section, the term “prime rate charged by banks” shall mean the average predominate prime rate quoted by commercial banks to large businesses as determined by the Board of Governors of the Federal Reserve Board.

\* \* \* Effective Dates \* \* \*

Sec. 29. EFFECTIVE DATES

This act shall take effect on passage except:

(1) Sec. 10a, 32 V.S.A. § 9741(54) (sales and use tax exemption), shall take effect on July 1, 2020, provided that if the date of passage of this act is after July 1, 2020, then notwithstanding 1 V.S.A. § 214, Sec. 10a shall take effect retroactively on July 1, 2020.

(2) Sec. 11 (universal service charge) shall take effect on July 1, 2021.

(3) Notwithstanding 1 V.S.A. § 214, Secs. 13–14 (annual link to federal statutes) shall take effect retroactively on January 1, 2020 and apply to taxable years beginning on and after January 1, 2019.

(4) Notwithstanding 1 V.S.A. § 214, Sec. 16 (TY 2016 refunds) shall take effect retroactively on April 15, 2020.