

1 TO THE HONORABLE SENATE:

2 The Committee on Finance to which was referred Senate Bill No. 53  
3 entitled “An act relating to exempting feminine hygiene products from the  
4 Vermont Sales and Use Tax” respectfully reports that it has considered the  
5 same and recommends that the Senate concur in the House proposal of  
6 amendment with further proposal of amendment by striking out all after the  
7 enacting clause and inserting in lieu thereof the following:

8 \* \* \* Corporate Income Tax \* \* \*

9 Sec. 1. 32 V.S.A. § 5811 is amended to read:

10 § 5811. DEFINITIONS

11 ~~The following definitions shall apply throughout~~ As used in this chapter  
12 unless the context requires otherwise:

13 \* \* \*

14 (22) “Affiliated group” means a group of two or more corporations in  
15 which more than 50 percent of the voting stock of each member corporation is  
16 directly or indirectly owned by a common owner or owners, either corporate or  
17 noncorporate, or by one or more of the member corporations, but shall exclude  
18 ~~overseas business organizations or~~ foreign corporations and corporations  
19 taxable under 8 V.S.A. § 6014.

20 (23) “Unitary business” means one or more related business  
21 organizations engaged in business activity both within and outside the State

1 among which there exists a unity of ownership, operation, and use; or an  
2 interdependence in their functions.

3 (24) ~~“Overseas business organization” means a business organization~~  
4 ~~that ordinarily has 80 percent or more of its payroll and property outside the 50~~  
5 ~~states and the District of Columbia. [Repealed.]~~

6 \* \* \*

7 Sec. 2. 32 V.S.A. § 5833(a)(3)(A) is amended to read:

8 (A) Sales of tangible personal property are made in this State if:

9 (i) the property is delivered or shipped to a purchaser, other than  
10 the U.S. government, who takes possession within this State, regardless of  
11 f.o.b. point or other conditions of sale; ~~or~~

12 ~~(ii) the property is shipped from an office, store, warehouse,~~  
13 ~~factory, or other place of storage in this State; and~~

14 ~~(I) the purchaser is the U.S. government; or~~

15 ~~(II) the corporation is not taxable in the State in which the~~  
16 ~~purchaser takes possession.~~

17 Sec. 3. 32 V.S.A. § 5862(d) is amended to read:

18 (d) A taxable corporation that is part of an affiliated group engaged in a  
19 unitary business shall be treated as a single taxpayer and shall file a group  
20 return containing the combined net income of the affiliated group and such  
21 other informational returns as the Commissioner shall require by rule. A

1 unitary combined return shall include the income and apportionment factors of  
2 any taxable corporation incorporated in the United States or formed under the  
3 laws of any state, the District of Columbia, or any territory or possession of the  
4 United States and in a unitary relationship with the taxpayer. The income,  
5 gain, or losses from members of a combined group shall be combined to the  
6 extent allowed under the Internal Revenue Code for consolidated filing as if  
7 the combined group was a consolidated filing group, provided that a state tax  
8 credit shall not be combined and shall be limited to the member to which the  
9 credit is attributed.

10 Sec. 4. TRANSITION FROM JOYCE TO FINNIGAN METHOD

11 (a) For taxable years beginning on and after January 1, 2023, for purposes  
12 of determining whether sales are in Vermont and are included in the numerator  
13 of the sales apportionment factor, if the activities of any member of a unitary  
14 group create nexus with this State, then sales of tangible personal property into  
15 Vermont from outside the State by all members of the unitary group shall be  
16 included in the Vermont sales factor numerator.

17 (b) For taxable years beginning on January 1, 2023 and before January 1,  
18 2024:

19 (1) If any member of a unitary group is taxable in another state, then  
20 sales of tangible personal property from a Vermont location into that state by

1 any member of the unitary group shall be excluded from the Vermont sales  
2 factor numerator.

3 (2) If no member of a unitary group is taxable in another state, then sales  
4 of tangible personal property from a Vermont location into that state by all  
5 members of the unitary group shall be included in the Vermont sales factor  
6 numerator.

7 Sec. 5. RULEMAKING; REPORT

8 The Department of Taxes shall adopt rules relating to the unitary combined  
9 reporting requirements imposed under this act. The rules required under this  
10 section shall include a change from the Joyce to the Finnigan approach to  
11 applying Vermont jurisdiction to corporations within a unitary group. The  
12 Department shall report to the House Committee on Ways and Means and the  
13 Senate Committee on Finance on or before January 15, 2024 on the  
14 Department’s proposed rules and any recommendations for legislation with  
15 respect to unitary combined reporting.

16 \* \* \* Personal Income Tax; Retirement Income Exemptions \* \* \*

17 Sec. 6. 32 V.S.A. § 5811(21) is amended to read:

18 (21) “Taxable income” means, in the case of an individual, federal  
19 adjusted gross income determined without regard to 26 U.S.C. § 168(k) and:

20 \* \* \*

1 (B) decreased by the following items of income (to the extent such  
2 income is included in federal adjusted gross income):

3 \* \* \*

4 (iv) the portion of certain retirement income and federally taxable  
5 benefits received under the federal Social Security Act that is required to be  
6 excluded under section 5830e of this chapter; ~~and~~

7 \* \* \*

8 (vi) U.S. military survivor benefit income received by the  
9 surviving spouse of a deceased service member; and

10 \* \* \*

11 Sec. 7. 32 V.S.A. § 5813 is amended to read:

12 § 5813. STATUTORY PURPOSES

13 \* \* \*

14 (w) The statutory purpose of the partial exemption of certain retirement  
15 income and federally taxable benefits under the Social Security Act in section  
16 5830e of this title is to lessen the tax burden on Vermonters with low to  
17 moderate income who derive part of their income from certain retirement  
18 income and Social Security benefits.

19 \* \* \*

1       (y) The statutory purpose of the exemption for U.S. military survivor  
2       benefit income in subdivision 5811(21)(B)(vi) of this title is to recognize the  
3       military service of Vermonters.

4       Sec. 8. 32 V.S.A. § 5830e is amended to read:

5       § 5830e. RETIREMENT INCOME; SOCIAL SECURITY INCOME

6       (a) Social Security income. The portion of federally taxable Social  
7       Security benefits excluded from taxable income under subdivision  
8       5811(21)(B)(iv) of this chapter shall be as follows:

9   \* \* \*

10       (b) Civil Service Retirement System income. The portion of income  
11       received from the Civil Service Retirement System excluded from taxable  
12       income under subdivision 5811(21)(B)(iv) shall be subject to the limitations  
13       under subsection (e) of this section and shall be determined as follows:

14               (1) For taxpayers whose filing status is single, married filing separately,  
15       head of household, or surviving spouse:

16               (A) If the federal adjusted gross income of the taxpayer is less than or  
17       equal to \$45,000.00, the first \$10,000.00 of income received from the Civil  
18       Service Retirement System shall be excluded.

19               (B) If the federal adjusted gross income of the taxpayer is greater  
20       than \$45,000.00 but less than \$55,000.00, the percentage of the first  
21       \$10,000.00 of income received from the Civil Service Retirement System to be

1 excluded shall be proportional to the amount of the taxpayer's federal adjusted  
2 gross income over \$45,000.00, determined by:

3 (i) subtracting the federal adjusted gross income of the taxpayer  
4 from \$55,000.00;

5 (ii) dividing the value under subdivision (i) of this subdivision (B)  
6 by \$10,000.00; and

7 (iii) multiplying the value under subdivision (ii) of this  
8 subdivision (B) by the income received from the Civil Service Retirement  
9 System.

10 (C) If the federal adjusted gross income of the taxpayer is equal to or  
11 greater than \$55,000.00, no amount of the income received from the Civil  
12 Service Retirement System shall be excluded under this section.

13 (2) For taxpayers whose filing status is married filing jointly:

14 (A) If the federal adjusted gross income of the taxpayer is less than or  
15 equal to \$60,000.00, the first \$10,000.00 of income received from the Civil  
16 Service Retirement System shall be excluded.

17 (B) If the federal adjusted gross income of the taxpayer is greater  
18 than \$60,000.00 but less than \$70,000.00, the percentage of the first  
19 \$10,000.00 of income received from the Civil Service Retirement System to be  
20 excluded shall be proportional to the amount of the taxpayer's federal adjusted  
21 gross income over \$60,000.00, determined by:

1                   (i) subtracting the federal adjusted gross income of the taxpayer  
2                   from \$70,000.00;

3                   (ii) dividing the value under subdivision (i) of this subdivision (B)  
4                   by \$10,000.00; and

5                   (iii) multiplying the value under subdivision (ii) of this  
6                   subdivision (B) by the income received from the Civil Service Retirement  
7                   System.

8                   (C) If the federal adjusted gross income of the taxpayer is equal to or  
9                   greater than \$70,000.00, no amount of the income received from the Civil  
10                  Service Retirement System shall be excluded under this section.

11                  (c) Other contributory retirement systems; earnings not covered by Social  
12                  Security. Other retirement income, except U.S. military retirement income  
13                  pursuant to subsection (d) of this section, received by a taxpayer of this State  
14                  shall be excluded pursuant to subsection (b) of this section as though the  
15                  income were received from the Civil Service Retirement System and shall be  
16                  subject to the limitations under subsection (e) of this section, provided that:

17                   (1) the income is received from a contributory annuity, pension,  
18                   endowment, or retirement system of:



1           (A) the U.S. government or a political subdivision or instrumentality  
2           of the U.S. government;

3           (B) this State or a political subdivision or instrumentality of this  
4           State; or

5           (C) another state or a political subdivision or instrumentality of  
6           another state; and

7           (2) the contributory system from which the income is received was  
8           based on earnings that were not covered by the Social Security Act.

9           (d) U.S. military retirement income. U.S. military retirement income  
10          received by a taxpayer of this State shall be excluded pursuant to subsection  
11          (b) of this section as though the income were received from the Civil Service  
12          Retirement System and shall be subject to the limitations under subsection (e)  
13          of this section.

14          (e) A taxpayer of this State who is eligible during the taxable year for the  
15          Social Security income exclusion under subsection (a) of this section and any  
16          of the exclusions under subsections (b)–(d) of this section shall elect either one  
17          of the exclusions for which the taxpayer is eligible under subsections (b)–(d) of  
18          this section or the Social Security income exclusion under subsection (a) of  
19          this section, but not both, for the taxable year.

1                   \* \* \* Sales and Use Tax; Exemption; Menstrual Products \* \* \*

2           Sec. 9. 32 V.S.A. § 9706(oo) is amended to read:

3           (oo) The statutory purpose of the exemption for ~~feminine hygiene~~  
4           menstrual products in subdivision 9741(56) of this title is to limit the cost of  
5           goods that are necessary for the health and welfare of Vermonters.

6           Sec. 10. 32 V.S.A. § 9741(56) is amended to read:

7           (56) ~~Feminine hygiene~~ Menstrual products. As used in this subdivision,  
8           “~~feminine hygiene~~ menstrual products” means tampons, panty liners,  
9           menstrual cups, ~~sanitary~~ menstrual napkins, and other similar tangible personal  
10          property designed for ~~feminine hygiene~~ use in connection with the human  
11          menstrual cycle but does not include “grooming and hygiene products” as  
12          defined in this chapter.

13                                   \* \* \* Effective Dates \* \* \*

14          Sec. 11. EFFECTIVE DATES

15           This act shall take effect on passage, except that:

16           (1) Secs. 1–5 (corporate income tax) shall take effect on January 1, 2023  
17           and shall apply to taxable years beginning on and after January 1, 2023.

18           (2) Notwithstanding 1 V.S.A. § 214, Secs. 6–8 (retirement income  
19           exemptions) shall take effect retroactively on January 1, 2022 and shall apply  
20           to taxable years beginning on and after January 1, 2022.

1           and that after passage the title of the bill be amended to read: “An act  
2 relating to changes to Vermont’s corporate income tax, personal income tax,  
3 and sales and use tax”

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7           (Committee vote: \_\_\_\_\_)

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\_\_\_\_\_

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Senator \_\_\_\_\_

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FOR THE COMMITTEE