

S.53 AS PASSED BY SENATE AND HOUSE FURTHER PROPOSAL OF AMENDMENT

Summary of Corporate Income and Cloud Tax Sections

SENATE COMMITTEE ON FINANCE – JANUARY 12, 2022

Sec.	Corporate Income Tax																				
3	<p>32 V.S.A. § 5811(22) and (24)</p> <p>Subdiv. (22) In definition of affiliated group, deletes references to overseas business organizations.</p> <p>Subdiv. (24) Repeals definition of overseas business organization, which allows for 80/20 rule.</p> <ul style="list-style-type: none"> 80/20 rule is imposed in regulation and allows overseas business organizations that have 80% or more of property and payroll outside of U.S. to exclude their apportionment factors from the Vermont numerator. 																				
4	<p>32 V.S.A. § 5832(2)</p> <p>Changes brackets and amounts for minimum corporate income tax</p> <table border="0" style="width: 100%;"> <thead> <tr> <th style="text-align: left;"><u>Vermont gross receipts</u></th> <th style="text-align: left;"><u>Minimum tax amount</u></th> </tr> </thead> <tbody> <tr> <td>\$0-100,000</td> <td>\$250</td> </tr> <tr> <td>\$100,001-\$1 million</td> <td>\$500</td> </tr> <tr> <td>Over \$1 million to \$5 million</td> <td>\$2,000</td> </tr> <tr> <td>Over \$5 million to \$300 million</td> <td>\$6,000</td> </tr> <tr> <td>Over \$300 million</td> <td>\$100,000</td> </tr> </tbody> </table> <p>Current minimum corporate income tax</p> <table border="0" style="width: 100%;"> <thead> <tr> <th style="text-align: left;"><u>Vermont gross receipts</u></th> <th style="text-align: left;"><u>Minimum tax amount</u></th> </tr> </thead> <tbody> <tr> <td>\$0-\$2 million</td> <td>\$300</td> </tr> <tr> <td>Over \$2 million to \$5 million</td> <td>\$500</td> </tr> <tr> <td>Over \$5 million</td> <td>\$750</td> </tr> </tbody> </table> <p>\$75 for small farm corporations</p>	<u>Vermont gross receipts</u>	<u>Minimum tax amount</u>	\$0-100,000	\$250	\$100,001-\$1 million	\$500	Over \$1 million to \$5 million	\$2,000	Over \$5 million to \$300 million	\$6,000	Over \$300 million	\$100,000	<u>Vermont gross receipts</u>	<u>Minimum tax amount</u>	\$0-\$2 million	\$300	Over \$2 million to \$5 million	\$500	Over \$5 million	\$750
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5	<p>32 V.S.A. § 5833(d)</p> <p>Amends apportionment factors for taxable corporations with activity both inside and outside Vermont, so that only factor taken into account will be sales factor (“single sales factor”).</p> <p>Repeal of “throwback” rule</p> <ul style="list-style-type: none"> Throwback occurs when there is “nowhere income,” which is income from sales of tangible personal property made from Vermont that are not taxed, either because the sales are made to the federal government or because the “corporation is not taxable in the State in which the purchaser takes possession.” 32 V.S.A. § 5833(a)(3)(A)(ii). Currently, nowhere sales are “thrown back” to Vermont. <i>Id.</i> <p>Requires taxable C corporations subject to apportionment to continue to report property and payroll to Commissioner of Taxes when Vermont moves to a single sales factor for apportionment.</p>																				
6	<p>32 V.S.A. § 5862(d)</p> <p>Moves Vermont to Finnigan method of applying state jurisdiction to income of all corporations within a unitary combined filing group, even those that do not have nexus with Vermont.</p> <p>Supersedes 80/20 rule: requires income and apportionment factors of all taxable corporations incorporated in the U.S. that are part of a unitary combined filing group to be included in that group’s return.</p>																				

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Sec.	Corporate Income Tax
	To determine apportionable income, the income, gains, or losses from all members are combined; except state tax credits will not be combined and will be limited to the members holding the credits.
7	<p>Transition from Joyce to Finnigan Method</p> <p>Starting Jan. 1, 2022, Vermont will use Finnigan method, which means if any member of a unitary group has nexus with Vermont, then sales of tangible personal property into Vermont from outside the State by all members of unitary group will be included in Vermont sales factor numerator.</p>
8	<p>Rulemaking and report by Dept. of Taxes</p> <p>Dept. of Taxes is required to adopt rules relating to the new unitary combined reporting requirements and report back to the General Assembly about the rulemaking process and any proposed legislation by Jan. 15, 2023.</p>
16(1)	<p>Effective dates</p> <p>All corporate income tax changes are effective January 1, 2022, except for section requiring rulemaking and legislative report by Dept. of Taxes, which is effective on passage.</p>

Sec.	Sales and Use Tax on Prewritten Computer Software
9	<p>32 V.S.A. § 9701(60)</p> <p>Creates new definition of “vendor-hosted prewritten computer software,” which applies to canned software accessed through the Internet or a vendor-hosted server or platform, including where possession of the software is maintained by the vendor or a third party.</p> <p>The definition applies to software regardless of the method of delivery or transfer, whether the access is permanent or temporary, and the basis for the charge for the right of access (per use, per user, per license, subscription or some other basis).</p>
10–11	<p>32 V.S.A. §§ 9771 and 9773</p> <p>Imposes sales and use tax on vendor-hosted prewritten computer software and right to access that software to provide data processing services, as a separate category from tangible personal property.</p>
12	<p>2015 Acts and Resolves No. 51, Sec. G.8</p> <p>Repeals 2015 session law exemption for prewritten computer software accessed remotely.</p>
16(2)	<p>Effective dates</p> <p>Prewritten computer software Secs. 9–12 changes are made effective on June 1, 2022.</p>