

H.738, TECHNICAL AND ADMINISTRATIVE TAX CHANGES, AS PASSED BY HOUSE

Section-by-section summary – 3/25/2022

Sec.	Summary	Notes
Enhanced Life Estates; Property Transfer Tax		
1	<p>27 V.S.A. § 654(d)</p> <p>Clarifies that property transfer tax applies to enhanced life estate deeds in the same way as to conventional life estates.</p>	
2	<p>32 V.S.A. § 9601</p> <p>Defines the value of life estate or enhanced life estate deeds to which the property transfer tax applies.</p>	
3	<p>32 V.S.A. § 9617(h)</p> <p>Current law allows a written petition for refund of property transfer tax within 3 years after date property is transferred.</p> <p>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:</p> <p>(1) ELE is revoked or revised; and</p> <p>(2) petition is made:</p> <p style="padding-left: 40px;">(a) within 8 years after date of tax payment; and</p> <p style="padding-left: 40px;">(b) within 1 year after date of revocation or revision.</p> <p>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.</p>	
Corporate Estimated Payment and Filing Deadlines; Underpayment Penalties		
4-5	<p>32 V.S.A. §§ 3202(b) and 5859(b)</p> <p>Fixes date mismatch between due date for corporate estimated tax payments and returns, and date when underpayment 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.</p>	
Annual Link Up		
6	<p>32 V.S.A. § 5824</p> <p>Annual link to federal income tax statutes in effect as of Dec. 31, 2021 (applied to taxable year 2021 in effective dates section)</p>	
7	<p>32 V.S.A. § 7402(8)</p> <p>Annual link to federal estate tax statutes in effect as of Dec. 31, 2021 (applied to taxable year 2021 in effective dates section)</p>	

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Vermont Children’s Trust Foundation Checkoff		
8	<p>32 V.S.A. § 5862b</p> <p>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.</p> <p>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.</p>	
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>	
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>	
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>	
Partnership Reporting of Federal Audits and Adjustments		
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>	
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.</p>	

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	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.	
Taxation of Land Underlying Solar Plant or Energy Storage Facility		
14	32 V.S.A. § 8701(d) 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.	
Fishing, Hunting, and Trapping Licenses		
15	10 V.S.A. § 4255(c)(7) Clarifies that a certified citizen of a State-recognized Native American Indian tribe may receive one or all of the permanent fishing, hunting, or trapping licenses under 10 V.S.A. § 4255(c)(1)(A)-(D), if qualified, and upon submission of valid ID.	
16	DEPARTMENT OF FISH AND WILDLIFE REPORT; LICENSES 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.	
Effective Dates		
17	Effective on passage <ul style="list-style-type: none"> • Secs. 15–16 (fishing, hunting, and trapping licenses) • Sec. 17 (effective dates) Effective retroactively on January 1, 2022 and apply to taxable years beginning on and after January 1, 2022: <ul style="list-style-type: none"> • Secs. 1–3 (enhanced life estates) • Secs. 4–5 (underpayment penalties; deadlines) Effective retroactively on January 1, 2022 and apply to taxable years beginning on and after January 1, 2021 <ul style="list-style-type: none"> • Secs. 6–7 (annual link to federal statutes) 	

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	<p>July 1, 2022:</p> <ul style="list-style-type: none"> • Sec. 8, 32 V.S.A. § 5862b (Children’s Trust Checkoff) • Sec. 11 (Children’s Trust Checkoff transition) <p>December 31, 2022:</p> <ul style="list-style-type: none"> • Sec. 9, 33 V.S.A. § 3303(b) (Children’s Trust Fund administration) • Sec. 10 (Children’s Trust Fund repeals) <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"> • Secs. 12–13 (reporting federal audits and adjustments; partnerships) <p>Effective retroactively on July 1, 2021</p> <ul style="list-style-type: none"> • Sec. 14 (taxation of land underlying solar plant or storage facility) 	