

From: Mesner, Susan
Sent: Friday, February 25, 2011 8:45 AM
To: Spaulding, Jeb; Peterson, Mary; MacLean, Alex
CC: Bachman, Molly
Subject: FW: Exempt Capital Gain Income From Sale Of VT Business; drafting request
Attachments: GENERAL-#266290-v2-DR_11-943_cap_gains_exempt_emp_busin_Illuzzi.DOC

Importance: High

Sen. Illuzzi is looking for the administration's position on a bill he intends to introduce regarding special treatment for capital gains from sale of a business to the employees. I've provided him an initial response regarding technical and administrative complexity and attached the referenced bill for you to review.

Susan

From: Mesner, Susan
Sent: Friday, February 25, 2011 8:42 AM
To: 'Vince Illuzzi'
Cc: David Hall; Doug Hoffer
Subject: RE: Exempt Capital Gain Income From Sale Of VT Business; drafting request

Vince,

If I read this correctly, an owner who sold a business to the employees would receive a 100% exclusion of that capital gain income plus an exclusion of up to \$5000 for any other gain in that year. Is that your intent?

I will check with the administration in terms of their position, but this creates yet another variation of the general rule, further complicating an already complex tax treatment. The link below will take you to the newest technical bulletin on capital gains taxation.

<http://www.state.vt.us/tax/pdf.word.excel/legal/tb/TB60.pdf>

I'll get back to you as soon as possible.

Susan

From: Vince Illuzzi [mailto:vincentilluzzi@hotmail.com]
Sent: Thursday, February 24, 2011 10:50 PM
To: Mesner, Susan
Cc: David Hall; Doug Hoffer
Subject: FW: Exempt Capital Gain Income From Sale Of VT Business; drafting request

Please let me know the department's position on this matter.

DAVID: I would like to consider adding to the jobs bill. Please add to your list.

HOFFER: What do you think?

Thanks.

Date: Thu, 24 Feb 2011 20:00:42 -0500

From: pgriffin@leg.state.vt.us

To: vincentilluzzi@hotmail.com

Subject: drafting request

Hello Senator Illuzzi,

You asked for a bill to create a tax exemption for capital gain income from the sale of a VT business to its employees. I drafted some language and released it to you today.

After I did so, I thought of a few changes I would suggest. In brief, the changes are:

(1) a requirement that the sale be of 90% or more of the business (so you can't just make piecemeal sales of the business and each time get an income tax exclusion); and

(2) a requirement that the sale be to employees who are full-time and have been full-time for at least a year; this prevents the business owner from hiring the intended purchaser just before the sale, and then qualifying as excluded income because it was to an "employee".

I have attached a new draft with these changes, and I would be happy to discuss them with you, if you would like. I will release this new draft to you when I get to the office tomorrow, and then you can let me know which draft you would like to proceed with.

1 Introduced by Senator Illuzzi

2 Referred to Committee on

3 Date:

4 Subject: Taxation; capital gains; exemption

5 Statement of purpose: This bill proposes to exempt income gained from the
6 sale of a Vermont business to its employees from the capital gains tax.

7 An act relating to an exemption from the capital gains tax for a Vermont
8 businesses sold to its employees

9 It is hereby enacted by the General Assembly of the State of Vermont:

10 Sec. 1. 32 V.S.A. § 5811(21)(B) is amended to read:

11 (B) Decreased by the following items of income (to the extent such
12 income is included in federal adjusted gross income):

13 (i) income from United States government obligations;

14 (ii) with respect to adjusted net capital gain income as defined in

15 Section 1(h) of the Internal Revenue Code:

16 (I) total adjusted net capital gain income from the sale of at
17 least 90 percent of a business located in Vermont if the only purchaser or
18 purchasers are full-time employees of that business at the time of sale and have
19 been full-time employees of that business for the preceding one year or more;
20 plus

1 (II) of the gain not excluded under subdivision (I) of this
2 subsection: either the first \$5,000.00 of adjusted net capital gain income; or 40
3 percent of adjusted net capital gain income from the sale of assets held by the
4 taxpayer for more than three years, except not adjusted net capital gain income
5 from:

6 ~~(H)~~ (aa) the sale of any real estate or portion of real estate used
7 by the taxpayer as a primary or nonprimary residence; or

8 ~~(H)~~ (bb) the sale of depreciable personal property other than
9 farm property and standing timber; or stocks or bonds publicly traded or traded
10 on an exchange, or any other financial instruments; regardless of whether sold
11 by an individual or business; and provided that the total amount of decrease
12 under this subdivision (21)(B)(ii) shall not exceed 40 percent of federal taxable
13 income; and

14 (iii) recapture of state and local income tax deductions not taken against
15 Vermont income tax.

16 Sec. 2. EFFECTIVE DATE

17 This act shall apply to taxable years 2011 and after.

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