

1 Introduced by Committee on Ways and Means

2 Date:

3 Subject: Taxation; sales and use tax; meals and rooms tax; income tax;

4 education property tax; property transfer tax; administration;

5 confidentiality; universal service charge

6 Statement of purpose of bill as introduced: This bill proposes to make
7 numerous substantive and administrative changes to Vermont’s tax laws. This
8 bill decreases the amount of use tax due under the safe harbor calculation
9 based on adjusted gross income. The Department of Taxes is authorized to
10 charge penalties for fraudulent requests for refunds irrespective of whether a
11 refund is issued. This bill clarifies that beverage deposit redemption
12 information received by the Department of Taxes is not confidential tax
13 information. The requirements for noncollecting vendors and short-term rental
14 platforms to report to the Department of Taxes are repealed. Marketplace
15 facilitators will be required to collect the universal service charge on behalf of
16 marketplace sellers. This bill amends due dates for municipal grand list
17 corrections, property transfer tax returns and payments, income tax filing
18 extensions, and certain claims for refunds of tax paid or offset. Numerous
19 other changes are made to the definitions used for the purposes of current use,
20 the income sensitivity property tax credit, and the sales and use tax.

1 An act relating to miscellaneous tax provisions

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

3 * * * Education Property Tax * * *

4 Sec. 1. 32 V.S.A. § 4261 is amended to read:

5 § 4261. CORRECTING OMISSION FROM GRAND LIST

6 When real or personal estate is omitted from the grand list by mistake, or an
7 obvious error is found, the listers, with the approval of the ~~Selectboard~~
8 selectboard, on or before December 31, may supply such omissions or correct
9 such errors and make a certificate thereon of the fact; provided, however, the
10 listers may make a correction resulting from the filing or rescission of a
11 homestead declaration without approval of the ~~Selectboard~~ selectboard.

12 Sec. 2. 32 V.S.A. § 4342 is amended to read:

13 § 4342. EXTENSIONS BY THE DIRECTOR

14 On written application therefor made by the listers or assessors of any town,
15 with the approval of the ~~Selectboard~~ selectboard of the town or mayor of the
16 city, the several dates fixed by law and extended by the preceding section or
17 the charter of any municipal corporation, on or before which certain acts must
18 be done relating to duties of listers and assessors, may be further extended by
19 the Director and such extensions shall be in writing ~~and shall be recorded in~~
20 ~~the office of the town clerk~~.

21 Sec. 3. 32 V.S.A. § 5405(f) is amended to read:

1 (f) Within the limits of the resources available for that purpose, the
2 Commissioner may employ such individuals, whether on a permanent,
3 temporary, or contractual basis, as shall be necessary, in the judgment of the
4 Commissioner, to aid in the performance of duties under this section. The
5 Commissioner shall pay each municipality the sum of \$1.00 per grand list
6 parcel in the municipality, for services provided to the Commissioner in
7 connection with ~~his or her~~ the performance of duties under this section. ~~Such~~
8 ~~payment shall be made from the equalization and reappraisal account within~~
9 ~~the Education Fund.~~ Each municipality shall deposit payments received under
10 this subsection into a special fund that shall be used to support the preparation
11 of the education property tax grand list.

12 * * * Current Use * * *

13 Sec. 4. 32 V.S.A. § 3752(10) is amended to read:

14 (10) “Owner” means the person who is the owner ~~of record~~ of any land
15 or the lessee under a perpetual lease as defined in subsection 3610(a) of this
16 title provided the term of the lease is for a minimum of 999 years exclusive of
17 renewals. When enrolled land is mortgaged, the mortgagor shall be deemed
18 the owner of the land for the purposes of this subchapter, until the mortgagee
19 takes possession, either by voluntary act of the mortgagor or foreclosure, after
20 which the mortgagee shall be deemed the owner.

21 * * * Property Tax Hearing Officer Per Diem * * *

1 Sec. 5. 32 V.S.A. § 4465 is amended to read:

2 § 4465. APPOINTMENT OF PROPERTY VALUATION HEARING
3 OFFICER; OATH; PAY

4 When an appeal to the Director is not withdrawn, the Director shall refer the
5 appeal in writing to a person not employed by the Director, appointed by the
6 Director as hearing officer. The Director shall have the right to remove a
7 hearing officer for inefficiency, malfeasance in office, or other cause. In like
8 manner, the Director shall appoint a hearing officer to fill any vacancy created
9 by resignation, removal, or other cause. Before entering into their duties,
10 persons appointed as hearing officers shall take and subscribe the oath of the
11 office prescribed in the Constitution, which oath shall be filed with the
12 Director. The Director shall pay each hearing officer a sum not to exceed
13 ~~\$120.00~~ \$150.00 per diem for each day wherein hearings are held, together
14 with reasonable expenses as the Director may determine. A hearing officer
15 may subpoena witnesses, records, and documents in the manner provided by
16 law for serving subpoenas in civil actions and may administer oaths to
17 witnesses.

18 * * * Property Transfer Tax * * *

19 Sec. 6. 32 V.S.A. § 9605(a) shall be amended to read:

20 (a) The tax imposed by this chapter shall be paid to the Commissioner ~~at~~
21 ~~the time of~~ within 30 days after transfer of title to property subject to the tax or,

1 in the case of a transfer or acquisition of a controlling interest in a person with
2 title to property for which a deed is not given, within 30 days after transfer or
3 acquisition.

4 * * * Sales and Use Tax * * *

5 Sec. 7. 32 V.S.A. § 5870 shall be amended to read:

6 § 5870. REPORTING USE TAX ON INDIVIDUAL INCOME TAX

7 RETURNS

8 (a) The Commissioner of Taxes shall provide that individuals report use tax
9 on their State individual income tax returns. Taxpayers are required to attest to
10 the amount of their use tax liability under chapter 233 of this title for the period
11 of the tax return. Alternatively, they may elect to report an amount that is a
12 percentage of their adjusted gross income determined under subsection (b) of
13 this section, ~~as shown on a table published by the Commissioner of Taxes;~~ and
14 use tax liability arising from the purchase of each item with a purchase price in
15 excess of \$1,000.00 shall be added to the table amount shown under subsection
16 (b) of this section.

17 (b) The amount of use tax a taxpayer may elect to report under subsection
18 (a) of this section shall be ~~0.10 percent of their adjusted gross income based on~~
19 the taxpayer's adjusted gross income as determined by the following tables;
20 provided, however, that a taxpayer shall not be required to pay more than

1 (i) engages in regular, systematic, or seasonal solicitation of sales
2 of tangible personal property in this State:

3 (I) by the display of advertisements in this State;

4 (II) by the distribution of catalogues, periodicals, advertising
5 flyers, or other advertising by means of print, radio, or television media; or

6 (III) by mail, Internet, telephone, computer database, cable,
7 optic, cellular, or other communication systems, for the purpose of effecting
8 sales of tangible personal property; and

9 (ii) has either made sales from outside this State to destinations
10 within this State of at least \$100,000.00, or totaling at least 200 individual
11 sales transactions, during ~~any~~ the 12-month period preceding the monthly
12 period with respect to which that person's liability for tax under this chapter is
13 determined.

14 * * *

15 (J) A marketplace facilitator who has facilitated sales by marketplace
16 sellers to destinations within this State of at least \$100,000.00, or totaling at
17 least 200 individual sales transactions, during ~~any~~ the 12-month period
18 preceding the monthly period with respect to which that person's liability for
19 tax under this chapter is determined.

20 (K) A marketplace seller who has combined sales to a destination
21 within this State and sales through a marketplace to a destination within this

1 State of at least \$100,000.00, or totaling at least 200 individual sales
2 transactions, during ~~any~~ the 12-month period preceding the monthly period
3 with respect to which that person's liability for tax under this chapter is
4 determined.

5 Sec. 9. 32 V.S.A. § 9712(c) is amended to read:

6 (c) ~~Each noncollecting vendor shall file a copy of the notice required by~~
7 ~~subsection (b) with the Department of Taxes on or before January 31 of each~~
8 ~~year. The notice required by this subsection only apply to noncollecting~~
9 ~~vendors who made \$100,000.00 or more of sales into Vermont in the previous~~
10 ~~calendar year. Failure to file a copy of the notice required by this subsection~~
11 ~~shall subject the noncollecting vendor to a penalty of \$10.00 for each failure,~~
12 ~~unless the noncollecting vendor shows reasonable cause. [Repealed.]~~

13 * * * Universal Service Charge * * *

14 Sec. 10. 30 V.S.A. § 7521(e) is amended to read:

15 (e)(1) Notwithstanding any other provision of law to the contrary,
16 beginning on January 1, 2020, the Universal Service Charge shall be imposed
17 on all retail sales of prepaid wireless telecommunications service subject to the
18 sales and use tax imposed under 32 V.S.A. chapter 233. The charges shall be
19 collected by sellers or marketplace facilitators collecting sales tax pursuant to
20 32 V.S.A. § 9713 and remitted to the Department of Taxes in the manner
21 provided under 32 V.S.A. chapter 233. Upon receipt of the charges, the

1 Department of Taxes shall have 30 days to remit the funds to the fiscal agent
2 selected under section 7503 of this chapter. The Commissioner of Taxes shall
3 establish registration and payment procedures applicable to the Universal
4 Service Charge imposed under this subsection consistent with the registration
5 and payment procedures that apply to the sales tax imposed on such services
6 and also consistent with the administrative provisions of 32 V.S.A. chapter
7 151, including any enforcement or collection action available for taxes owed
8 pursuant to that chapter.

9 (2) If a minimal amount of prepaid wireless telecommunications service
10 is sold with a prepaid wireless device for a single, nonitemized price, then the
11 seller may elect not to apply the Universal Service Charge to such transaction.

12 (3) As used in this subsection:

13 (A) “Minimal amount” means an amount of service denominated as
14 not more than 10 minutes or not more than \$5.00.

15 (B) “Prepaid wireless telecommunications service” means a
16 telecommunications service as defined in subdivision 203(5) of this title that a
17 consumer pays for in advance and that is sold in predetermined units or dollars
18 that decline with use.

19 (C) “Seller” means a person who sells prepaid wireless
20 telecommunications service to a consumer.

1 rates under 26 U.S.C. § 1, are hereby adopted for the purpose of computing the
2 tax liability under this chapter.

3 Sec. 13. 32 V.S.A. § 7402(8) is amended to read:

4 (8) “Laws of the United States” means the U.S. Internal Revenue Code
5 of 1986, as amended through December 31, ~~2018~~ 2019. As used in this
6 chapter, “Internal Revenue Code” has the same meaning as “laws of the United
7 States” as defined in this subdivision.

8 * * * Refunds; Reversed Assessments * * *

9 Sec. 14. 32 V.S.A. § 5884(a) is amended to read:

10 (a) At any time within three years after the date a return is required to be
11 filed under this chapter, six months from the date a tax liability is paid or
12 offset, or six months after a refund was received from the United States with
13 respect to an income tax liability, or an amount of taxable income, under the
14 laws of the United States, reported in a return filed under the laws of the
15 United States for the taxable year, with respect to which that return was filed
16 under this chapter, whichever is later, a taxpayer may petition the
17 Commissioner for the refund of all or any part of the amount of tax paid ~~with~~
18 ~~respect to the return~~. Unless the period is extended by agreement of the
19 Commissioner and the taxpayer, the Commissioner shall thereafter, upon
20 notice to the taxpayer, hold a hearing on the claim and shall notify the taxpayer
21 of his or her determination of the claim within 30 days of the hearing. The

1 failure of the Commissioner to refund the amount claimed by a taxpayer within
2 six months of the date of the petition for the refund, under this subsection, shall
3 be considered to be a notification to the taxpayer of the Commissioner's
4 determination concerning the claim. The notification shall be considered to
5 have been given on the date of the expiration of the six-month period.

6 * * * Income Tax Returns * * *

7 Sec. 15. 32 V.S.A. §5868 is amended to read:

8 § 5868. EXTENSION OF TIME FOR FILING OF RETURNS

9 The Commissioner may extend the time within which a taxpayer is required
10 to file a return. The Commissioner shall, ~~upon receipt of documentation that a~~
11 ~~corporation has been granted either an automatic or a good cause extension of~~
12 ~~the time for filing its United States income tax return,~~ extend the time for filing
13 the a taxpayer's Vermont income tax return to the extended date for filing the
14 United States income tax return if the taxpayer has been granted either an
15 automatic or a good cause extension of time for filing the United States income
16 tax return except that the time for filing a corporation's Vermont income tax
17 return shall be extended to 30 days one month after the extended date for filing
18 the United States income tax return. An extension of the time in which to file a
19 return will not result in a corresponding extension of the time for the payment
20 of the tax liability with respect to which the return is filed.

21 Sec. 16. 32 V.S.A. § 5866 is amended to read:

1 § 5866. SUPPLEMENTAL INFORMATION; CHANGES IN FEDERAL
2 TAX LIABILITY OR TAXABLE INCOME

3 (a) If, after the time for filing any return required by this chapter, a
4 taxpayer;

5 (1) becomes aware of any information ~~which~~ that makes that return
6 materially false, inaccurate, or incomplete; or

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

11 (3) files an amended return under the laws of the United States,
12 the taxpayer shall, within ~~60~~ 180 days of the receipt of that information or
13 notification of that assertion or filing that amended return, notify the
14 Commissioner thereof, and of such particulars as may be relevant to the
15 amount of any tax liability of the taxpayer under this chapter.

16 * * *

17 * * * 529 Plans * * *

18 Sec. 17. 32 V.S.A. § 5825a(b) is amended to read:

19 (b) A taxpayer who has received a credit under subsection (a) of this
20 section shall repay to the Commissioner 10 percent of any distribution from a
21 higher education investment plan account, ~~which distribution is not used~~

1 ~~exclusively for costs of attendance at an approved postsecondary education~~
2 ~~institution as defined in 16 V.S.A. § 2822(6)~~, up to a maximum of the total
3 credits received by the taxpayer under subsection (a) of this section minus any
4 amount of repayment of such credits in prior tax years except when the
5 distribution:

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

8 (ii) qualifies as an expense associated with registered
9 apprenticeship programs pursuant to 26 U.S.C. § 529(c)(8); or

10 (iii) is made after the death of the beneficiary or after the
11 beneficiary becomes disabled pursuant to subdivisions (q)(2)(C) and (m)(7) of
12 26 U.S.C. § 72.

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

16 * * * Department of Taxes; Administration * * *

17 Sec. 18. 32 V.S.A. § 3102(n) is added to read:

18 (n) Data reported to the Commissioner of Taxes by a deposit initiator under
19 10 V.S.A. § 1530 shall not be considered confidential return or return
20 information under this section, provided that the Commissioner may disclose
21 the data in summary or aggregated form that does not directly or indirectly

1 identify individual deposit initiators except to the Secretary of Natural
2 Resources in relation to the administration of 10 V.S.A. chapter 53.

3 Sec. 19. 10 V.S.A. § 1530(e) is amended to read:

4 (e) Data reported to the Secretary of Natural Resources and the
5 Commissioner of Taxes by a deposit initiator under this section shall be
6 confidential business information exempt from public inspection and copying
7 under 1 V.S.A. § 317(c)(9) but shall not be confidential return information
8 under 32 V.S.A. § 3102, provided that the Commissioner of Taxes may use
9 and disclose such information in summary or aggregated form that does not
10 directly or indirectly identify individual deposit initiators except to the
11 Secretary of Natural Resources in relation to the administration of this chapter.

12 Sec. 20. 32 V.S.A. § 3202(b)(5) is amended to read:

13 (5) Fraudulent failure to pay. When a taxpayer fraudulently or with
14 willful intent to defeat or evade a tax liability imposed by this title, ~~either~~ fails
15 to pay a tax liability on the date prescribed therefor, ~~or~~ requests and receives a
16 refund of a tax liability, or requests but does not receive a refund of a tax
17 liability, then, in addition to any interest payable pursuant to subsection (a) of
18 this section, the Commissioner may assess and the taxpayer shall then pay a
19 penalty equal to the amount of the tax liability unpaid on the prescribed date of
20 payment ~~or~~, the amount received as a refund subsequent to that date, or the
21 amount requested but not received as a refund.

