

S.53 – As Passed by Senate –Proposed Amendment
Section-by-Section Summary – 4/12/2021

Sec.	Tax Type	Notes												
Sales and Use Tax; Feminine Hygiene Products														
1	32 V.S.A. §9706(nn) Adds a statutory purpose for new sales tax exemption for feminine hygiene products.	Part of S.53 As Passed by Senate												
2	32 V.S.A. §9741(56) Creates a new sales and use tax exemption for feminine hygiene products following the Streamlined Sales and Use Tax Agreement definition.													
Corporate Income Tax														
3	32 V.S.A. § 5811(22) and (24) (22) Repeals definition of overseas business organization, which allows for 80/20 rule. <ul style="list-style-type: none"> • 80/20 rule is imposed in regulation and allows overseas business organizations that have 80% or more of property and payroll outside of U.S. to exclude their apportionment factors from the Vermont numerator. (24) Makes conforming change to definition of affiliated group	New												
4	32 V.S.A. § 5832(2) Changes brackets and rates for minimum corporate income tax as follows: <table style="margin-left: 20px; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Vermont gross receipts</th> <th style="text-align: left;">Minimum rate</th> </tr> </thead> <tbody> <tr> <td>\$0-100,000</td> <td>\$265</td> </tr> <tr> <td>\$100,001-\$1 million</td> <td>\$650</td> </tr> <tr> <td>\$1 million to \$5 million</td> <td>\$2,000</td> </tr> <tr> <td>\$5 million to \$300 million</td> <td>\$6,000</td> </tr> <tr> <td>\$300 million +</td> <td>\$100,000</td> </tr> </tbody> </table>	Vermont gross receipts	Minimum rate	\$0-100,000	\$265	\$100,001-\$1 million	\$650	\$1 million to \$5 million	\$2,000	\$5 million to \$300 million	\$6,000	\$300 million +	\$100,000	New
Vermont gross receipts	Minimum rate													
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\$300 million +	\$100,000													
5	32 V.S.A. § 5833(d) Amends the apportionment factors for taxable corporations with activity both inside and outside Vermont, so that the only factor taken into account will be the sales factor (also known as “single sales factor”). Repeal of “throwback” rule <ul style="list-style-type: none"> • Throwback occurs when there is “nowhere income,” which is income from sales of tangible personal property made from Vermont that are not taxed either because the sales are made to the federal government, or because the “corporation is not taxable in the State in which the purchaser takes possession.” 32 V.S.A. § 5833(a)(3)(A)(ii). • Currently, nowhere sales are “thrown back” to Vermont. <i>Id.</i> 	New												

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	Requires taxable C corporations subject to apportionment to continue to report their property and payroll to the Commissioner of Taxes when Vermont moves to a single sales factor for apportionment.	
6	<p>32 V.S.A. § 5862(d)</p> <p>Moves Vermont to Finnigan method of applying state jurisdiction to income of all corporations within a unitary combined filing group, even those that do not have nexus with Vermont.</p> <p>Supersedes 80/20 rule: requires income and apportionment factors of all taxable corporations incorporated in the U.S. that are part of a unitary combined filing group to be included in that group’s return.</p> <p>To determine apportionable income, income, gains, or losses from all members are combined, except state tax credits will not be combined and will be limited to the members holding the credits.</p>	New
7	<p>Transition from Joyce to Finnigan Method</p> <p>Starting Jan. 1, 2021, Vermont will use the Finnigan method, which means that if any member of a unitary group has nexus with Vermont, then sales of tangible personal property into Vermont from outside the State by all members of the unitary group will be included in the Vermont sales factor numerator.</p>	New
8	<p>Rulemaking and report by Dept. of Taxes</p> <p>Dept. of Taxes is required to adopt rules relating to the new unitary combined reporting requirements and report back to the General Assembly about the rulemaking process and any proposed legislation by Jan. 15. 2022.</p>	New
Sales and Use Tax; Prewritten Computer Software		
9	<p>32 V.S.A. § 9701(60)</p> <p>Creates new definition of “vendor-hosted prewritten computer software,” which applies to “canned” software accessed through the Internet or a vendor-hosted server or platform, including where possession of the software is maintained by the vendor or a third party. This definition of software encompasses infrastructure as a service (IaaS), platform as a service (PaaS), and software as a service (SaaS).</p>	New
10–12	<p>32 V.S.A. §§ 9773 and 9771 and 2015 Acts and Resolves No. 51, Sec. G.8</p> <p>Imposes sales and use tax on vendor-hosted prewritten computer software and repeals 2015 exemption for prewritten computer software accessed remotely.</p>	New
Fees; Dept. of Financial Regulation		
13	<p>9 V.S.A. § 5302(f)</p> <p>Changes investment company fees paid as follows:</p> <ul style="list-style-type: none"> • initial notice filing fee of \$2,000 is decreased to \$1,750 • annual renewal fee of \$1,500.00 is increased to \$1,750 	New

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Effective Dates		
14	Default effective date is July 1, 2021	
(1)	January 1, 2021 (retroactive) <ul style="list-style-type: none"> • Sec. 3 (80/20 rule definitions) • Secs. 6–7 (Finnigan method and 80/20 rule) 	
(2)	January 1, 2022 <ul style="list-style-type: none"> • Sec. 4 (minimum corporate income tax) • Sec. 5 (single sales factor, repeal of throwback, report of property and payroll) 	
(3)	June 1, 2022 for Secs. 9–12 (prewritten computer software)	