

1 H.738

2 Introduced by Committee on Ways and Means

3 Date:

4 Subject: Taxation; income taxes; property transfer tax; administration

5 Statement of purpose of bill as introduced: This bill proposes to clarify that  
6 the property transfer tax applies to enhanced life estate deeds in the same way  
7 as conventional life estate deeds. Penalty provisions and filing due dates for  
8 estimated tax payments are amended under this bill and the Vermont income  
9 tax and the estate tax codes would be made to conform to federal tax statutes in  
10 effect at the end of 2021. With regard to the income tax return checkoff for  
11 donations to the Children's Trust Fund, this bill would amend the Fund name  
12 and change the recipient of checkoff donations to the Vermont Children's Trust  
13 Foundation. This bill further creates a new Vermont reporting requirement for  
14 partnerships under federal audit, clarifies that the valuation of land underlying  
15 solar panels is the same for municipal and State property taxes, and clarifies  
16 the types of fishing, hunting, or trapping licenses available to a certified citizen  
17 of a State-recognized Native American Indian tribe.

18 An act relating to technical and administrative changes to Vermont's tax  
19 laws

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

2 \* \* \* Enhanced Life Estates; Property Transfer Tax \* \* \*

3 Sec. 1. 27 V.S.A. § 654(d) is added to read:

4 (d) An executed and recorded ELE deed shall be subject to the property  
5 transfer tax under 32 V.S.A. chapter 231.

6 Sec. 2. 32 V.S.A. § 9601 is amended to read:

7 § 9601. DEFINITIONS

8 ~~The following definitions shall apply throughout~~ As used in this chapter  
9 unless the context requires otherwise:

10 \* \* \*

11 (3) “Title to property” includes:

12 (A) those interests in property that endure for a period of time the  
13 termination of which is not fixed or ascertained by a specific number of years,  
14 including an estate in fee simple, life estate, enhanced life estate, perpetual  
15 leasehold, and perpetual easement; and

16 \* \* \*

17 (6) “Value” means:

18 \* \* \*

19 (E) In the case of a life estate or an enhanced life estate, the grand  
20 list value of the property at the time of the transfer, multiplied by a factor  
21 published by the Internal Revenue Service for purposes of valuing life estates

1 and remainders pursuant to 26 U.S.C. § 7520. This factor is based on the  
2 grantor's age, published actuarial tables, and published interest rate in the  
3 month of the transaction.

4 \* \* \*

5 Sec. 3. 32 V.S.A. § 9617(h) is amended to read:

6 (h)(1) At any time within three years after the date a property is  
7 transferred, a taxpayer may petition the Commissioner in writing for the  
8 refund of all or any part of the amount of tax paid. The Commissioner shall  
9 thereafter grant a hearing subject to the provisions of 3 V.S.A chapter 25 upon  
10 the matter and notify the taxpayer in writing of ~~his or her~~ the Commissioner's  
11 determination concerning the refund request. The Commissioner's  
12 determination may be appealed as provided in subsection (e) of this section.  
13 This shall be a taxpayer's exclusive remedy with respect to the refund of taxes  
14 under this chapter, except as provided under subdivision (2) of this subsection.

15 (2) If the transfer taxed by this chapter was an enhanced life estate  
16 interest and that interest is revoked or revised pursuant to 27 V.S.A. chapter 6,  
17 the person who paid the tax may petition for a refund, provided that the  
18 petition is made within eight years after the date of payment of the tax and  
19 within one year after the date of revocation or revision. No petition for a  
20 refund shall be granted for the revocation or revision of an interest that  
21 occurred eight years or more after the date of payment of the tax. In the case

1 of a revision, the revised enhanced life estate interest transfer shall be subject  
2 to tax under this chapter.

3 \* \* \* Underpayment Penalties; Deadlines \* \* \*

4 Sec. 4. 32 V.S.A. § 3202(b) is amended to read:

5 (b) Penalties.

6 \* \* \*

7 (2) Failure to pay estimated tax. When a taxpayer fails to make  
8 payments as required by chapter 151, subchapter 5 or 5A of this title  
9 (estimations of nonwithheld income tax and quarterly filing and payment), the  
10 Commissioner may assess and the taxpayer shall then pay a penalty that shall  
11 be equal to one percent of the outstanding tax liability for each month, or  
12 portion thereof, that the tax liability is not paid in full; provided, however, that  
13 in no event shall the amount of any penalty assessed under this subdivision  
14 exceed 25 percent of the tax liability unpaid on the prescribed date of payment.

15 (3) Failure to pay. When a taxpayer fails to pay a tax liability imposed  
16 by this title (other than a return required by chapter 151, subchapter 5 or 5A of  
17 this title for estimation of nonwithheld income tax and quarterly filing and  
18 payment) on the date prescribed therefor, then in addition to any interest  
19 payable pursuant to subsection (a) of this section, the Commissioner may  
20 assess and the taxpayer shall then pay a penalty that shall be equal to, for  
21 income tax under chapter 151, subchapters 2 and 3 of this title, one percent

1 and, for all other taxes, five percent of the outstanding tax liability for each  
2 month, or portion thereof, that the tax liability is not paid in full; provided,  
3 however, that in no event shall the amount of any penalty assessed under this  
4 subdivision exceed 25 percent of the tax liability unpaid on the prescribed date  
5 of payment.

6 \* \* \*

7 Sec. 5. 32 V.S.A. § 5859(b) is amended to read:

8 (b) Except as provided in subsection (c) of this section, the taxpayer shall  
9 be liable for interest and penalties pursuant to section 3202 of this title, with  
10 interest imposed at the rate per annum established from time to time by the  
11 Commissioner pursuant to section 3108 of this title upon the amount of any  
12 underpayment of estimated tax.

13 \* \* \*

14 (2) The period of the underpayment for which interest and penalties  
15 shall apply shall commence on the date the installment was required to be paid  
16 and shall terminate on the earlier of the following dates:

17 (A) ~~the 15th day of the third month following the close of the taxable~~  
18 ~~year~~ the date a U.S. income tax return is required to be filed for that year by  
19 that corporation under the laws of the United States; or

20 (B) with respect to any portion of the underpayment, the date on  
21 which such portion is paid. For purposes of this subdivision, a payment of

1 estimated tax on any installment date shall be considered a payment of any  
2 previous underpayment only to the extent such payment exceeds the amount of  
3 the installment determined under subdivision (1)(A) of this subsection (b) for  
4 such installment date.

5 \* \* \* Annual Link to Federal Statutes \* \* \*

6 Sec. 6. 32 V.S.A. § 5824 is amended to read:

7 § 5824. ADOPTION OF FEDERAL INCOME TAX LAWS

8 The statutes of the United States relating to the federal income tax, as in  
9 effect on ~~March 31, 2021~~ December 31, 2021, but without regard to federal  
10 income tax rates under 26 U.S.C. § 1, are hereby adopted for the purpose of  
11 computing the tax liability under this chapter, and shall continue in effect as  
12 adopted until amended, repealed, or replaced by act of the General Assembly.

13 Sec. 7. 32 V.S.A. § 7402(8) is amended to read:

14 (8) “Laws of the United States” means the U.S. Internal Revenue Code  
15 of 1986, as amended through December 31, ~~2020~~ 2021. As used in this  
16 chapter, “Internal Revenue Code” has the same meaning as “laws of the United  
17 States” as defined in this subdivision. The date through which amendments to  
18 the U.S. Internal Revenue Code of 1986 are adopted under this subdivision  
19 shall continue in effect until amended, repealed, or replaced by act of the  
20 General Assembly.

1                   \* \* \* Vermont Children's Trust Foundation Checkoff \* \* \*

2           Sec. 8. 32 V.S.A. § 5862b is amended to read:

3           § 5862b. ~~CHILDREN'S TRUST FUND ACCOUNT~~ VERMONT

4                               CHILDREN'S TRUST FOUNDATION CHECKOFF

5           (a) Returns filed by individuals shall include, on a form prescribed by the  
6           Commissioner of Taxes, an opportunity for the taxpayer to designate funds to  
7           the ~~Children's Trust Fund~~ Vermont Children's Trust Foundation.

8           (b) Amounts so designated shall be deducted from refunds due to, or  
9           overpayments made by, the designating taxpayers. All amounts so designated  
10          and deducted shall be deposited in an account by the Commissioner of Taxes  
11          for payment to the ~~Children's Trust Fund~~ Vermont Children's Trust  
12          Foundation. If at any time after the payment of amounts so designated to the  
13          ~~Account~~ account it is determined that the taxpayer was not entitled to all or  
14          any part of the amount so designated, the Commissioner may assess, and the  
15          account shall then pay to the Commissioner, the amount received, together  
16          with interest at the rate prescribed by section 3108 of this title, from the date  
17          the payment was made until the date of repayment.

18          (c) The Commissioner of Taxes shall explain to taxpayers the purposes of  
19          the ~~Account~~ account and how to contribute to it. The Commissioner shall  
20          make available to taxpayers the annual income and expense report of the  
21          ~~Children's Trust Fund~~ Vermont Children's Trust Foundation and shall provide

1 notice in the instructions for the State individual income tax return that the  
2 report is available at the Tax Department.

3 (d) If amounts paid with respect to a return are insufficient to cover both  
4 the amount owed on the return under this chapter and the amount designated  
5 by the taxpayer as a contribution to the ~~Children's Trust Fund Account~~  
6 Vermont Children's Trust Foundation, the payment shall first be applied to the  
7 amount owed on the return under this chapter and the balance, if any, shall be  
8 deposited in the account.

9 (e) Nothing in this section shall be construed to require the Commissioner  
10 to collect any amount designated as a contribution to the ~~Children's Trust Fund~~  
11 ~~Account~~ Vermont Children's Trust Foundation.

12 (f) The Vermont Children's Trust Foundation shall use the revenue  
13 received under this section to provide funds for community-based primary  
14 prevention programs that have been shown to be effective for juveniles. The  
15 Foundation shall solicit proposals for grant awards from public and private  
16 persons and agencies and shall evaluate the proposals on the basis of the  
17 following criteria:

18 (1) the demonstrated effectiveness of the program upon which the  
19 proposal is based;

20 (2) the need for such services within the community;



1           (3) other resources available to meet the need for primary prevention  
2           services; and

3           (4) the ability of the applicant to obtain funding from another source to  
4           cover a portion of the program costs.

5           (g) To the extent that funds permit, the Vermont Children’s Trust  
6           Foundation shall award and administer grants to applicants of proposals that  
7           the Foundation determines to have met the criteria established in subsection (f)  
8           of this section. The Foundation shall monitor expenditures by grantees and  
9           evaluate the effectiveness of the programs, assistance, or services financed by  
10          the revenue received under this section. The Foundation shall develop  
11          guidelines for the coordination of community-based primary prevention  
12          programs, the application process, and the distribution of grants under this  
13          section.

14          Sec. 9. 33 V.S.A. § 3303(b) is amended to read:

15          (b) ~~The Council shall administer the Children’s Trust Fund as provided in~~  
16          ~~sections 3306 and 3307 of this title. [Repealed.]~~

17          Sec. 10. REPEALS; CHILDREN’S TRUST FUND

18          33 V.S.A. § 3306 (Children’s Trust Fund) and 33 V.S.A. § 3307 (trust fund  
19          programs) are repealed.

1 Sec. 11. TRANSITION; CHILDREN’S TRUST FUND; FY 2023

2 TRANSFERS

3 On July 1, 2022 and December 30, 2022, all revenue and interest in the  
4 Children’s Trust Fund created under 33 V.S.A. § 3306 shall be transferred to  
5 the Vermont Children’s Trust Foundation to be used for the purposes  
6 established under subsections (f) and (g) of 32 V.S.A. § 5862b.

7 \* \* \* Reporting Federal Audits and Adjustments; Partnerships \* \* \*

8 Sec. 12. 32 V.S.A. § 5866(c) is added to read:

9 (c) If a change in federal tax liability results from the audit of a partnership  
10 or an adjustment of a partnership’s taxable income under 26 U.S.C. subtitle F,  
11 chapter 63, subchapter C, the taxpayer shall file and amend returns and pay tax  
12 owed pursuant to section 5866a of this title.

13 Sec. 13. 32 V.S.A. § 5866a is added to read:

14 5866a. REPORTING ADJUSTMENTS TO FEDERAL TAXABLE INCOME

15 AND FEDERAL PARTNERSHIP AUDITS

16 (a) Definitions. As used in this section:

17 (1) “Administrative adjustment request” means an administrative  
18 adjustment request filed by a partnership under 26 U.S.C. § 6227.

19 (2) “Audited partnership” means a partnership subject to a partnership-  
20 level audit resulting in a federal adjustment.

1           (3) “Corporate partner” means a partner that is subject to tax under  
2           chapter 151, subchapter 3 of this title.

3           (4) “Direct partner” means a partner that holds an interest directly in a  
4           partnership or pass-through entity.

5           (5) “Exempt partner” means a partner that is exempt from taxation  
6           under this chapter but not an entity with federal exempt status having taxable  
7           income under subdivision 5811(18) of this title.

8           (6) “Federal adjustment” means a change to an item or amount  
9           determined under the Internal Revenue Code that is used by a taxpayer to  
10           compute tax owed, whether that change results from action by the Internal  
11           Revenue Service, including a partnership-level audit, or the filing of an  
12           amended federal return, federal refund claim, or an administrative adjustment  
13           request by the taxpayer. A federal adjustment is positive to the extent that it  
14           increases State taxable income as determined under this chapter and is negative  
15           to the extent that it decreases State taxable income as determined under this  
16           chapter.

17           (7) “Federal adjustments report” includes methods or forms required by  
18           the Commissioner for use by a taxpayer to report final federal adjustments,  
19           including an amended tax return, information return, or uniform multistate  
20           report.

1           (8) “Federal partnership representative” means the person that the  
2           partnership designates for the taxable year as the partnership’s representative  
3           or the person that the Internal Revenue Service appoints to act as the federal  
4           partnership representative pursuant to 26 U.S.C. § 6223(a).

5           (9) “Final determination date” means the following:

6                   (A) Except as provided in subdivisions (B) and (C) of this  
7                   subdivision (a)(9), if the federal adjustment arises from an audit or other action  
8                   by the Internal Revenue Service, “final determination date” means the first day  
9                   on which no federal adjustments arising from that audit or other action remain  
10                   to be finally determined, whether by Internal Revenue Service decision with  
11                   respect to which all rights of appeal have been waived or exhausted, by  
12                   agreement, or, if appealed or contested, by a final decision with respect to  
13                   which all rights of appeal have been waived or exhausted. For agreements  
14                   required to be signed by the Internal Revenue Service and the taxpayer, the  
15                   “final determination date” means the date on which the last party signed the  
16                   agreement.

17                   (B) For federal adjustments arising from an audit or other action by  
18                   the Internal Revenue Service, if the taxpayer filed as a member of an affiliated  
19                   group electing to file a consolidated return under subsection 5862(c) of this  
20                   title or filed as a member of a unitary combined group under subsection  
21                   5862(d) of this title, the “final determination date” means the first day on

1 which no related federal adjustments arising from that audit remain to be  
2 finally determined, as described in subdivision (A) of this subdivision (a)(9),  
3 for the entire group.

4 (C) If the federal adjustment results from filing an amended federal  
5 return, a federal refund claim, or an administrative adjustment request, or if it  
6 is a federal adjustment reported on an amended federal return or other similar  
7 report filed pursuant to 26 U.S.C. § 6225(c), the “final determination date”  
8 means the day on which the amended return, refund claim, administrative  
9 adjustment request, or other similar report was filed.

10 (10) “Final federal adjustment” means a federal adjustment after the  
11 final determination date for that federal adjustment has passed.

12 (11) “Indirect partner” means a partner in a partnership or pass-through  
13 entity that itself holds an interest directly, or through another indirect partner,  
14 in a partnership or pass-through entity.

15 (12) “I.R.C.” means the Internal Revenue Code of 1986, as codified  
16 under 26 U.S.C. subtitles A–K, and applicable regulations as promulgated by  
17 the U.S. Department of the Treasury. To the extent that the terms used in this  
18 section are not defined under this section, it is the intent of the General  
19 Assembly to conform to the definitions and terminology used in the  
20 amendments to the I.R.C., subtitle F, chapter 63 pertaining to the  
21 comprehensive partnership audit regime contained in the Bipartisan Budget

1 Act of 2015, Pub. L. No. 114-74, as amended, and this section shall be  
2 interpreted accordingly.

3 (13) “Nonresident partner” means an individual, trust, or estate partner  
4 that is not a resident partner.

5 (14) “Partner” means a person that holds an interest, directly or  
6 indirectly, in a partnership or other pass-through entity.

7 (15) “Partnership” means an entity subject to taxation under 26 U.S.C.  
8 subtitle A, chapter 1, subchapter K.

9 (16) “Partnership-level audit” means an examination by the Internal  
10 Revenue Service at the partnership level pursuant to 26 U.S.C. subtitle F,  
11 chapter 63, subchapter C that results in federal adjustments.

12 (17) “Pass-through entity” means an entity other than a partnership that  
13 is not subject to tax under section 5822 or 5832 of this title.

14 (18) “Reallocation adjustment” means a federal adjustment resulting  
15 from a partnership-level audit or an administrative adjustment request that  
16 changes the shares of one or more items of partnership income, gain, loss,  
17 expense, or credit allocated to direct partners. A positive reallocation  
18 adjustment means the portion of a reallocation adjustment that would increase  
19 federal income for one or more direct partners, and a negative reallocation  
20 adjustment means the portion of a reallocation adjustment that would decrease  
21 federal income for one or more direct partners.

1           (19) “Resident partner” means an individual, trust, or estate partner that  
2           is a resident under section 5811 of this title for the relevant tax period.

3           (20) “Reviewed year” means the taxable year of a partnership that is  
4           subject to a partnership-level audit from which federal adjustments arise.

5           (21) “Taxpayer” means any person or entity required to file a return or  
6           pay tax under this chapter and, unless the context clearly indicates otherwise,  
7           includes a partnership, including a tiered partner of a partnership, subject to a  
8           partnership-level audit and a partnership, including a tiered partner of a  
9           partnership, that has made an administrative adjustment request.

10           (22) “Tiered partner” means any partner that is a partnership or pass-  
11           through entity.

12           (23) “Unrelated business taxable income” has the same meaning as in  
13           26 U.S.C. § 512.

14           (b) Reporting adjustments to federal taxable income; general rule.

15           (1) Except in the case of final federal adjustments that are required to be  
16           reported by a partnership and its partners using the procedures in subsection

17           (c) of this section, a taxpayer shall report and pay any Vermont tax due with  
18           respect to the following final federal adjustments:

19           (A) arising from an audit or other action by the Internal Revenue  
20           Service;

1           (B) reported by the taxpayer on a timely filed amended federal  
2           income tax return, including a return or other similar report filed pursuant to  
3           26 U.S.C. § 6225(c)(2); or

4           (C) a federal claim for refund.

5           (2) A taxpayer shall report and pay any tax due under this subsection by  
6           filing a federal adjustments report with the Commissioner for the reviewed  
7           year and, if applicable, paying the additional Vermont tax owed not later than  
8           180 days after the final determination date.

9           (c) Reporting federal adjustments; partnership-level audit and  
10          administrative adjustment request. Except for negative federal adjustments  
11          required under federal law or regulations to be taken into account by the  
12          partnership in the partnership return for the adjustment or other year, and the  
13          distributive share of adjustments reported as required under subsection (b) of  
14          this section, partnerships and partners shall report final federal adjustments  
15          arising from a partnership-level audit or an administrative adjustment request  
16          and make payments as required under this subsection (c).

17          (1) State partnership representative.

18          (A) With respect to an action required or permitted to be taken by a  
19          partnership under this subsection and a petition for a hearing under sections  
20          5883, 5884, or 5885 of this title with respect to that action, the State  
21          partnership representative for the reviewed year shall have the sole authority to



1 act on behalf of the partnership, and the partnership's direct partners and  
2 indirect partners shall be bound by those actions.

3 (B) The State partnership representative for the reviewed year is the  
4 partnership's federal partnership representative unless the partnership  
5 designates in writing another person as its State partnership representative.

6 (C) The Commissioner may establish reasonable qualifications and  
7 procedures for designating a person, other than the federal partnership  
8 representative, to be the State partnership representative.

9 (2) Reporting and payment requirements for partnerships subject to a  
10 final federal adjustment and their direct partners. Final federal adjustments  
11 subject to the requirements of this subsection, except for those subject to an  
12 election that is properly made under subdivision (3) of this subsection, shall be  
13 reported as follows:

14 (A) Not later than 90 days after the final determination date, the  
15 partnership shall:

16 (i) File a completed federal adjustments report with the  
17 Commissioner, including any other information required by the Commissioner.  
18 The federal adjustments report shall:

19 (I) Identify each partner during the reviewed year.

20 (II) Specify each item addressed by, and the amount included  
21 in, the final federal adjustment.

1                   (III) Explain how the final federal adjustment needs to be  
2                   modified for State tax purposes to reflect relevant differences between federal  
3                   and State law.

4                   (IV) Provide any other information related to the final  
5                   determination or modification as the Commissioner may require. If the  
6                   audited partnership has received an approved modification, the audited  
7                   partnership shall notify the Commissioner of this approval not later than 90  
8                   days after the date of approval. An audited partnership that fails to meet the  
9                   filing requirements under this subsection (c) shall be subject to the penalties  
10                  for failure to file under section 3202 of this title. The statute of limitations for  
11                  assessing a partner or an audited partnership pursuant to this section shall be  
12                  tolled in any instance in which the audited partnership has not provided the  
13                  Commissioner with the notice and filing required by this subsection (c).

14                  (ii) Notify each of its direct partners of their distributive share of  
15                  the final federal adjustments.

16                  (iii) File an amended composite return for direct partners as  
17                  required under subsections 5914(a) and (b) and 5920(a) and (b) of this title  
18                  and, as applicable, an amended withholding return for direct partners as  
19                  required under subchapter 4 of this chapter and pay the additional tax that  
20                  would have been due had the final federal adjustments been reported properly.

1           (B) Not later than 180 days after the final determination date, each  
2           direct partner that is taxed under sections 5822 and 5832 of this title shall:

3                   (i) file a federal adjustments report reporting their distributive  
4                   share of the adjustments reported to them under subdivision (A)(ii) of this  
5                   subdivision (c)(2) as required under this chapter; and

6                   (ii) pay any additional amount of tax that would have been due if  
7                   final federal adjustments had been reported properly, plus any penalty and  
8                   interest due under section 3202 of this title, and less any credit for related  
9                   amounts paid or withheld and remitted on behalf of the direct partner under  
10                  subdivision (A)(iii) of this subdivision (c)(2).

11                  (3) Election; partnership pays. Subject to the limitations under  
12                  subdivision (C) of this subdivision (3), an audited partnership making an  
13                  election under this subdivision (3) shall do the following:

14                          (A) Not later than 90 days after the final determination date, file a  
15                          completed federal adjustments report as required by subdivision (2) of this  
16                          subsection (c) and notify the Commissioner that it is making the election under  
17                          this subdivision (3).

18                          (B) Not later than 180 days after the final determination date, pay an  
19                          amount, determined as follows, in lieu of taxes owed by its direct and indirect  
20                          partners:

1           (i) Exclude from final federal adjustments the distributive share of  
2           these adjustments reported to a direct exempt partner not subject to tax under  
3           this chapter.

4           (ii) For the total distributive shares of the remaining final federal  
5           adjustments reported to direct corporate partners subject to tax under section  
6           5832 of this title, apportion and allocate the adjustments as provided under  
7           section 5833 of this title, and multiply the result by the highest tax rate  
8           imposed under section 5832 of this title.

9           (iii) For the total distributive shares of the remaining final federal  
10          adjustments reported to nonresident direct partners subject to tax under this  
11          chapter, determine the amount of the adjustments that is Vermont-source  
12          income, and multiply the result by the highest tax rate imposed under section  
13          5822 of this title.

14          (iv) For the total distributive shares of the remaining final federal  
15          adjustments reported to tiered partners:

16                (I) Determine the amount of the adjustments that is of a type  
17                that it would be subject to sourcing to Vermont under this chapter, and then  
18                determine the portion of the amount that would be sourced to Vermont.

19                (II) Determine the amount of the adjustments that is of a type  
20                that it would not be subject to sourcing to Vermont by a nonresident partner  
21                under this chapter.

1                   (III) Determine the portion of the amount determined in  
2                   subdivision (iv)(II) of this subdivision (3)(B) that can be established as  
3                   properly allocable to nonresident indirect partners or other partners not subject  
4                   to tax on the adjustments or that can be excluded under procedures for  
5                   modified reporting and payment method allowed under subdivision (5) of this  
6                   subsection (c).

7                   (v) Multiply the total of the amounts determined in subdivisions  
8                   (iv)(I) and (iv)(II) of this subdivision (3)(B) reduced by the amount  
9                   determined in subdivision (iv)(III) of this subdivision (3)(B) by the highest tax  
10                  rate under section 5822 of this title.

11                  (vi) For the total distributive shares of the remaining final federal  
12                  adjustments reported to resident direct partners subject to tax under section  
13                  5822 of this title, multiply the amount reported by the highest tax rate under  
14                  section 5822 of this title.

15                  (vii) Add the amounts determined in subdivisions (ii), (iii), (v),  
16                  and (vi) of this subdivision (3)(B), along with penalty and interest as  
17                  calculated under subsection 3202(a) and subdivisions 3202(b)(2) and (b)(3) of  
18                  this title.

19                  (C) Final federal adjustments subject to the election under this  
20                  subdivision (c)(3) exclude:

1           (i) the distributive share of final audit adjustments that, under  
2           subsection 5862(d) of this title, must be included in the unitary combined  
3           business income of any direct or indirect corporate partner, provided that the  
4           audited partnership can reasonably determine this; and

5           (ii) any final federal adjustments resulting from an administrative  
6           adjustment request.

7           (D) An audited partnership that is not otherwise subject to any  
8           reporting or payment obligations to Vermont and that makes an election under  
9           this subdivision (c)(3), consents to be subject to Vermont laws related to  
10          reporting, assessment, payment, and collection of Vermont tax calculated  
11          under the election.

12          (4) Tiered partners. The direct and indirect partners of an audited  
13          partnership that are tiered partners, and all partners of those tiered partners that  
14          are subject to tax under this chapter, are subject to the reporting and payment  
15          requirements of subdivision (2) of this subsection, and the tiered partners are  
16          entitled to make the elections provided in subdivisions (3) and (5) of this  
17          subsection. The tiered partners or their partners shall make required reports  
18          and payments not later than 90 days after the time for filing and furnishing  
19          statements to tiered partners and their partners as established under 26 U.S.C.  
20          § 6226 and the associated regulations. The Commissioner may adopt rules to  
21          establish procedures and interim time periods for the reports and payments

1 required by tiered partners and their partners and for making the elections  
2 under this subsection.

3 (5)(A) Alternative reporting and payment methods. Pursuant to any  
4 procedures established by the Commissioner, an audited partnership or tiered  
5 partner may request approval by the Commissioner to utilize alternative  
6 reporting and payment methods, including modifying applicable time  
7 requirements and any other requirement of this subsection (c), provided that:

8 (i) the audited partnership or tiered partner demonstrates to the  
9 Commissioner's satisfaction that the requested method will reasonably provide  
10 for the reporting and payment of taxes, penalties, and interest due under this  
11 subsection (c); or

12 (ii) the audited partnership or tiered partner establishes to the  
13 Commissioner's satisfaction that their direct partners have agreed to allow a  
14 refund of the State tax to the entity.

15 (B) A request for approval of alternative reporting and payment  
16 methods by the Commissioner shall be made by the audited partnership or  
17 tiered partner within the time for election provided in subdivision (3) or (4) of  
18 this subsection (c), as applicable.

19 (6) Effect of election by audited partnership or tiered partner and  
20 payment of amount due.

1           (A) The election made pursuant to subdivision (3) or (5) of this  
2           subsection (c) is irrevocable unless the Commissioner, at the Commissioner's  
3           discretion, determines otherwise.

4           (B) If reported properly and paid by the audited partnership or tiered  
5           partner, the amount determined under subdivision (3)(B) of this subsection (c)  
6           or under an optional election under subdivision (5) of this subsection (c) shall  
7           be treated as paid in lieu of taxes owed by its direct and indirect partners, to  
8           the extent applicable, on the same final federal adjustments. The direct or  
9           indirect partners shall not be eligible to take any deduction or credit for this  
10           amount or claim a refund of the amount in this State. Nothing in this  
11           subdivision (6) shall preclude a direct resident partner from claiming a credit  
12           against taxes paid or any amounts paid by the audited partnership or tiered  
13           partner on the resident partner's behalf to another state or local tax jurisdiction  
14           pursuant to section 5825 of this title.

15           (7) Failure of audited partnership or tiered partner to report or pay.  
16           Nothing in this subsection prevents the Commissioner from using the best  
17           information available to assess a direct or indirect partner for taxes owed by  
18           those partners if a partnership or tiered partner fails, for any reason, to make  
19           any report or payment required by this subsection in a timely manner.

20           (d) De minimis exception. The Commissioner may, at the Commissioner's  
21           discretion, adopt rules to establish a de minimis amount below which a



1 taxpayer shall not be required to comply with subsections (b) and (c) of this  
2 section.

3 (e) Assessments of additional tax, interest, and penalties arising from  
4 adjustments to federal taxable income; statute of limitations. The  
5 Commissioner shall assess additional tax, interest, and penalties arising from  
6 final federal adjustments arising from an audit by the Internal Revenue  
7 Service, including a partnership-level audit, as reported by the taxpayer on an  
8 amended federal income tax return, or as part of an administrative adjustment  
9 request, by the following dates:

10 (1) Timely reported federal adjustments. If a taxpayer files with the  
11 Commissioner a federal adjustments report or an amended tax return as  
12 required within the period prescribed in subsections (b) or (c) of this section,  
13 the Commissioner may assess any amounts, including in-lieu-of amounts,  
14 taxes, interest, and penalties arising from those federal adjustments, if a notice  
15 of the assessment to the taxpayer is issued not later than:

16 (A) the expiration of the limitations period prescribed in section 5882  
17 of this title; or

18 (B) the expiration of the one-year period following the date of filing  
19 the federal adjustments report with the Commissioner.

20 (2) Untimely reported federal adjustments. If the taxpayer fails to file  
21 the federal adjustments report within the period prescribed in subsections (b)

1 or (c) of this section, as appropriate, or if the federal adjustments report filed  
2 by the taxpayer omits final federal adjustments or understates the correct  
3 amount of tax owed, the Commissioner may assess amounts or additional  
4 amounts, including in-lieu-of amounts, taxes, interest, and penalties arising  
5 from the final federal adjustments, if the Commissioner mails a notice of the  
6 assessment to the taxpayer by a date that is the latest of one of the following:

7 (A) the expiration of the limitations period prescribed in section 5882  
8 of this title;

9 (B) the expiration of the one-year period following the date of filing  
10 the federal adjustments report with the Commissioner; or

11 (C) absent fraud, the expiration of the six-year period following the  
12 final determination date.

13 (f) Estimated tax payments made during a pending federal audit. A  
14 taxpayer may make estimated payments, according to the process prescribed  
15 by the Commissioner, of the tax expected to result from a pending Internal  
16 Revenue Service audit and prior to the due date of the federal adjustments  
17 report, without filing the report with the Commissioner. The estimated tax  
18 payments shall be credited against the final Vermont tax liability and shall  
19 limit the accrual of further statutory interest on that amount. If the estimated  
20 tax payments exceed the final Vermont tax liability and statutory interest  
21 ultimately determined to be due, the taxpayer is entitled to a refund or credit

1 for the excess, provided the taxpayer files a federal adjustments report or claim  
2 for refund or credit of tax paid pursuant to section 5884 of this title, not later  
3 than one year following the final determination date. As used in this  
4 subsection, “final Vermont tax liability” means the amount of any Vermont tax  
5 liability ultimately found to be due to the State.

6 (g) Claims for refund or credits of tax paid arising from final federal  
7 adjustments made by the Internal Revenue Service or by administrative  
8 adjustment request.

9 (1) Except for negative federal adjustments required by federal law to  
10 be taken into account by the partnership in the partnership return for the  
11 adjustment or other year, a taxpayer may file a claim for refund or credit of tax  
12 paid arising from final federal adjustments on or before the later of:

13 (A) the expiration of the last day for filing a claim for refund or  
14 credit of tax paid pursuant to section 5884 of this title, including any  
15 extensions; or

16 (B) one year from the date a federal adjustments report prescribed in  
17 subsection (b) or (c) of this section, as applicable, was due to the  
18 Commissioner, including any extensions pursuant to subsection (h) of this  
19 section.

20 (2) The federal adjustments report shall serve as the means for the  
21 taxpayer, including a partnership and its tiered partners, direct partners, and

1 indirect partners, to report additional tax due, report a claim for refund or  
2 credit of tax paid, and make other adjustments, including to its net operating  
3 losses, resulting from adjustments to the taxpayer's federal taxable income.  
4 Any refund granted to the partnership under subsection (c) of this section shall  
5 be in lieu of State tax paid that may be owed to the partners.

6 (h) Scope of adjustments and extensions of time.

7 (1) Unless otherwise agreed in writing by the taxpayer and the  
8 Commissioner, any adjustments made by the Commissioner or the taxpayer  
9 after the expiration of the limitations periods prescribed in sections 5882 and  
10 5884 of this title are limited to changes to the taxpayer's tax liability arising  
11 from federal adjustments.

12 (2) The time periods provided for in this subsection may be extended:

13 (A) automatically by 60 days for an audited partnership or tiered  
14 partner that has 10,000 or more direct partners, upon written notice to the  
15 Commissioner; or

16 (B) by written agreement between the taxpayer and the  
17 Commissioner.

18 (3) Any extension granted under this subsection for filing the federal  
19 adjustments report extends the last day prescribed by law for assessing any  
20 additional tax arising from the adjustments to federal taxable income and the  
21 period for filing a claim for refund or credit of taxes.



1 ~~permanent fishing license or, if the person qualifies for a hunting license, a~~  
2 ~~free permanent combination hunting and fishing license~~ one or all of the  
3 permanent fishing, hunting, or trapping licenses set forth in subdivisions  
4 (1)(A)–(D) of this subsection if qualified for the license and upon submission  
5 of a current and valid tribal identification card.

6 Sec. 16. DEPARTMENT OF FISH AND WILDLIFE REPORT; LICENSES

7 On or before January 15, 2024, the Commissioner of Fish and Wildlife shall  
8 report to the House Committees on Natural Resources, Fish, and Wildlife and  
9 on Ways and Means and the Senate Committees on Natural Resources and  
10 Energy and on Finance the number of fishing, hunting, and trapping licenses  
11 issued by the Commissioner of Fish and Wildlife to a certified citizen of a  
12 Native American Indian tribe pursuant to 10 V.S.A. § 4255(c)(7).

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

14 Sec. 17. EFFECTIVE DATES

15 (a) This section and Secs. 15 and 16 (fishing, hunting, and trapping  
16 licenses) shall take effect on passage.

17 (b) Notwithstanding 1 V.S.A. § 214, Secs. 1–3 (enhanced life estates;  
18 property transfer tax) and 4 and 5 (underpayment penalties; deadlines) shall  
19 take effect retroactively on January 1, 2022 and shall apply to taxable years  
20 beginning on and after January 1, 2022.

1        (c) Notwithstanding 1 V.S.A. § 214, Secs. 6 and 7 (annual link to federal  
2        statutes) shall take effect retroactively on January 1, 2022 and shall apply to  
3        taxable years beginning on and after January 1, 2021.

4        (d) Secs. 8 (32 V.S.A. § 5862b; Children’s Trust Foundation checkoff) and  
5        11 (transition; Children’s Trust Fund; FY 2023 transfers) shall take effect on  
6        July 1, 2022.

7        (e) Secs. 9 (33 V.S.A. § 3303(b); Children’s Trust Fund administration)  
8        and 10 (repeals; Children’s Trust Fund) shall take effect on December 31,  
9        2022.

10       (f) Notwithstanding 1 V.S.A. § 214, Secs. 12 and 13 (reporting federal  
11       audits and adjustments; partnerships) shall take effect retroactively on January  
12       1, 2022 and shall apply to any adjustments to a taxpayer’s federal taxable  
13       income with a final determination date occurring on and after July 1, 2022.

14       (g) Notwithstanding 1 V.S.A. § 214, Sec. 14 (taxation of land underlying  
15       solar plant or storage facility) shall take effect retroactively on July 1, 2021.