STATE OF VERMONT

MEMORANDUM

To: Rep. Kornheiser, Chair, House Committee on Ways and Means

From: Kirby Keeton

Date: January 31, 2024

Subject: H.827; interaction with capital gains taxation

This memorandum summarizes how taxation of unrealized gains under H.827 interacts with taxation of capital gains under Vermont law. H.827 imposes personal income tax on part of the unrealized gains or losses of individuals with net assets worth more than $10,000,000.00.

Capital Gains Taxation

Generally, taxpayers pay income tax on capital gains when assets are sold. Vermont follows federal treatment for the taxation of capital gains, except for some adjustments.[1] Put simply, under federal and Vermont law, the amount that is taxed is the sales price minus the basis (adjusted net capital gain). The basis is an amount that is not taxed, which can include costs involved with acquiring or maintaining an asset, as well as other expenses like taxes paid.

How Taxation of Unrealized Gains Under H.827 Interacts

H.827 increases the basis of assets to the extent they are taxed as unrealized gains. One result of that is that Vermont will not tax the same unrealized gains more than once. Additionally, in the Committee's strike-all amendment, there is a clarifying provision stating that changes in basis made by H.827 will be incorporated when determining how much Vermont taxes those assets when later sold. This ensures that a taxpayer will not be taxed twice on the same gains when an asset is sold.

If H.827 became law, taxpayers would not pay Vermont income tax twice for the same gains made by an asset.

[1] Vermont does not allow bonus depreciation but excludes either the first $5,000.00 of adjusted net capital gain income or 40 percent of adjusted net capital gain income from the sale of certain assets held for more than three years. 32 V.S.A. § 5811(21).