

# Full Review: Clothing and Footwear Exemption

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# What is exempt?

- ▶ 32 V.S.A. § 9741(45) spells out that clothing is exempt but accessories, protective equipment, and sport or recreational equipment are not.
- ▶ Examples of “clothing” and “footwear”:
  - Aprons, household and shop
  - Uniforms (athletic and non-athletic), athletic supporters, and costumes
  - Bathing suits and caps
  - Belts and suspenders
  - Shoes, sneakers, boots, sandals, steel-toed shoes, shoelaces, and slippers
  - Coats and jackets
  - Diapers, child and adult, including disposable diapers
  - Hats, caps, earmuffs, gloves, and mittens
  - Formal wear, neckties and wedding apparel
  - Underwear, hosiery, pantyhose, socks, and stockings

# What is not exempt?

- ▶ “Protective Equipment” is not exempt and is defined as “items for human wear and designed as protection of the wearer against injury or disease...and not suitable for general use.”
  - Breathing masks and respirators
  - Cleaning apparel and equipment
  - Ear and hearing protectors
  - Face shields
  - Hardhats and helmets
  - Protective gloves
  - Safety belts, glasses and goggles
  - Tool belts

# What is not exempt?

- ▶ “Sport or recreational equipment” is taxable and defined as “items designed for human use and worn in conjunction with an athletic or recreational activity that are not suitable for general use:
  - Ballet and tap shoes
  - Athletic shoes, cleated or spiked
  - Gloves, including baseball, bowling, boxing, hockey and golf, goggles
  - Hand, elbow, shoulder, and shin guards
  - Life preservers and vests
  - Mouth guards
  - Ice skates and roller blades
  - Ski boots
  - Waders, wetsuits and fins

# Statutory Purpose and History

- ▶ **Purpose:** “to limit the tax burden on the purchase of goods that are necessary for the health and welfare of all people in Vermont.”
  - No specific references to lowering the tax burden on a specific group of people.
  - No reference to making the tax code more progressive
- ▶ **History:** Act 49 of 1999 created the exemption, but it was only for clothing, effective December 1, 1999.
  - Footwear was made exempt in the same act, but only effective July 1, 2001.
  - Only items less than \$110 were exempt.
- ▶ In 2007, the \$110 threshold was removed when Vermont joined the Streamlined Sales and Use Tax Agreement

# Exemptions in Other States

<b>State</b>	<b>Details of Exemption</b>
Vermont	Fully exempt. Accessories, protective equipment, and athletic apparel are taxable.
Massachusetts	Clothing under \$175 is exempt.
Minnesota	Fully exempt. Accessories, protective equipment, and athletic apparel are taxable
New Jersey	Fully exempt. Fur clothing, accessories, and athletic apparel are taxable. Some protective equipment is exempt.
New York	Clothing under \$110 is exempt.
Pennsylvania	Fully exempt. Fur clothing, accessories, and athletic apparel are taxable.
Rhode Island	Clothing under \$250 is exempt. Accessories, protective clothing and athletic clothing are taxable.

Recent trends have been to remove or scale back exemption:

- Rhode Island used to have an unlimited exemption, but was changed to \$250 in 2012
- New York put into place its \$110 price threshold in 2012

# Major Finding #2

- ▶ **The clothing exemption costs the State of Vermont just over \$33 million per year in foregone tax revenue.**
  - ▶ This amounts to about 8% of total sales tax revenues
  - ▶ Average tax savings per household: \$137
  - ▶ Number has stayed level over the past 10 years.
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# Major Finding #2

- ▶ **The exemption is a poorly targeted and costs the State significantly more than if it were narrowed to more closely reflect the statutory purpose.**
- ▶ Statutory purpose has two parts:
  - Reduce the cost of *necessary* clothing expenses for the health and welfare of consumers
  - Limit the tax burden on these purchases for *all Vermonters*
- ▶ Issues with the blanket exemption:
  - Not all clothing purchases are necessary
  - Exemption is given not just to Vermonters, but to tourists.
- ▶ JFO estimates this breadth of exemption beyond the statutory purpose costs the state between \$11.2 and \$16.1 million.

# Necessary Clothing Expenses

- ▶ Two methodologies:
  - Basic Needs Budget
    - For a family of two with no children, basic need is \$1,413 per year.
    - Adjusted to include children, JFO estimates \$1,624 per year
  - Consumer Expenditure Survey
    - Lower-income respondents (those with \$30k-\$50k) reported average expenditure of \$1,289 per year.
- ▶ **If we only exempted necessary expenses, then the State would save between \$7.8 million and \$13.1 million**

# Tourist Clothing Purchases

- ▶ ACCD estimates that between 15% and 20% of clothing merchandise sales are from tourists.
- ▶ **This translates to \$57 million worth of sales and \$3.4 million in sales tax revenue**
- ▶ Limited evidence that lower taxes incentivize tourists to purchase clothing



# Major Finding #3

- ▶ **The exemption creates an inconsistency in the tax code as other items that are arguably necessary for health and welfare are not exempted.**
- ▶ Question revolves around “what is a necessary expense for human health and welfare?”
- ▶ Basic Needs Budget includes clothing purchases, but also includes housekeeping supplies, household furnishings, appliances, equipment
- ▶ Over \$3,000 in average household spending that is *necessary* as defined by the BNB is not exempted in Vermont

Age Group	Apparel and Services	Housekeeping Supplies	Household Furnishings
Under 25	\$1,470	\$286	\$946
25 to 34	\$2,400	\$490	\$1,772
35 to 44	\$2,500	\$793	\$2,324
45 to 54	\$2,533	\$858	\$2,489
55 to 64	\$1,804	\$784	\$2,801
65+	\$1,560	\$867	\$1,845
<b>Overall</b>	<b>\$2,282</b>	<b>\$781</b>	<b>\$2,250</b>

← Not Exempt

Source: Consumer Expenditure Survey, 2019

# Major Finding #4

- ▶ **While not specifically goals laid out in statute, the exemption successfully reduces the regressivity of the sales tax and provides a benefit to Vermont apparel retailers on the border.**
- ▶ Lower-income households spend a greater share of their income on clothing and footwear, so the exemption benefits them more as a percentage of income.
- ▶ Vermont is surrounded by states that either have no sales tax, or at least provide some type of exemption for clothing
  - Academic literature has shown that sales tax differentials can lead to cross-border shopping

Income Group	Average Apparel Spending	Average Income	Average Share of Income Spend on Apparel
Overall	\$1,883	\$82,852	2.3%
Less than \$15,000	\$862	\$7,574	11.4%
\$15,000 to \$29,999	\$912	\$22,189	4.1%
\$30,000 to \$39,999	\$1,193	\$34,772	3.4%
\$40,000 to \$49,999	\$1,400	\$44,831	3.1%
\$50,000 to \$69,999	\$1,586	\$59,328	2.7%
\$70,000 to \$99,999	\$1,899	\$83,558	2.3%
\$100,000 to \$150,000	\$2,565	\$121,433	2.1%
\$150,000 to \$199,999	\$3,437	\$171,061	2.0%
\$200,000+	\$4,806	\$343,498	1.4%

Source: Consumer Expenditure Survey, 2019

# Considerations for Legislators

- ▶ Clarify the statutory purpose or
- ▶ Narrow or limit the exemption to make it better fit the current statutory purpose:
  - Price threshold
    - This was in place in Vermont for 7 years prior to 2007
    - It is now permitted by SSUTA
  - Offset the regressivity of the tax through the personal income tax
    - Boost the Earned Income Tax Credit
    - New credit like Maine's Sales Tax Fairness Credit
      - Refundable \$100 credit that phases out above \$20,000 in AGI for single filers and \$40,000 for married couples
    - Note that any new or enhanced credit would be borne by General Fund