Property Classification Comments – 4/30/25

H.454, As Passed by House

I. Recommendations

H.454 proposes to create two new property classifications based on present-day use. This would make Vermont's education property tax more difficult and complicated than it is today, both for tax administrators and for taxpayers. As administrators, we have concerns with trying to implement tax concepts that are rarely used elsewhere. If the General Assembly wants to further differentiate tax treatment based on use, the Department recommends policymakers start by defining one additional classification in as much detail as possible. Please see the Department's presentation from 4/24/25 for our recommendations on classifications in H.454.

II. Further Considerations and Questions

Administration

- Jurisdiction
  - The State does not interact directly with all property owners now, but towns do. The homestead declaration system works because it is attached to income taxes, which the majority of resident homeowners are required to file.
  - The new classification system would create substantially more work for local assessing officials (listers).
    - There is a lack of staff to do local assessing work already; also limited staff and infrastructure to take this on at the State level.
  - Sec. 61a requires all property owners to report their property use to Tax in calendar year 2028. It is unclear whether this will be an ongoing requirement. Should enacting an attestation requirement wait until the Department submits its Sec. 61b report on what forms are needed to implement the new classification system?
    - *If* the Senate is contemplating this as a new revenue source in FY28, then Tax's report in Sec. 61b could be due a year earlier, in December 2025.
- Timing
  - Will a property's use be based on the grand list "as of" date of April 1 or proposed January 1? The property tax year begins July 1. Does this tax rate system create a year lag for all property owners?
    - We recommend removing prospective statutory changes to the grand list dates, because in Sec. 64, the stakeholder working group led by Tax is tasked with reviewing and proposing statutory changes next session.
  - How would changes in use be handled? Would the prior year's classification be used until new information is provided by the owner, i.e., homestead declaration or landlord certificate? This is not addressed explicitly H.454.
  - 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 use in the upcoming year, which this classification system seems to be attempting to capture.
- H.454 would require the Department to establish a prospective reporting system for landlords to attest to rental use in the upcoming year.
- LCs do not have perfect compliance because many landlords rent to people who are not eligible for the renter credit, because they are not low income. Those rental units are not always accounted for.

Compliance

- What responsibility does an owner have to correct a misclassification?
    - For example, if rates are different for different classifications, what happens when an owner benefits from a lower rate due to an 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.

Mixed use

- Who determines mixed use and does compliance? The State or town listers?
- H.454 only seems to contemplate self-attestation – is this sufficient?

Appeals

- How would classification appeals be handled?
    - H.454 allows classification appeals to be made to local listers in the same manner as appeals for property valuation. However, the deadlines are not the same for classifications (set by June 1) and property valuation (currently set by April 1; if prospective grand list dates are enacted, by January 1).
    - Appeal volume would increase, possibly dramatically, because property uses are constantly changing, whereas property values change infrequently.

III. Impact on Tax Rates

- Imposes a single statewide tax rate under a foundation formula that would then be adjusted by either the homestead factor or one of the new factors for each of the other nonhomestead classifications. This means that instead of two property tax rates, there would be four rates, which creates more incentive for owners to manipulate the system.
    - For example, a higher nonhomestead residential rate could be circumvented by using an LLC or a trust as the owner that rents the home to an individual, files a landlord certificate, and then pays the lower nonhomestead apartment rate.
- If there is a second home rate, would it be used as a relief valve against property tax increases to the other classifications?
- Is the intention that the Legislature would set four different rates (plus an excess spending yield) to balance the Education Fund each year?

- Or would the rate relationships be locked in (i.e., nonhomestead residential rate is always X% of the statewide rate)?