

VERMONT DEPARTMENT OF TAXES
2023 TAXPAYER ADVOCATE ANNUAL REPORT

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SUBMITTED TO

House Committee on Ways and Means
Senate Committee on Finance

SUBMITTED BY

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Introduction

The Vermont Commissioner of Taxes created the Taxpayer Advocate in 2001. Title 32 V.S.A § 3205 requires the Vermont Department of Taxes to maintain a Taxpayer Advocate. The duties of that position include:

1. Identifying subject areas where taxpayers have difficulties interacting with the Department of Taxes;
2. Identifying classes of taxpayers or specific business sectors who have common problems related to the Department of Taxes;
3. Proposing solutions, including administrative changes to practices and procedures of the Department of Taxes;
4. Recommending legislative action as may be appropriate to resolve problems encountered by taxpayers;
5. Educating taxpayers concerning their rights and responsibilities under Vermont's tax laws;
6. Educating tax professionals concerning the Department of Taxes' regulations and interpretations by issuing bulletins and other written materials; and
7. Assisting individual taxpayers in resolving disputes with the Department of Taxes.

The legislation serves to codify the longstanding role and functions performed by the Taxpayer Advocate and highlights the Taxpayer Advocate's position to improve taxpayer services.

The legislation also requires the Taxpayer Advocate to report annually to the House Committee on Ways and Means and the Senate Committee on Finance. 32 V.S.A. § 3205(c). The Legislature prescribed the following information for the report:

- Actions taken by the Taxpayer Advocate to improve taxpayer services and responsiveness of the Department of Taxes
- Identification of problems encountered by taxpayers in interacting with the Department of Taxes, including specific recommendations for administrative and legislative actions to resolve the identified problems
- Identification of any problems that span an entire class of taxpayer or specific industry, proposing class or industry-wide solutions.

New Administrative Initiatives

Workforce Flexibility and Refund Processing

Issue: The high volume of returns filed and phone or e-mail inquiries made to the department between the beginning of February and the April 15 tax deadline put significant stress on the limited resources in the Department's Taxpayer Services Division tasked with processing returns and responding to inquiries.

Administrative resolution: In recent years, during filing season, staff from other divisions in the department have been cross-trained to assist the Taxpayer Services Division with processing returns and responding to inquiries. This has allowed the department to issue approximately 95% of timely requested refunds to taxpayers before June 1 in 2022, while ensuring the accuracy of the returns filed and preventing potential fraud.

Statutory Proposals

Homestead Declaration and Property Tax Credit

Issue: Property Tax Credit claims have a statutory extended deadline of October 15. Currently, pursuant to 32 V.S.A. § 6068(b), a taxpayer is not entitled to any Property Tax Credit benefit if a claim is filed after October 15. This results in significant financial hardship for hundreds of Vermont taxpayers. While the majority of Vermont's other tax programs have a graduated penalty structure for late filed returns or claims, this program does not.

Proposed resolution: 32 V.S.A. § 6068(b) & (c) is amended to read:

(b) Late-filing penalties. If the claimant fails to file a timely claim, the amount of the property tax credit under this chapter shall be reduced by \$15.00, but not below \$0.00, which shall be paid to the municipality for the cost of issuing an adjusted homestead property tax bill. ~~No benefit shall be allowed in the calendar year unless the claim is filed with the Commissioner on or before October 15.~~

Any claim filed after October 15 but on or before March 15 of the following year shall be assessed a \$150 penalty. No benefit shall be allowed unless a claim is filed with the Commissioner on or before March 15 of the following year. Any property tax credit benefit issued under this chapter after October 15 will be issued directly to the claimant and will not alter the grand list of the town of the claimant's property.

Long Term Consideration

Simplify and Remove Tight Time Restrictions from Property Tax Credit Program

The amount of time and resources spent assisting taxpayers with property tax credit issues outweighs the department's time and resources spent on any other tax type. There are several reasons for this:

- a. Those who receive property tax credits tend to be lower income taxpayers who are less comfortable with paperwork and lack the resources to hire a preparer or accountant.
- b. The forms and the overall process are some of the most complicated forms and processes the Department administers.

- c. The strict deadlines and harsh penalties for the program's deadlines are incongruent with other tax types.
- d. The amount of a property tax credit tends to be significant relative to taxpayers' income so the consequences of not receiving it are often significant.
- e. Not receiving the Property Tax Credit frequently results in Taxpayer's monthly mortgage bill to sharply increase, resulting in significant financial hardship.

Some of the factors listed above cannot be helped given the nature of the program but the program's complexity, administration, and strict deadlines can be significantly improved.

Property Tax Credit Forms

Properly filing for the property tax credit requires forms HS-122 and HI-144. These two forms are among the most complicated forms the Department of Taxes administers; each form is two pages and together they contain over 100 fields that potentially must be completed by the taxpayer. Both forms have several fields that if not filled in, or filled in incorrectly, will result in denial of the taxpayer property tax credit entirely. The Department sends letters to the majority of taxpayers that made a mistake or missed a required field but, even then, most taxpayers do not understand what went wrong with their filing, nor how to correct it.

A possible solution to this issue is to simplify the property tax credit program by moving away from the concept of household income that is used for the program and towards a concept similar to Modified Adjusted Gross Income (MAGI) that is used at the federal level for health care purposes.

The strict nature of the deadlines is also a major problem for many taxpayers. For most tax types, taxpayers have three years to amend their returns. A three-year period for property tax credit claims is unworkable for several reasons but the current October 15 deadline is also problematic. It gives taxpayers that filed on extension very little time to work with the Department to correct a property tax credit claim. In addition, a taxpayer that is notified of a problem well before October 15 may misunderstand the letter they receive or the consequences of the issue because of the complexity discussed above. These taxpayers may not realize there is a problem until they receive their property tax bills in late September or early October and then they will only have a week or two to correct the issue. Further, in some towns, the first property tax payment is not due until November 15. This means that some taxpayers never discover that something is wrong until they go to make their first payment, or they see that their mortgage has unexpectedly increased, a month after they no longer have any remedy.

Taxpayers whose mortgage company makes the property tax payments on the taxpayers' behalf often do not find out they did not receive the property tax credit until their bank contacts them because they do not have enough in escrow to cover their higher mortgage payment. One possible solution to this specific issue would be the graduated penalty structure recommended above.

Taxpayer Class or Industry Tax Issues

Class or Industry	Issue	Recommendation
Retail Sale of Cannabis	Beginning on October 1, 2022, Vermont issued licenses to Vermonters to begin operating cannabis dispensaries. As with any new or emerging industry, these new businesses are faced with tax issues.	The Department has been working with the Cannabis Control Board to make sure new licensees are aware of their tax responsibilities. It recommended that the Department continue this coordination as new tax issues may arise.