

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 [Repealed.]~~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 \* \* \* Sales and Use Tax; Exemption; Menstrual Products \* \* \*

17 Sec. 6. 32 V.S.A. § 9706(oo) is amended to read:

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

1 Sec. 7. 32 V.S.A. § 9741(56) is amended to read:

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

8 \* \* \* Effective Dates \* \* \*

9 Sec. 8. EFFECTIVE DATES

10 This act shall take effect on passage, except that Secs. 1–4 (corporate  
11 income tax) shall take effect on January 1, 2023 and shall apply to taxable  
12 years beginning on and after January 1, 2023.

13 and that after passage the title of the bill be amended to read: “An act  
14 relating to changes to Vermont’s corporate income tax and sales and use tax”

15  
16  
17

18 (Committee vote: \_\_\_\_\_)

19 \_\_\_\_\_

20 Senator \_\_\_\_\_

21 FOR THE COMMITTEE