

## I. Considerations and questions

### *Administration of classifications*

- Is the intent to require annual classifications?
  - What is the mechanism?
  - Who would do the work for each: local officials or PVR/State?
    - There is a lack of staff to do the work at local level already; also limited staff and infrastructure to take this on at the State level.
  - Would officials need to annually survey the use of all properties in the State?
  - Including requirement to consider municipally allowed uses (zoning, ordinances, and rules, etc.) is irrelevant to and conflicting with setting present day use, because many actual uses are non-conforming with local regulation. See new [32 V.S.A. § 4152a\(a\)\(2\)](#).
- Attestations
  - Would nonhomestead categories require attestations from property owners (like the current homestead declaration)?
    - Current draft seems to contemplate attestation for affordable housing only. See new [32 V.S.A. § 4152a\(c\)\(1\)](#).
- Timing considerations
  - Is a property's use based on Grand List "as of" date of April 1<sup>st</sup> or proposed January 1<sup>st</sup>? The property tax year begins July 1. Does this tax rate system create a year lag for all property owners?
  - How would changes in use be handled?
  - Landlord certificate (LC) timing
    - It's problematic to use LCs to determine residential use, because LC filings are for long-term rentals in the *prior* year; not present-day use, which this classification system seems to be attempting to capture. See new [32 V.S.A. § 4152a\(c\)\(2\), \(6\) and \(7\)](#).

### *Compliance*

- What is owner's responsibility to correct a misclassification? In other words: what happens when an owner benefits from a lower rate due to incorrect classification?
  - Current law has a specific requirement to file an annual homestead declaration, imposes penalties for non-compliance, and provides a property tax credit for homesteads only – so there are built-in incentives for compliance.
- In what scenario would the Department be expected to assign a homestead classification to Residential A or B properties? See new [32 V.S.A. § 4152a\(c\)\(6\) and \(7\)](#).

Vermont Tax Department Comments on Property Classifications, [Ed Finance Proposal, Draft 1.1](#), Secs. 11, 12, and 14

*Mixed use*

- Tax fairness concerns regarding no mechanism for mixed use in nonhomestead classifications.
  - Example: two downtown commercial buildings would be taxed differently (on the entire property) when 95% of each property is the same use but one has an apartment and another has an office in the remaining 5%.
- Mixed use between homestead and nonhomestead properties

*Appeals*

- How would appeals of classifications be handled?
  - The first level of appeal should be to the local lister/appraiser if classifications are determined by local officials.
  - Current draft has new regional assessment district appeal boards hearing classification appeals, even though they have no apparent role in classifying properties. See new [32 V.S.A. § 4152a\(e\)](#).

## II. Impact on tax rates

- Imposes a single statewide tax rate under a foundation formula that would then be adjusted by either the homestead tax rate or one of the nine rates for each of the nonhomestead tax classifications. See amendments to [32 V.S.A. § 5402\(a\)](#).
  - Is the intention for the Legislature to set 10 different rates (plus an excess spending yield) to balance the EF each year?
  - Or would the rate relationships be locked in (i.e., apartment rate is always X% of the statewide rate)?

## III. Considerations for class definitions

*Affordable housing*

- Our understanding is that VHFA does not have the capacity to certify affordable rental housing properties annually.

*Apartment*

- Landlord certificates are filed on a *retrospective* basis, take the Department months to process, and do not have perfect compliance by landlords who rent to people who are not eligible for the renter credit because they are not low income).

*Commercial*

- Definition: Parcel used for business activity (which is undefined) that doesn't qualify for apartment, Residential A or B, Industrial. Farms are included unless they are not used for a business activity, in which case they are classified with residential property as applicable.

Vermont Tax Department Comments on Property Classifications, [Ed Finance Proposal, Draft 1.1](#), Secs. 11, 12, and 14

- Much mixed use within commercial properties. Tax fairness concerns because no mechanism for mixed use within nonhomestead classifications.

*Residential A and B*

- PVR is allowed to “change the tax classification if the property would be misclassified due to a taxpayer’s failure to file a homestead declaration.” Today this only happens when flagged by a town lister or clerk. In what scenario/based on what information would the Dept to be expected to do this?

*Resort*

- PVR would be in charge of identifying resorts annually
- Why only ski areas? What about cross-country ski resorts? Most ski areas have diversified into year-round activities to be viable, so they may argue this class doesn’t apply to them.

*Public Use*

- Rename classification “State-exempt property?” Applies to any property exempt from State tax, but many of those exemptions are unrelated to either public use or public benefit.
- There are many partial State exemptions, but this draft does not allow mixed uses that meet the definitions for multiple classifications. In other words, it appears that the intent is to classify the entire parcel as Public Use even if the State exemption is partial.
  - Possibly unintended? Nonhomestead properties subject to the \$10K veterans exemption and smaller solar plants and energy storage facilities would be under this classification.
  - However, the draft is not clear that the Public Use classification would trump any other classification if there were a different use, such as Resort.
- Existing state exemption for public, pious, and charitable is already time-consuming property exemption under current law, creating much litigation.

*Undeveloped*

- Subsumed into other categories if a parcel meets any other classification’s definition. Seems to imply no mixed use allowed for parcels with high-value improvements (like a house) and less valuable undeveloped land. Only the class for the higher valued improvement would apply. Not clear how this applies to farms and ag land without a building/improvement on it.

*Homestead*

- Not a classification in new section. See new [32 V.S.A. § 4152a](#).
- Homestead appears mutually exclusive with all of the new classifications.