

PROPERTY TAXATION OF TRAILER COACHES
JANUARY, 2006, REPORT TO THE
HOUSE COMMITTEE ON WAYS AND MEANS
AND SENATE COMMITTEE ON FINANCE

Introduction

Vermont property tax law allows taxation of some vehicles (trailer coaches) to be taxed as real property if they are located on the same site in a town for more than 180 days in the year. The purpose of this rule is to allow taxation of a vehicle when it is treated more like a permanent residence. The text of the law is in 32 V.S.A. § 3692(b), and reads as follows:¹

(b) A trailer coach shall be taxed as real property by the town in which it is located notwithstanding subsection (a) of this section [*personal property tax applies to a travel coach in business inventory or used as a business asset*] if it is situated in the town on the same trailer site or camp site for more than 180 days during the 365 days prior to April 1. A trailer coach shall not be taxed as real property if it is stored on property on which the owner resides in another dwelling as a permanent residence.

This law, however, creates some inequities in taxation of trailer coaches and also creates related administrative difficulties for local taxing authorities.

In Act 207 of the 2006 legislative session, Section 20² provided that the legislative council would “draft a proposal to amend the property tax laws to allow taxation or tax-exemption of trailer coaches in a fair and equitable manner, which can be applied uniformly across the state”.

¹ Major relevant statutes may be found at the end of this memorandum in Appendix A.

² Sec. 20. PROPERTY TAXATION OF TRAILER COACHES

The legislative council, in consultation with the division of property valuation and review, the Vermont Association of Listers and Assessors, and the Vermont Campground Association, Inc., shall draft a proposal to amend the property tax laws to allow taxation or tax-exemption of trailer coaches in a fair and equitable manner, which can be applied uniformly across the state. The legislative council shall present its draft to the house committee on ways and means and the senate committee on finance by January 15, 2007.

Conclusion

After meeting and discussing the trailer coach taxation issues, the study group agreed that one statutory amendment would solve the most pressing problem. The proposed statutory amendment would provide that days in which a trailer coach is located in a seasonal campground (that is, a campground which is closed for at least 185 consecutive days) would not count as days "located on the same trailer site". The theory behind this proposed change is that if the trailer is unusable, because the campground is closed, then those days should not count toward residential use of the trailer coach; the trailer coach in this case cannot be used for more than 180 days in the year. This proposal is in essence a clarification of the current law: the proposal would mean that a trailer coach which is on the same site for more than 180 days, *but which is not capable of being occupied for more than 180 days*, would not be taxed.

Discussion

What is a trailer coach?

Vermont law is not clear as to what constitutes a "trailer coach". Using explicit definitions in the law and inference from various other laws³, it appears that a trailer coach is a moveable structure, designed to be towed by a motor vehicle, and used for sleeping, eating or living quarters, and apparently is sometimes referred to as a "travel trailer". A trailer coach is not a motor coach (a bus), or a motor home (self-propelled vehicle designed as temporary living quarters), or a mobile home (manufactured housing sometimes defined specifically to exclude trailer coaches). A trailer coach has self-

³ See Appendix A.

contained utilities, which may be, but do not need to be, attached to outside supplies for water, electricity and sewer.⁴

Affixed property and the bright-line test

Any residential unit, even if originally manufactured as a vehicle or mobile unit, may be taxed as real property if becomes affixed permanently to the land. *In Re Willey*, 120 Vt. 359 (1958). In most cases it is easy to determine whether a structure is permanently affixed. With a trailer coach, however, there may be cases in which it is difficult to tell whether it is affixed. For example, a trailer which is permanently attached to a foundation and external utilities is clearly "affixed"; but what is the status of a trailer coach which is not attached to a foundation, but is hooked up to utilities and stays in the same place year after year? And what is the status of the same kind of trailer, hooked to utilities, but which is moved from place to place during the year? Or which stays in one place, but is unhooked from external utilities for a portion of the year? To deal with the "gray area" cases in which a trailer is not truly affixed to the land, but is used in a nearly-permanent manner, the legislature enacted the special rule noted at the beginning of this report. The intention of the rule is to create an objective, clear and easy-to-administer test for determining when a trailer coach is so permanently used that it is equivalent to being affixed to the land, and therefore, taxable. This "bright-line" rule provides that a trailer coach may be taxed as real property if it is present in the town for more than one hundred eighty days during the year ending March 31.⁵

⁴ Some members of the group have requested that the statute be changed to refer to "recreational vehicles", since this term describes all relevant vehicles better than the term "trailer coaches". This report does not propose to make that statutory change, in part because a necessary administrative ruling by Property Valuation and Review (*see infra*) refers to "trailer coaches".

⁵ *See* 32 V.S.A. § 3692(b) in Appendix A.

Problems presented by the bright-line test: apparent inequities

As might be expected, even this attempt to create a bright-line test for taxing trailer coaches gives rise to some apparent tax inequities. For example, a large, elaborate trailer coach may be exempt from property tax under the bright-line test, while a very humble structure next door, used only for three months a year, but which is “stick-built”, is taxed. Or, one trailer coach may be subject to property tax because present in the town for 181 days, while another of the same model trailer would be exempt because it was moved outside the town on day 179. Or, a trailer coach might be exempt from tax because on day 179 it was moved to the next trailer site over, and so was not on the “same” trailer site for more than 180 days. Under the literal language of the rule, a trailer coach might be subject to property tax, while a mobile home parked next door (but not affixed) for the same number of days would not be, even though the mobile home might be larger and more like a “stick-built” home.

An administrative rule adopted by the Property Valuation and Review Division of the Department of Taxes, and approved by the legislature, addresses that last issue. The rule provides that “The term ‘trailer coach’ ...includes mobile homes not affixed to land.”⁶ This PVR rule means that the mobile home which is not affixed, but is parked in the same spot for more than 180 days, would also be taxable.

Problems presented by the bright-line test: remaining gray areas

While the bright-line tax rule in § 3692(b) solves some problems, it creates some additional “gray areas”. For example, it provides that a trailer coach is not taxable as real property “if it is stored on property on which the owner resides in another dwelling as a permanent residence.” Does this exemption language imply that if the trailer is stored

⁶ See PVR Rule 82-1, attached to this memorandum as Appendix B.

anywhere else, the storage days will count toward the 180 days usage? That is, if the trailer is stored for the winter in a barn at the summer campground, is the trailer on the “same campsite”? If not, then why does the language in the statute only refer to an exemption for a trailer stored at the owner’s residence? And if the statute implies that storage anywhere is exempt, what does “storage” include – is a trailer coach in "storage" if it remains on the camp site, but is unplugged from all utilities on day 179 and covered up for the winter? What if it is not covered up?

Problems presented by the bright-line test: administrative difficulties

Local taxing authorities must try to answer all these questions and more, and often spend a disproportionate amount of time determining whether a structure meets the definition of “trailer coach” and resolving disputes over whether the structure is taxable. For example, listers must determine whether an item is “affixed” to the land. Or, they must look at the site often enough to determine the number of days the trailer is present in town. Listers must also determine whether the trailer on the site on each of those days is the same trailer, and must verify whether the trailer is stored for the winter and if so, where. Moreover, since the 180-day test ends March 31, but tax bills are not mailed out until July or later, by the time the bill is mailed out, the owner may have moved the trailer to an unknown location, and the tax collector then has no property to attach if the taxes are not paid. Even if a lister can establish that a trailer should be taxed, creating and sending the bill can present problems, because the name and address of the owner are not a matter of public record, and valuation of the trailer is difficult to determine. Because of these administrative difficulties and the time involved, and because the number of taxable

trailer coaches varies greatly from town to town, there is little incentive or even ability to enforce the law uniformly in all towns.

Preliminary proposed solutions

Prior to an October 31, 2006, meeting to discuss these issues, there had been presented several possibilities for resolving the taxation question. These possibilities were:

1. Amend the current rule by adding an exemption for trailer coaches smaller than a certain size.

The first question here was whether the size should include “popouts” or “slideouts” (porches or other features which can be opened up or closed down, and which add to the usable trailer space). One practical difficulty with including slideouts in the measurement would be that the slideout might be closed down at the time the lister views the trailer, with the owner not present to open it up, especially if the lister views the trailer in the winter when the trailer might be unoccupied. Furthermore, the size exemption would not cut down on the number of trailers to be viewed, since the lister would still have to determine the size of each trailer. And finally, this amendment would still leave unresolved all the other problems presented by the 180-day rule, identification of owners, etc.

2. Amend the current rule by repealing the 180-day rule and replacing it with a rule that the trailer is taxable if present in the town on a date certain.

Choosing the date presents some problems. For example, April 1 could be a problem because seasonal trailer parks are still closed and may be inaccessible. A date in the Fall may be too long before the tax bills go out. A May 1 date might be too late for

tax bills. But even if a practical date were determined, this amendment could create other problems. For example, would “located in the town on May 1” include located in the owner’s driveway or otherwise in storage? If so, would listers be able to track down all the trailers in the town on a single day? In addition, would a single-day test be too easy to avoid, by moving the trailer – either to a lower-tax town or out of state – for the day? This solution also does not address the problems of tracing the trailer’s owner and mailing address, and attaching the trailer if taxes become delinquent.

3. Repeal the property tax on trailer coaches and replace it with a new tax administered by the Department of Motor Vehicles.

For example, the law could be amended to require registration of all trailer coaches (not just the trailers which will be taken on the road), and at the time of annual registration, an additional fee could be charged, with the revenues from that fee paid into the education fund, and a paid sticker attached to the trailer. But this would require a whole new enforcement system set up at DMV. DMV would have to enforce by random trips to trailer parks looking for stickers. Would DMV have the authority to enter onto private property to look for stickers? Under current law, when police and DMV look for inspection stickers, they are looking at vehicles on public roads, but not all trailer coaches would be on public roads. In addition, a trailer without a sticker might be owned by a nonresident and here only temporarily, and there would be no practical way for DMV to determine that.

4. Repeal trailer coach property tax.

While this approach would resolve all of the administrative problems with the current tax rule, it cannot be evaluated unless we have information on how much revenue

would be lost to municipalities and to the education fund. In addition, a total tax exemption could create new inequities, since a trailer coach would escape taxation, while other kinds of manufactured and stick-built seasonal housing would be taxed.

Meeting of October 31, 2006

On October 31, 2006, a group representing listers and assessors, campground owners, Property Valuation and Review, the Vermont League of Cities and Towns, and the AFL-CIO, met with legislative council staff to discuss the trailer coach tax issue.⁷ Our group analyzed the tax proposals presented to date, and after much discussion, decided to consider an entirely different approach, which would be to keep the current trailer coach tax rule, but with a clarification to exempt trailer coaches located in seasonal campgrounds, as detailed below.

All persons in attendance, other than the representatives of PVR, VALA, VLCT and Legislative Council, are owners of trailer coach campgrounds, and all present agreed that we should seek the opinion of the year-round trailer park owners on this idea. A summary of our deliberations follows.

As a preliminary matter, we began the discussion by taking a straw vote as to how many would generally favor exempting trailer coaches from property tax altogether, if it could be done fairly, and nearly all in attendance favored a total exemption (PVR, VALA and VLCT took no position on this issue). Many of those present noted that there is a problem not just with the administrative difficulties in enforcing the tax, but also in the fact that property tax on trailer coaches tends to encourage people to take their campers to sites outside of Vermont, and that this is detrimental to local restaurants, camp stores and other businesses which depend on the tourist trade in Vermont.

⁷ A list of those in attendance at the meeting is attached to this memorandum as Appendix C.

We then addressed the realities of a complete exemption and the inequities it might raise. The most obvious inequity would be that a complete exemption would mean no property taxation even on a trailer coach which is occupied year-round as a primary residence. (It was pointed out, however, that occupying a trailer coach as a primary residence is illegal in some towns, though not in others.) A trailer coach which is occupied as a primary residence seemed to us to be permanent enough to be treated as taxable real estate. Given this inequity, we decided we needed to retain some rule that would at least allow taxation of trailer coaches used as permanent residences, meaning we still had to have a rule that would separate out taxable trailers from non-taxable trailers. We then proceeded to discuss the four tax proposals outlined above.

Proposal 1 is to tax only trailers above a certain size. All agreed, though, that a size limitation would not resolve any of the current difficulties in implementing the law. It would not even reduce the number of trailers which listers would have to deal with, because in order to eliminate the smaller trailers from taxation, the listers would still have to look at every trailer to determine whether it is small enough to qualify for exemption.

Proposal 2 is to replace the 180-day rule with a simpler rule that a trailer would be taxable if in the town on a single date certain. This rule would solve the problem of having to see whether a trailer is present for more than 180 days, but it seems to create an opportunity for easy tax avoidance, by moving the trailer out of town on that one day. Some of those present felt that it would be unlikely for owners to move their trailers just to avoid the tax, however. They felt that it is not easy to move the trailers if they are set up for somewhat long-term use, and also said the tax is small enough in most cases that it would not be worth the effort to move the trailer. This last observation, however, seems

to contradict the notion that the tax is so onerous that it is keeping trailer coaches out of Vermont. Other members of the group felt that it is very likely that owners would move their trailers just to avoid the tax; and in fact said that the more expensive trailers (which would generate more tax) are the ones most likely to be moved elsewhere.

As noted above, the single-day rule also does not solve the problems of tracing owners and attaching absent trailers. It also would result in taxing trailers which are from out-of-state and are here for only a few days. It would even result in taxing a trailer as real property if it is parked in the owner's driveway on "tax day" and only used for camping in another state.

Proposal 3, design a new tax, we did not discuss, because it presents too many new problems, as noted above.

Proposal 4, to exempt all trailer coaches, was rejected at the beginning of the meeting.

The seasonal campground proposal

It was noted that one major distinction in trailer coach use is that some are set up in year-round parks, while others are in parks that close for the winter season. In some of the seasonal parks, the trailers are moved to a storage area, so that they will not be "on the same site for 180 days or more". But in some seasonal parks, the trailers remain on their campsites, even though inaccessible for the winter, and are therefore taxable. Since a trailer on a campsite which is closed and inaccessible seems just as unused as a trailer in storage, we thought it might be good tax policy to treat them the same way for tax purposes by simply exempting any trailer in a seasonal park. Such a rule would also simplify the listers' job, because listers would not have to go to seasonal parks to determine whether any trailers remained parked "on the same site" all winter: listers

could just ignore seasonal parks altogether. We decided that we would need to define “seasonal” campgrounds, but that they could be campgrounds which are closed from November 1 through April 30 each year. November 1 through April 30, however, is only 181 days, and that would allow tax exemption for a trailer used for the other 184 days. To keep the “seasonal” exemption in line with the current law, which taxes any use for more than 180 days, we chose instead to say that “seasonal” means closed for a period of at least 185 consecutive days. That would allow tax exemption for a trailer which is then used for no more than 180 days (or used for 181 days in a leap year!).

A possible draft of the amendment proposed at our meeting could be as follows:

Sec. X. 32 V.S.A. § 3692(b) is amended and (c) is added to read:

(b) A trailer coach shall be taxed as real property by the town in which it is located notwithstanding subsection (a) of this section if it is situated in the town on the same trailer site or camp site for more than 180 days during the 365 days prior to April 1. A trailer coach shall not be taxed as real property if it is stored on property on which the owner resides in another dwelling as a permanent residence. A trailer coach shall not be considered situated in the town for any days it is on a trailer site or camp site in a seasonal campground during the period the campground is closed for the winter season.

(c) “Seasonal campground” in this section means any public or private trailer coach park which is closed for the winter season, with no available use of any trailer in the park, for at least 185 consecutive days during the property tax year.

The seasonal campground exemption would solve several problems with the current tax law. First, it would greatly reduce the number of trailers that listers must view, since they would not need to look at anything in a seasonal campground. In addition, since there would be fewer trailers to track, it follows that there would be fewer administrative problems overall for listers to deal with. Also, since many trailers at seasonal campgrounds are now moved to a storage space on the campgrounds for the winter (and

thus, are not counted as taxable), this new rule would only exempt the additional trailers which remain on their [closed] campsites all winter, so the loss of property tax revenue from this new rule might not be too large. Trailers in the year-round (not seasonal) parks could still take advantage of the 180-day rule by moving to storage in those parks.

Several persons noted that some campground sites are condominiums and owned by the trailer owners, and that these should be excluded from any definition of exempt “seasonal” campgrounds. It appears, though, that a trailer site is always taxed as real property to the owner, whether it is owned outright or under a condominium agreement, and the taxation of the site is separate from the question of whether the trailer coach on that site should be taxed. The rule for taxation of the trailer coach on the site should not vary just because the site itself is owned through a condominium agreement. Thus, the seasonal site exemption should apply to any trailer site, no matter how the site itself is owned: if it is closed for the season, no trailer located there would be taxed.

There was also some discussion of exemption of trailer coaches in seasonal parks only if they were under a certain size. PVR will discuss this further with their staff. This would seem to defeat the purpose of the seasonal park exemption, however, because a size rule would require listers to go to the closed seasonal campgrounds and measure all the trailers.

There was also some discussion of eliminating the 180-day test and substituting a test which would tax a trailer coach if present in town on a date certain. Mark Paulsen will talk with VALA about their reaction to the proposal and how they would feel about a single-tax-day rule instead of the 180-day rule. In our earlier discussion of Proposal 2,

however, we seemed to agree that a date certain would not solve anything and would create more problems (*See* discussion of Proposal 2, above).

We all agreed that the proposed seasonal park exemption could not be fully evaluated without knowing how much tax revenue would be lost by exempting trailers in seasonal campgrounds. There are apparently fifty-five seasonal campgrounds in Vermont which are members of the Vermont Campground Association, and six year-round parks which are members of the Association. The Vermont Campground Association has found that in 2006 there were 1,230 recreational vehicles (trailer coaches) taxed, and the average listed value was \$10,000. They estimate the range of listed value of the trailer coaches to be approximately \$500.00 to \$25,000.00. The total tax on these trailer coaches is estimated to be \$200,000.00 or less. Any revenue lost by enacting the proposed rule should be viewed in the context of saving the listers' administrative costs and saving the cost of appraising these trailer coaches.

Prepared by Emily Bergquist
Legislative Council
January 17, 2007

APPENDIX A
MAJOR RELEVANT STATUTES

The first statute cited below contains the rule for applying property tax to trailer coaches. All other statutes cited, when read together, provide the definition, either directly or indirectly, of a “trailer coach” in Vermont law.

(a) Property tax: 32 V.S.A. § 3692(b)

(b) A trailer coach shall be taxed as real property by the town in which it is located notwithstanding subsection (a) of this section [*personal property tax applies to a travel coach in business inventory or used as a business asset*] if it is situated in the town on the same trailer site or camp site for more than 180 days during the 365 days prior to April 1. A trailer coach shall not be taxed as real property if it is stored on property on which the owner resides in another dwelling as a permanent residence.

(b) Purchase and use tax:

i. 32 V.S.A. § 8902 DEFINITIONS

(11) "Motor home" means a new or used pleasure car designed to provide temporary living quarters, built into as an integral part of, or permanently attached to, a self-propelled motor vehicle chassis or van. The vehicle must contain at least four of the following facilities: cooking, refrigeration or ice box, self-contained toilet, heating and/or air conditioning, a portable water supply system including a sink and faucet, separate 110-125 volt electrical power supply, and/or an LP gas supply.

ii. 32 V.S.A. §8903 TAX IMPOSED

(a) There is hereby imposed upon the purchase in Vermont of a motor vehicle by a resident a tax at the time of such purchase, payable as hereinafter provided. The amount of the tax shall be six percent of the taxable cost of a:

- pleasure car as defined in 23 V.S.A. § 4;
- motorcycle as defined in 23 V.S.A. § 4;
- motor home as defined in subdivision 8902(11) of this title;

(c) Sales tax: 32 V.S.A. § 9741(32) (Exemptions from sales tax)

(32) Forty percent of the receipts from sales of mobile homes, as defined in section 2601 of Title 9 and modular housing, when they are sold as tangible personal property. *[An attempt to exempt the cost of construction, and to apply the sales tax only to the materials used.]*

(d) Motor vehicle law: 23 V.S.A. § 4 DEFINITIONS

(21) "Motor vehicle" shall include all vehicles propelled or drawn by power other than muscular power, except farm tractors, vehicles running only upon stationary rails or tracks, motorized highway building equipment, road making appliances, snowmobiles, or tracked vehicles or electric personal assistive mobility devices.

(28) "Pleasure car" shall include all motor vehicles not otherwise defined in this title.

(41) "Trailer coach" shall mean any trailer or semi-trailer designed to be towed by a motor vehicle and designed, equipped or used for sleeping, eating or living quarters.

(e) Mobile home sales and financing: 9 V.S.A. § 2601 DEFINITIONS

As used in this chapter, unless the context requires otherwise, "mobile home" means:

(1) A mobile home as defined in 10 V.S.A. § 6201.

(2) An unmotorized vehicle, other than a travel or recreational trailer, designed to be towed and designed or equipped for use as sleeping, eating or living quarters.

(f) Land use and development; mobile home parks: 10 V.S.A. § 6201 DEFINITIONS

(1) "Mobile home" means a structure or type of manufactured home that is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation, includes plumbing, heating, cooling, and electrical systems, and is:

(A) transportable in one or more sections; and

(B) at least eight feet wide or 40 feet long or when erected has at least 320 square feet or if the structure was constructed prior to June 15, 1976, at least eight feet wide or 32 feet long; or

(C) any structure that meets all the requirements of this subdivision except for size and for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the standards established under Title 42 of the U.S. Code.

APPENDIX B

APPENDIX C
PERSONS IN ATTENDANCE AT OCTOBER 31, 2006, MEETING
ETHAN ALLEN ROOM 9:00 AM – 10:30 AM

Maurice Barnes
President, Vermont Campground Association; Owner, Lakeside Camping

Emily Bergquist
Legislative Counsel

Rodney Easter
Recreational Vehicle Owner

William Johnson
Director, Property Valuation and Review Division of the
Vermont Department of Taxes

Dennis LaBounty
Vermont AFL-CIO

Trevor LaShue
Vermont League of Cities and Towns

Todd LeBlanc
Lister, Town of South Burlington; Owner, Homestead Campground

Mary Lunderville
Owner, Moose River Campground; Secy/Treas Vermont Campground Association

Gary Lunderville
Owner, Moose River Campground; Director, Vermont Campground Association

Mark Paulsen
President, Vermont Assessor and Listers Association; Lister, Town of Colchester

Jay Wheeler
Owner, 10 Acres Campground and RV Park;
Vice President, Vermont Campground Association