

**H.738, TECHNICAL AND ADMINISTRATIVE TAX CHANGES – SIDE-BY-SIDE SUMMARY**

As Passed by House vs. Senate Finance Proposal of Amendment – 5/6/2022

Sec.	As Passed House	Sec.	Senate Finance Proposal of Amendment
<b>Enhanced Life Estates; Property Transfer Tax</b>			
1	27 V.S.A. § 654(d) Clarifies that property transfer tax applies to enhanced life estate deeds in the same way as to conventional life estates.	1	Same
2	32 V.S.A. § 9601 Defines the value of life estate or enhanced life estate deeds to which the property transfer tax applies.	2	
3	32 V.S.A. § 9617(h) Current law allows a written petition for refund of property transfer tax within 3 years after date property is transferred. New enhanced life estate deed language allows the person who paid tax (grantee) to petition for a refund if, after the enhanced life estate transfer is taxed: (1) ELE is revoked or revised; and (2) petition is made: (a) within 8 years after date of tax payment; and (b) within 1 year after date of revocation or revision. No petition for a refund is allowed for revocation or revision of an interest that occurred 8 years or more after date of tax payment. If revision occurs, revised ELE transfer is taxed.	3	
<b>Corporate Estimated Payment and Filing Deadlines; Underpayment Penalties</b>			
4-5	32 V.S.A. §§ 3202(b) and 5859(b) Fixes date mismatch between due date for corporate estimated tax payments and returns, and date when underpayment	4-5	Same

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	sanctions end (one month before due date for returns); and clarifies that penalties apply to underpayments of corporate estimated tax payments in the same way that they apply to individual estimated tax payments.		
<b>Annual Link Up</b>			
6	32 V.S.A. § 5824 Annual link to federal income tax statutes in effect as of Dec. 31, 2021 (applied to taxable year 2021 in effective dates.)	6	Same
7	32 V.S.A. § 7402(8) Annual link to federal estate tax statutes in effect as of Dec. 31, 2021 (applied to taxable year 2021 in effective dates section)	7	
<b>Vermont Children’s Trust Foundation Checkoff</b>			
8	32 V.S.A. § 5862b Replaces all references to Children’s Trust Fund with Vermont Children’s Trust Foundation for purposes of the income tax return checkoff box for individuals to elect to donate a portion of their income tax refund.  Adds requirement that Vermont Children’s Trust Foundation use the revenue received from income tax refunds to provide funds for community-based primary prevention programs that have been shown to be effective for juveniles, through competitive grant-making process.	8	Same

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9	<p>33 V.S.A. § 3303(b)</p> <p>Repeals reference to sections repealed under bill and administration of Trust Fund by Children and Family Council for Prevention Programs.</p>	9	Same
10	<p>REPEALS; CHILDREN’S TRUST FUND</p> <p>33 V.S.A. § 3306 (Children’s Trust Fund) and 33 V.S.A. § 3307 (Trust Fund Programs) are repealed (effective on Dec. 31, 2022).</p> <p>Repeals Children’s Trust Fund and section requiring the Secretary of Human Services and the Children and Family Council for Prevention Programs to solicit and award grants to community-based primary prevention programs that have been shown to be effective for juveniles. The Vermont Children’s Trust Foundation under the bill in 32 V.S.A. § 5862b will take over and be required to carry out these functions.</p>	10	Same
11	<p>TRANSITION; CHILDREN’S TRUST FUND; FY 2023 TRANSFERS</p> <p>Transfers all revenue out of Children’s Trust Fund and to Vermont Children’s Trust Foundation on July 1, 2022 and Dec. 30, 2022 (day before Fund is repealed).</p>	11	
<b>Partnership Reporting of Federal Audits and Adjustments</b>			
12	<p>32 V.S.A. § 5866(c)</p> <p>Requires a taxpayer to amend income tax return and pay any tax owed if a change in federal tax liability results from the audit of a partnership or an adjustment of a partnership’s taxable income according to new 32 V.S.A. § 5866a.</p>	12	Same

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13	<p>32 V.S.A. § 5866a</p> <p>Authorizes Vermont to require reporting or to assess tax on partnerships following federal audits and adjustments, when federal tax is assessed to and paid by the partnership or by individual partners. Partnership elects to either pay adjusted tax itself or individual partner pays. If individual partner pays, regardless of tax type or taxpayer status (individual, corporation, direct or indirect partner in a tiered structure, resident or nonresident), the tax applies at highest marginal tax rate. Election is irrevocable. Allows for one individual to be the State partnership representative who will act on behalf of the partnership. By default, it is the federal representative unless the partnership designates another person in writing to be the Vermont representative.</p>	13	Same
<b>Taxation of Land Underlying Solar Plant or Energy Storage Facility</b>			
14	<p>32 V.S.A. § 8701(d)</p> <p>Uniform Capacity Tax states that the imposition of the tax does not alter the property taxation of land underlying a solar energy plant or an energy storage facility. The current cross-reference is to chapter 135 of title 32, which only covers statewide education property tax. Proposed cross-reference change would apply to entire property tax system, both municipal and State property taxes.</p>	14	Same
<b>Fishing, Hunting, and Trapping Licenses</b>			
15	<p>10 V.S.A. § 4255(c)(7)</p> <p>Clarifies that a certified citizen of a State-recognized Native American tribe may receive one or all of permanent fishing, hunting, or trapping licenses under 10 V.S.A. § 4255(c)(1)(A)-(D), if qualified, and upon submission of valid ID.</p>	15	<p>10 V.S.A. § 4255(c)(7)</p> <p>Clarifies that fishing, hunting, or trapping licenses will be received free of charge. Made effective Jan. 1, 2023. <i>See</i>, Sec. 28(h).</p>

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16	<p>DEPARTMENT OF FISH AND WILDLIFE REPORT; LICENSES</p> <p>Requires Commissioner of Fish and Wildlife, on or before January 15, 2024, to report to House Committees on Natural Resources, Fish, and Wildlife and on Ways and Means and Senate Committees on Natural Resources and Energy and on Finance the number of fishing, hunting, and trapping licenses issued by the Commissioner to a certified citizen of a Native American Indian tribe.</p>	16	Same. Made effective Jan. 1, 2023. <i>See</i> , Sec. 28(h).
<b>Effective Dates</b>		<b>Legislative Expense Reimbursement</b>	
17	<p>Effective on passage</p> <ul style="list-style-type: none"> <li>• Secs. 15–16 (fishing, hunting, and trapping licenses)</li> <li>• Sec. 17 (effective dates)</li> </ul> <p>Effective retroactively on January 1, 2022 and apply to taxable years beginning on and after January 1, 2022:</p> <ul style="list-style-type: none"> <li>• Secs. 1–3 (enhanced life estates)</li> <li>• Secs. 4–5 (underpayment penalties; deadlines)</li> </ul> <p>Effective retroactively on January 1, 2022 and apply to taxable years beginning on and after January 1, 2021</p> <ul style="list-style-type: none"> <li>• Secs. 6–7 (annual link to federal statutes)</li> </ul> <p>July 1, 2022:</p> <ul style="list-style-type: none"> <li>• Sec. 8, 32 V.S.A. § 5862b (Children’s Trust Checkoff)</li> <li>• Sec. 11 (Children’s Trust Checkoff transition)</li> </ul>	17	<p>32 V.S.A. § 1052(b)</p> <p>Amends mileage reimbursement for legislators during any session of the General Assembly, so that only actual mileage travelled is reimbursed. Allows mileage to be reimbursed for travel from Montpelier or from a member’s home to another site on officially sanctioned legislative business.</p>

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	<p>December 31, 2022:</p> <ul style="list-style-type: none"> <li>• Sec. 9, 33 V.S.A. § 3303(b) (Children’s Trust Fund administration)</li> <li>• Sec. 10 (Children’s Trust Fund repeals)</li> </ul> <p>Effective retroactively on January 1, 2022 and apply to any adjustments to a taxpayer’s federal taxable income with a final determination date occurring on and after July 1, 2022:</p> <ul style="list-style-type: none"> <li>• Secs. 12–13 (reporting federal audits and adjustments; partnerships)</li> </ul> <p>Effective retroactively on July 1, 2021</p> <ul style="list-style-type: none"> <li>• Sec. 14 (taxation of land underlying solar plant or storage facility)</li> </ul>		
		<b>529 Plans; Student Loan Repayment; VHEIP Income Tax Credit</b>	
		<b>18</b>	<p>32 V.S.A. § 5825a(b)</p> <p>Expands list of allowable uses for funds withdrawn from 529 accounts that will not trigger recapture of the 10% tax credit. New allowable use of withdrawn funds is for repayment of student loans for higher education only.</p>
		<b>Communications Union Districts (CUD)</b>	
		<b>19</b>	<p>30 V.S.A. § 8086(c)(3)</p> <p>Vermont Community Broadband Board (Board)’s authority to establish policies specific to Broadband Construction Grant Program.</p> <p>Under existing law, Board is required to establish grant terms and conditions that transfer ownership of grant-funded network assets “to the State” if grantee materially fails to</p>

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			comply with grant conditions. Amendment strikes requirement that assets automatically be transferred “to the State.”	
		20	<p>30 V.S.A. § 8086(h)</p> <p>Broadband Construction Grant Program administered by Vermont Community Broadband Board (Board).</p> <p>Amendment requires a communications union district (CUD) to notify Board if it is at risk of defaulting on a loan payment. Board, in turn, must notify General Assembly (or Joint Fiscal Committee if the General Assembly is not in session). Board’s notification must include a description of any potential ramifications of a default. In addition, if a CUD defaults on a loan secured by grant-funded network assets, such assets cannot be transferred or sold for 6 months commencing on the day a loan became past due. Legislative intent: to the extent reasonably practicable, publicly owned network assets are intended to remain publicly owned assets.</p>	
				<b>Crime Insurance Coverage; Municipal Officer or Employee</b>
		21– 25	<p>24 V.S.A. §§ 832, 833, 835, 1234, 1306, 2433</p> <p>Existing law requires certain town officers and employees and school directors to give a give a bond conditioned for the faithful performance of the individual’s duties. Amendment allows those individuals to have crime insurance coverage instead of requiring the individuals to bond.</p>	

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			<b>City of Montpelier; Tax Increment Financing District</b>
		<b>26</b>	<p><b>MONTPELIER TIF DISTRICT; ORIGINAL TAXABLE VALUE</b></p> <p>Authorizes City of Montpelier, with Vermont Economic Progress Council’s (VEPC) approval, to reset the original taxable value in its TIF district to April 1, 2023 grand list values, provided the reset:</p> <ul style="list-style-type: none"> <li>(1) maintains same parcels as City’s certified original taxable value;</li> <li>(2) does not change district creation date; and</li> <li>(3) does not extend City’s period to incur indebtedness beyond March 31, 2030.</li> </ul> <p>Reset is only effective upon VEPC’s approval of City’s application for a 5-year extension of deadline to incur its first debt. Allows City to apply to VEPC for an extension to incur its first debt not later than 90 days after the final April 1, 2023 grand list is filed with the city clerk. City’s extension application must include updated TIF plan incorporating proposed reset original taxable value.</p>
			<b>Sales and Use Tax Exemption; Manufacturing Machinery and Equipment</b>
<b>27</b>	<p>32 V.S.A. § 9741(14)</p> <p>Expands the sales and use tax exemption for manufacturing machinery and equipment, so that manufacturing machinery and equipment that is part of an integrated production process will also be exempt.</p>		



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			<p align="center"><b>Effective Dates</b></p> <p>(a) Effective date section effective on passage.</p> <p>(b) Effective retroactively on January 1, 2022 and applying to taxable years beginning on and after January 1, 2022:</p> <ul style="list-style-type: none"> <li>• Secs. 1–3 (enhanced life estates; property transfer tax),</li> <li>• Secs. 4 and 5 (underpayment penalties; deadlines), and</li> <li>• Sec. 18 (529 plans; student loan repayment; VHEIP income tax credit).</li> </ul> <p>(c) Effective retroactively on January 1, 2022 and applying to taxable years beginning on and after January 1, 2021: Secs. 6 and 7 (annual link to federal statutes).</p> <p>(d) July 1, 2022:</p> <ul style="list-style-type: none"> <li>• Secs. 8 (32 V.S.A. § 5862b; Children’s Trust Foundation checkoff) and</li> <li>• Sec. 11 (transition; Children’s Trust Fund; FY 2023 transfers).</li> </ul> <p>(e) December 31, 2022:</p> <ul style="list-style-type: none"> <li>• Sec. 9 (33 V.S.A. § 3303(b); Children’s Trust Fund administration) and</li> <li>• Sec. 10 (repeals; Children’s Trust Fund).</li> </ul> <p>(f) Effective retroactively on January 1, 2022 and applying to any adjustments to a taxpayer’s federal taxable income with a final determination date occurring on and after July 1, 2022: Secs. 12 and 13 (reporting federal audits and adjustments; partnerships).</p> <p>(g) Effective retroactively on July 1, 2021: Sec. 14 (taxation of land underlying solar plant or energy storage facility).</p>
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			<p>(h) January 1, 2023: Secs. 15 and 16 (fishing, hunting, and trapping licenses).</p> <p>(i) January 1, 2023: Sec. 17 (legislative expense reimbursement).</p> <p>(j) July 1, 2022:</p> <ul style="list-style-type: none"> <li>• Secs. 19 and 20 (communications union districts),</li> <li>• Secs. 21–25 (crime insurance coverage; municipal officer or employee),</li> <li>• Sec. 26 (City of Montpelier; tax increment financing district), and</li> <li>• Sec. 27 (sales and use tax exemption).</li> </ul>