

VERMONT DEPARTMENT OF TAXES

2021 TAXPAYER ADVOCATE REPORT

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2021 TAXPAYER ADVOCATE ANNUAL REPORT

SUBMITTED TO

House Committee on Ways and Means
Senate Committee on Finance

SUBMITTED BY

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January 15, 2021

To The Honorable Members of:
House Committee on Ways and Means
Senate Committee on Finance

In accordance with 32 V.S.A. § 3205(c), I submit the Vermont Taxpayer Advocate Annual Report for activity in calendar year 2020. The Vermont Taxpayer Advocate Annual Report is required to identify problems encountered by taxpayers interacting with the Vermont Department of Taxes as well recommend administrative and legislative actions to resolve those problems. The report shall also identify problems that affect an entire class of taxpayer or specific industry and present solutions.

The reporting period of this year's report contains activity from December 1, 2019 to December 1, 2020. During this period, the Taxpayer Advocate fielded over 1,000 phone calls. From January through June, the majority of the phone calls were from taxpayers looking for information on their stimulus check or federal refund. Many were frustrated that they could not get through to the IRS to get answer to these questions. Unfortunately, there was little I could do to assist these taxpayers other than refer them to the IRS Taxpayer Advocate Office in Vermont. From June through December, the majority of calls were concerning property tax credits. The majority of issues brought to the Department through these calls were able to be resolved with minimal intervention by the Taxpayer Advocate working with the Taxpayer Services division of the Department of Taxes.

Approximately 60 cases were reviewed for potential Extraordinary Relief with relief being granted in 50 of those cases. Of those 60 cases, 80% involved Property Tax Credits, 10% involved Renter Rebate, and 10% involved Personal Income Tax.

Respectfully submitted,

Jeffrey M. Dooley



Description of Taxpayer Advocate

The Vermont Commissioner of Taxes created the Taxpayer Advocate in 2001. Under 32 V.S.A § 3205, the Vermont Department of Taxes must maintain a Taxpayer Advocate. The duties of that position include:

1. Identifying subject areas where taxpayers have difficulties interacting with the Department of Taxes;
2. Identifying classes of taxpayers or specific business sectors who have common problems related to the Department of Taxes;
3. Proposing solutions, including administrative changes to practices and procedures of the Department of Taxes;
4. Recommending legislative action as may be appropriate to resolve problems encountered by taxpayers;
5. Educating taxpayers concerning their rights and responsibilities under Vermont's tax laws;
6. Educating tax professionals concerning the Department of Taxes' regulations and interpretations by issuing bulletins and other written materials; and
7. Assisting individual taxpayers in resolving disputes with the Department of Taxes.

The legislation serves to codify the longstanding role and functions performed by the Taxpayer Advocate and highlights the Taxpayer Advocate's position to improve taxpayer services.

The legislation also requires the Taxpayer Advocate to report annually to the House Committee on Ways and Means and the Senate Committee on Finance. 32 V.S.A. § 3205(c). The Legislature prescribed the following information for the report:

- Actions taken by the Taxpayer Advocate to improve taxpayer services and responsiveness of the Department of Taxes
- Identification of problems encountered by taxpayers in interacting with the Department of Taxes, including specific recommendations for administrative and legislative actions to resolve the identified problems
- Identification of any problems that span an entire class of taxpayer or specific industry, proposing class or industry-wide solutions.

New Administrative Initiatives

Property Tax Credit Reminder Letters

Issue: Every year, hundreds of Vermont taxpayers that are eligible for a Property Tax Credit fail to file their claim before the October 15 deadline. The reasons for this vary from simply failing to fill out the forms to answering eligibility questions incorrectly in taxpayers' tax software. This results in a significant number of Vermont taxpayers paying significantly more in property taxes than they are legally required to pay.

Administrative Resolution: In early September, at the request of the Taxpayer Advocate, the Department ran a query of its integrated tax system attempting to identify taxpayers who appeared eligible for a Property Tax Adjustment but did not file a claim for one. The query produced a list of 563 taxpayers. The Department sent letters to these taxpayers explaining that they appeared to be eligible for a Property Tax Credit but had not filed a claim. The letter also provided instructions on how to file a claim prior to the October 15 deadline.

In response to the Department's letter, 204 taxpayers who would have otherwise not received a Property Tax Credit, filed for and received a credit.

The Department plans to continue to attempt to identify and notify taxpayers that are eligible for a Property Tax Adjustment but have not filed a claim prior to the October 15 deadline.

Effective Tax Administration During a Pandemic

Issue: The COVID-19 pandemic caused the Department to transition from approximately 149 employees working on site on a daily basis on March 23, 2020 to approximately 25 working on site on daily basis on March 25, 2020. This meant transitioning approximately 124 employees to remote work, in the middle of filing season, with relatively little time for Department leadership or staff to prepare for this enormous shift in how tax was administered by the Department. Most employees did not have state-issued computers when remote work began and had to use their own equipment. Many employees also had to balance providing childcare and home schooling with performing their work functions. With all these challenges being faced at once, it would have been understandable for the Department's efficiency in processing returns and its ability to provide customer service to be significantly hindered.

Administrative resolution: The Department of Taxes employees went above and beyond in their flexibility and willingness to adapt to a constantly shifting situation. Department leadership did everything in its power to accommodate employees' unique situations and put employees in a position to succeed despite these difficult circumstances. Additionally, employees recognized the challenges their coworkers were facing and stepped up to assist each other and provide support wherever they could.

As a result of these efforts, the Department experienced virtually no decrease in efficiency of processing returns/refunds and continued to provide quality customer service throughout the filing season and beyond.



Statutory Proposals

Homestead Declaration/Property Tax Credit

1. **Issue:** Property Tax Credit claims have a statutory extended deadline of October 15. Currently, pursuant to 32 V.S.A. § 6068(b), a taxpayer is not entitled to any Property Tax Credit benefit if a claim is filed after October 15. This results in significant financial hardship for hundreds of Vermont taxpayers every other. The majority of other tax programs have a graduated penalty structure for late filed returns or claims.

Proposed resolution: 32 V.S.A. § 6068(b) & (c) is amended to read:

(b) Late-filing penalties. If the claimant fails to file a timely claim, the amount of the property tax credit under this chapter shall be reduced by \$15.00, but not below \$0.00, which shall be paid to the municipality for the cost of issuing an adjusted homestead property tax bill. No benefit shall be allowed in the calendar year unless the claim is filed with the Commissioner on or before October 15. Any claim filed after October 15 but on or before January 15 of the following year shall be assessed a 10% penalty. Any claim filed after January 15 but on or before March 15 shall be assessed a 20% penalty. No benefit shall be allowed unless a claim is filed with the Commissioner on or before March 15. Any property tax credit benefit issued under this chapter after October 15 will be issued directly to the claimant and will not alter the grand list of the town of the claimant's property.

(c) No request for allocation of an income tax refund or for a renter rebate claim may be made after October 15. Any renter rebate claim filed after October 15 but on or before January 15 of the following year shall be assessed a 10% penalty. Any renter rebate claim filed after January 15 but on or before March 15 shall be assessed a 20% penalty. No benefit shall be allowed unless a claim is filed with the Commissioner on or before March 15.

2. **Issue:** A taxpayer is allowed to amend their Property Tax Credit claim with regard to Household Income but no other fields. This creates a problem for taxpayers that file timely but make an error on one of the fields on the Property Tax Credit claim.

Proposed resolution: 32 V.S.A. § 6074 is amended to read:

At any time within three years after the date for filing claims under subsection 6068(a) of this chapter, a claimant who filed a claim by October 15 may file to amend that claim with regard to housesite value, housesite education tax, housesite municipal tax, ownership percentage, or to correct the amount of household income reported on that claim.

Long Term Consideration

Simplify and Remove Tight Time Restrictions from Property Tax Credit Program

By far, the amount of time and resources spent on assisting taxpayers with property tax credit issues outweighs time and resources spent on any other tax type. There are several reasons. Those receiving property tax credits tend to be lower income taxpayers that are less sophisticated in dealing with paperwork and do not have the resources to hire a preparer or accountant. The forms and the overall process are some of the most complicated forms and processes that the Department administers. The deadlines are the strictest and have the harshest penalties for missing them of any tax type. The amount of a property tax credit tends to be significant relative to taxpayers' income so the consequences of not receiving it are often significant.

Some of the factors listed above cannot be helped given the nature of the program. Some of the factors should be looked at and consideration should be given to whether there is a better way to administer this program. The two factors that should be looked at are the complexity of the program and the strict nature of the deadlines.

As mentioned above, the property tax credit forms are one of the most complicated forms that the Department of Taxes administers. It requires the filing of two forms that are two pages each with a total over 100 fields to potentially be filled in by the taxpayer. The forms have several fields that if not filled in or if accidentally filled in incorrectly will result in the taxpayer being denied a property tax credit entirely. This leads to many taxpayers making mistakes or omissions on their forms that result in a reduced or denied property tax credit. The Department sends letters to the majority of taxpayers that made a mistake or missed a required field but, even then, most taxpayers do not understand what went wrong or how to correct it.

A possible solution to this issue is to simplify the program. This can be done by moving away from the concept of household income that is used for the program and towards a concept similar to MAGI that is used at the federal level for health care purposes.

The strict nature of the deadlines is also a major problem for many taxpayers. For most tax types, taxpayers have three years to amend their returns. A three-year period for property tax credit claims is unworkable for several reasons, but the current October 15 deadline is also problematic. It gives taxpayers that filed on extension very little time to work with the Department to correct a problem with a property tax credit claim. In addition, a taxpayer that is notified of a problem well before October 15 may not understand the letter they receive or the consequences of the issue because of the complexity discussed above. These taxpayers may not realize what has happened until they receive their property tax bills in late September or early October and then will only have a week or two to correct the issue. Further, some towns' first property tax payment is not due until November 15, this means that some taxpayers do not realize that something went wrong until they go to make their first payment, which is a month after they no longer have any remedy.

Another problem is taxpayers whose mortgage company makes the property tax payments on the taxpayers' behalf. These taxpayers often do not find out what happened until they are contacted by their bank because their mortgage payment has gone up due to not having sufficient funds in escrow. One possible solution to this specific issue would be the graduated penalty structure recommended above.



Taxpayer Class or Industry Tax Issue

Class or Industry	Issue	Recommendation
Gig Economy	As the “gig economy” evolves and expands, from short term rentals to vehicles for hire to food delivery, the Department will struggle to apply tax laws to an industry sector that was not contemplated when the laws were written. Conversely, participants in this sector are likely to struggle to fully understand their responsibilities with respect to taxes.	Department should monitor the shifting business practices and issue guidance where appropriate. In situations where current law cannot be applied rationally to current practices, the Department should recommend changes to the law.