

S.53 As Passed by Senate, House Amendment, Senate Finance Strike-All Amendment
Side-by-Side Summary – 2/24/2022

Sec.	As Passed Senate	House Proposed Amendment	Senate Finance Strike-All Amendment
1	<p>Statutory purpose for feminine hygiene products exemption 32 V.S.A. § 9706(nn) Adds a statutory purpose for new sales tax exemption for feminine hygiene products.</p>	Same	<p>Repeal of corporate income tax definitions; 80/20 rule 32 V.S.A. § 5811(22) and (24)</p> <ul style="list-style-type: none"> • Subdiv. (22) In definition of affiliated group, deletes references to overseas business organizations. • Subdiv. (24) Repeals definition of overseas business organization. <p>80/20 rule applies to U.S. corporations that have 80% or more of property and payroll outside of the U.S. 80/20 rule excludes those corporations' income from unitary group's apportionment factors.</p>
2	<p>Feminine hygiene products exemption 32 V.S.A. § 9741(56) Creates a sales and use tax exemption for feminine hygiene products following the Streamlined Sales and Use Tax Agreement definition.</p>	Same	<p>Repeal of throwback rule 32 V.S.A. § 5833</p> <p>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.</p>
3	Effective date on July 1, 2021.	<p>Repeal of corporate income tax definitions; 80/20 rule 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>	<p>Change from <i>Joyce</i> to <i>Finnigan</i> 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>

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		<p>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.</p>	<p>Change from Joyce to Finnigan (cont.)</p> <p>Supersedes 80/20 rule: requires income and apportionment factors of all taxable corporations incorporated in U.S. that are part of a unitary combined filing group to be included in group’s return.</p> <p>To determine apportionable income, 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.</p> <p><i>See, Sec. 1, repeal of corporate income tax definitions; 80/20 rule</i></p>																				
<p align="center">4</p>	<p align="center">N/A</p>	<p>Corporate minimum tax change</p> <p>32 V.S.A. § 5832(2)</p> <p>Changes brackets and amounts for minimum corporate income tax</p> <table border="0"> <thead> <tr> <th align="left"><u>Vermont gross receipts</u></th> <th 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"> <thead> <tr> <th align="left"><u>Vermont gross receipts</u></th> <th 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>	<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	<p>Transition from Joyce to Finnigan</p> <p>Clarifies how the first year of using the Finnigan method of determining Vermont jurisdiction will work.</p> <ul style="list-style-type: none"> • If any member of a unitary group is taxable in another state, then sales of tangible personal property from a Vermont location into that state by any member of the unitary group shall be excluded from the Vermont sales factor numerator. • If no member of a unitary group is taxable in another state, then sales of tangible personal property from a Vermont location into that state by all members of the unitary group shall be included in the Vermont sales factor numerator. <p><i>Note: corporate minimum tax changes deleted.</i></p>
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<p align="center">5</p>	<p align="center">N/A</p>	<p>Change to single sales factor apportionment, repeal of throwback rule, and reporting on property and payroll</p> <p>32 V.S.A. § 5833</p> <p>Amends the apportionment factors for taxable corporations with activity both inside and outside Vermont, so that the only factor taken into account will be the sales factor (also known as “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. <p>Requires taxable C corporations subject to apportionment to continue to report their property and payroll to the Commissioner of Taxes when Vermont moves to a single sales factor for apportionment.</p>	<p>Rulemaking and report by Dept. of Taxes</p> <ul style="list-style-type: none"> • Dept. of Taxes is required to adopt rules relating to the new unitary combined reporting requirements imposed under this act, including the transition from Joyce to Finnigan. • Dept. of Taxes is required to report to House W&M and Senate Finance regarding any proposed rules and any recommendations for further legislation relating to unitary combined reporting, on or before Jan. 15, 2024. <p><i>Note: single sales factor apportionment and reporting on property and payroll deleted. See Sec. 2, repeal of throwback rule.</i></p>
<p align="center">6</p>	<p align="center">N/A</p>	<p>Change from Joyce to Finnigan</p> <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>Statutory purpose for sales tax exemption for menstrual products</p> <p>32 V.S.A. § 9706(oo)</p> <p>Replaces description of exempt products with more respectful language.</p>

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		<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> <p>To determine apportionable income, 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.</p>	<p><i>See Sec. 3, change from Joyce to Finnigan.</i></p>
7	N/A	<p>Transition from <i>Joyce</i> to <i>Finnigan</i></p> <p>Starting Jan. 1, 2022, Vermont will use the Finnigan method, which means that 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 the unitary group will be included in the Vermont sales factor numerator.</p>	<p>Sales and use tax exemption for menstrual products</p> <p>32 V.S.A. § 9741(56)</p> <p>Replaces description of exempt products with more respectful language.</p> <p><i>See, Sec. 4, transition from Joyce to Finnigan</i></p>
8	N/A	<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>	<p>Effective dates</p> <p>Default effect date is on passage, which applies to:</p> <ul style="list-style-type: none"> • Rulemaking and report relating to corporate income tax • Sales tax exemption <p>January 1, 2023 effective date for Secs. 1–4 (corporate income tax changes), which applies to taxable years 2023 and after.</p> <p><i>See, Sec. 5, rulemaking and report by Dept. of Taxes</i></p>
9	N/A	<p>Sales tax definition of vendor-hosted prewritten computer software</p> <p>32 V.S.A. § 9701(60)</p>	<p>Deleted</p>

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		<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	N/A	<p>Sales and use tax imposed on vendor-hosted prewritten computer software</p> <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>	Deleted
12	N/A	<p>Repeal of exemption for sales of prewritten computer software accessed remotely</p> <p>2015 Acts and Resolves No. 51, Sec. G.8</p> <p>Repeals 2015 session law exemption for prewritten computer software accessed remotely.</p>	Deleted
13	N/A	<p>DFR Mutual Fund Fee</p> <p>9 V.S.A. § 5302(f)</p> <p>Increases annual renewal fee paid by investment companies from \$1,500.00 to \$1,750. Initial fee is maintained at \$2,000.</p>	Deleted

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14	N/A	<p>Military retirement income tax exemption</p> <p>32 V.S.A. § 5811(21)(B)</p> <p>Excludes the first \$10,000 of federally taxable U.S. military retirement pay from taxable income.</p>	Deleted
15	N/A	<p>Statutory purpose for military retirement income tax exemption</p> <p>32 V.S.A. § 5813(y)</p> <p>Adds a statutory purpose for the military retirement exclusion, which is to recognize the military service of Vermonters who derive part of their income from military retirement pay.</p>	Deleted
16	N/A	<p>Effective dates</p> <p>Default effective date is July 1, 2021</p> <p>(1) January 1, 2022</p> <ul style="list-style-type: none"> • Sec. 3 (80/20 rule definitions) • Sec. 4 (minimum corporate income tax) • Sec. 5 (single sales factor, repeal of throwback, report of property and payroll) • Secs. 6–7 (Finnigan method and 80/20 rule) <p>(2) June 1, 2022 for Secs. 9–12 (prewritten computer software)</p> <p>(3) January 1, 2021 for Secs. 14-15 (military retirement income tax exemption)</p>	Deleted
	N/A	<p>Title</p> <p>Changes title after passage to: “An act relating to tax changes affecting corporations, menstrual products,</p>	<p>Title</p> <p>Changes title after passage to: “An act relating to changes to Vermont’s corporate income tax and sales and use tax”</p>

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		military retirement income, and prewritten computer software, and investment security company fees”	
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