

**CONFIDENTIAL**  
**TAX LEGISLATIVE BILL REVIEW FORM: 2015**

Bill Number: H.489

Name of Bill: An act relating to my revenue

Agency/ Dept: Tax

Author of Bill Review: Devon Green

Date of Bill Review: 5/29/15

Related Bills and Key Players H.272, H.184

Status of Bill: (check one): ☐ Upon Introduction ☐ As passed by 1<sup>st</sup> body ☒ As passed by both

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**Recommended Position:**

☒ Support ☐ Oppose ☐ Remain Neutral ☐ Support with modifications identified in #8 below

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**Analysis of Bill**

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**1. Summary of bill and issue it addresses.** *Describe what the bill is intended to accomplish and why.*

Sec. 1-33 Fee bill.

Sec. 34. Unless otherwise defined, semiweekly is defined as twice per week in Title 1. Should not affect language at Sec. 68 because semiweekly is defined in section. *Effective upon passage.*

Sec. 35. Eliminates requirement that manufacturers and distributors of malt or vinous beverages report to the Tax Department on sales to wholesalers. *Effective upon passage.*

Sec. 36. Transfers admin responsibilities of VCGI from PVR to ACCD. *Effective upon passage.*

Sec. 37. Allows ANR to share proprietary information obtained in the course of regulating solid waste with Tax for purposes of enforcing the solid waste tax. *Effective upon passage.*

Sec. 38. Raises quarterly prize limit for charitable gaming from \$20,000 to \$50,000. *Effective upon passage.*

Sec. 39. Allows PVR to certify presenters for list training. *Effective upon passage.*

Sec. 40. Deleted (previously local option tax).

Sec. 41-44 Administrative garnishment and attachment for collecting delinquent tax debts. Cannot initiate until 90 days after end of appeal period for underlying debt, 30 day notice, 15-day notice of limited appeal. For accounts, there is a 21 day freeze and freeze during appeal period. Garnishment will not start until after appeals period. Exemptions are: (1) for attachment: 12 V.S.A. § 2740 (2) for wages: 80% of wages or 40x federal minimum wage (the language in the statute is unclear on this, and refers to 12 VSA § 3170, but Tax will go with 80% or 40x b/c that was compromise language), whichever is greater; or all income if receiving benefits from DVHA or DCF. Must communicate to taxpayers opportunities for resolving tax disputes, including abatement, payment plans, offer in compromise, etc. Must contract with advocate before start of program. Must discuss details with bankers and credit unions prior to start of program. *Effective 7/1/15 as long as Tax contracts for independent advocate services*

Sec. 45-46 Tax must establish a collections unit and enact rules for uniform collection of state debt by 7/1/16. Agencies may enter into an MOU with tax to collect debt. *Effective 7/1/16.*

Sec. 47. Tax shall offset Medicaid provider payments to pay delinquent taxes. *Effective date of 7/1/15*

Sec. 48-53 Changes the Land Use Change Tax (LUCT) from 20%/10% of the land withdrawn from the program based on a pro-rated value per acre to 10% of the fair market value of the actual parcel removed. *Effective date of 10/2/15.* Municipal listers will set the value on the withdrawn land and will receive a 50% of the Land Use Change Tax up to \$2,000. *Effective date of 10/2/15.* This bill includes an "easy out" with the first \$50,000 in LUCT waived for landowners who withdraw

**any part of their** undeveloped parcel between 7/1/15 and 10/1/15. Owners of the withdrawn parcel will pay the full amount of property taxes for the 2015 tax year. This means the towns will have to re-send bills for those who take the “easy out.” Currently all of the revenue from the LUCT goes into the general fund; starting on 7/1/16, the revenue will go into the general fund and education fund at the same ratio as the property tax.

- Sec. 54. Creates a Use Value Appraisal Municipal Reimbursement Study Committee to examine existing formula for municipal reimbursement payments by 1/15/16. Director of PVR is chair of the committee. **Requires governor appointment.** *First meeting before 9/1/15.*
- Sec. 55. Assessment of Property. Director of PVR shall publish guidance for local assessing officials concerning how to assess lands under conservation easement and in current use in a consistent manner across the state. *Effective date 7/1/15. Guidance must be published by April 15, 2016.*
- Sec. 56. Valuation of Audits. Annually, PVR shall audit 3 towns to ensure that parcels in current use are valued consistently. PVR will conduct an independent appraisal for each enrolled parcel in the town and if the appraisal differs from local assessing official by 10%, PVR will substitute its appraisal for that of the local assessing official. *Effective upon passage.*
- Sec. 57. Current Use Certification. By 9/1 every year, the owner of agricultural lands or buildings in current use shall certify they continue to meet requirements for current use. *Effective upon passage.*
- Sec. 58. County Foresters. ANR, in consultation with Tax, shall report on whether there are a sufficient number of foresters. *Effective upon passage.*
- Sec. 59. Homestead Definition. Clarifies that Vermonters who rent their homestead out on April 1 still have a homestead as long as rental is 182 days or fewer. *Effective upon passage.*
- Sec. 60. VHFA exemption certificate may be renewed once after 10 years, *effective retroactive to 2014.*  
**ACCD wanted different language, administration can try to correct next session.**
- Sec. 61. Deleted.
- Sec. 62. TIF technical change. Reporting requirements apply to municipalities that use CPAs as well as those who have a town auditor. Date change for report from Jan. to Feb. *Effective upon passage.*
- Sec. 63. TIF. Special assessments will not be considered property taxes if used exclusively for operating expenses and not improvements within the district. *Effective 7/1/15 and applied to special assessments enacted after that date.*
- Sec. 64. SLINC deduction eliminated. Deductions capped at 2.5x standard deduction, excluding charitable and medical deductions. *Effective for 2015 tax year.*
- Sec. 65. Minimum tax on \$150,000 AGI. No gentle slope. No indexing, No difference for filer status. *Effective for 2015 tax year.*
- Sec. 66. Annual update of the income tax link to the Internal Revenue Code. *Effective retroactively to 1/1/15 and apply to taxable years on and after 1/1/14.*
- Sec. 67. Require all Vermont employers to provide cost of employer-sponsored health insurance on W-2s regardless of size of the employer (Affordable Care Act currently only requires it for employers with over 250 employees). *Effective date of 7/1/15*
- Sec. 68. Requires payment of withholding tax on a semiweekly basis if the taxpayer is a semiweekly filer for federal withholding as opposed to dollar amount. Sec. 1 should not affect this section because section references Internal Revenue Code and defines semiweekly. *Effective date of 7/1/15*
- Sec. 69. Requires trusts and estates to make estimated payments of income tax liability in the same manner as individuals. *Effective tax year 2016.*
- Sec. 70. Provides that a publicly traded partnership is not liable for withholding and paying income taxes for its members if it provides Tax with certain information about its partners. *Effective upon passage.*

- Sec. 71-72 Expands credit for “qualified code of technology improvement project” from \$25,000-\$50,000 and applies credit to limited use limited application elevators up to \$40,000. *Effective upon passage.*
- Sec. 73-86 Amends tobacco and cigarette statutes to conform with changes in 2013 Acts and Resolves No. 14. *Effective upon passage.*
- Sec. 87. Incorporates the administrative provisions of chapters 103 (administration) and 151 (income tax), including interest and penalty, appeal, and collection provisions into Chapter 211 which imposes various franchise taxes, including insurance and telephone taxes. *Effective upon passage.*
- Sec. 88-89 Extends meals and rooms tax on food or beverage sold through a vending machine. Clarifies that vending machine operators do not have to hold a license for each individual machine. *Effective date of 7/1/15*
- Sec. 90. Provides that interest paid on a meals and rooms tax refund shall begin to run from 45 days after the refund request was made. This conforms to the calculation of both income tax and sales tax refunds. *Effective upon passage.*
- Sec. 91-92 Eliminates sales tax exemption on “soft drinks.” Clarifies that soft drinks purchased with foods stamps remain exempt as required under federal law. *Effective date of 7/1/15*
- Sec. 93. Deleted.
- Sec. 94. Sales Tax Analysis of two scenarios: raising \$15M and \$30M with proposed rules for implementation and economic analysis of short term and long term consequences of expanding and not expanding sales tax to more consumer services. *Due by 1/15/16.*
- Sec. 95. Increases default amount of use tax to report on income tax returns from 0.10% of income to 0.15% of income. *Effective 1/1/16. Applies to 2015 taxes.*
- Sec. 96. Increases default amount of use tax to report on income tax returns from 0.15% of income to 0.20% of income and indexed annually to CPI. *Effective 1/1/17. Applies to 2016 taxes.*
- Sec. 97. Bans lottery products in restaurants and bars. ***Effective 7/1/16. Administration will likely want to repeal this next session.***

**2. Is there a need for this bill?** *Please explain why or why not.*

- Yes. This bill includes revenue and many necessary technical changes to the tax statute.

**3. What are likely to be the fiscal and programmatic implications of this bill for this Department?**

- This bill raises the following revenue:
  - \$22.9M from income tax changes, includes: removal of state and local income tax deduction; 2.5x standard deduction cap minus medical and charitable deductions; and minimum tax of 3% on income over \$150,000 AGI
  - \$4.75M for GF and \$2.55M EF from soft drinks
  - \$1M from vending machines
  - \$0.5M increase from increase in use tax
  - \$2.1M from administrative garnishment and attachment (subtracted \$200k as \$ for the independent advocate and \$ lost due to independent advocate)
  - \$70k for offset of Medicaid provider payments
  - The JFO estimated that the change in the LUCT would yield \$1.6-\$2.0 million annually, approximately 3x the current amount. It would likely take years to see this revenue, since the parcels to which the LUCT would have applied will take the easy out. The JFO estimates that the “easy out” will provide \$900K to the education fund in FY16 and \$500K to the general fund in FY17 as a reduction in payment to municipalities for FY16. JFO has warned several times that these are soft numbers and Tax agrees that it is difficult to predict revenue with these changes.

- Tax is proud to make a large contribution to revenue through administrative attachment and garnishment without cutting programs or personnel; however, implementing the program requires a significant effort from the Tax Department, including meeting with stakeholders and contracting with an independent advocate. Contracting with the independent advocate will require a budget adjustment. Tax is going to put consumer protections in place and move forward carefully with this new tool in order to ensure public acceptance.
- The “easy out” for the land use change tax will require significant time and resources for PVR to implement.
- PVR can publish guidance on assessing lands in current use because it is knowledgeable in this area, but publishing statewide guidance on assessing land in conservation easements is an entirely new undertaking and will require significant time and resources.
- Requiring audits of three towns and appraisals of all current use land in each town will require a significant amount of time and effort from PVR. PVR will likely have to contract out for the appraisal process because it does not have an appraiser on staff. This will require a budget adjustment, which we will have for January. Furthermore, requiring PVR to automatically impose its own valuation if it differs by 10% will likely result in multiple costly appeals.
- PVR does not have the resources to ensure compliance with the requirement that agricultural landowners in current use file a form certifying compliance with current use requirements.

**4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?**

- All departments may contract with Tax for the collections unit. This option could be beneficial for departments that are unable to adequately collect debts.
- DVHA is unlikely to be able to implement Medicaid offset, and it only brings in \$70,000
- The education fund may receive some increased funding through the LUCT changes.
- ANR will be doing the study on foresters.
- ACCD advocated for the following nonrevenue provisions that are included in the bill:
  - Removing language related to VCGI from Title 32 and moving it to Title 10
  - Extends affordable housing unit exemption for another 10 years
  - Made technical changes to TIF statute per ACCD’s recommendation
  - Expands downtown credits to limited use limited application elevators up to \$40,000

**5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it? (for example, public, municipalities, organizations, business, regulated entities, etc)**

- Towns will have to resend tax bills to property owners who use “easy out.”
- Listers will have to set the value of the land for the land use change tax
- If PVR valuations differ by 10%, towns are likely to bring multiple appeals, which will use up town, state, and judicial resources.
- Financial institutions will have to follow Tax’s administrative attachment and garnishment process. Tax will meet with the Banker’s Association and other stakeholders prior to implementation.
- Tax will likely contract with Vermont Legal Aid for the independent tax advocate position required for garnishment and attachment.

**6. Other Stakeholders:**

**6.1 Who else is likely to support the proposal and why?**

- Charities will support the bill because they are excluded from the cap on deductions.
- This bill is friendlier to seniors than previous income tax proposals.

- On the LUCT changes: the Current Use Advisory Board has voiced strong support. VLCT and VALA also supported this measure, likely because of the money they will receive from completing the new valuation.
- On the technical tax changes: ACCD and groups affiliated with the programs voiced strong support for these provisions.
- Vermont Chamber of Commerce will support the publicly traded partnerships change.
- Tax preparers will support the clarification to the homestead exemption.
- South Burlington advocated for the special assessment language with TIF and will support the language in the bill.

## **6.2 Who else is likely to oppose the proposal and why?**

- At least 50,000 taxpayers will see an income tax increase.
- 3% minimum tax creates a cliff for people who are slightly over \$150,000 AGI.
- Could get pushback from administrative garnishment and attachment if not done carefully.
- Vermont Retail and Grocers Association will not support the sales tax on the soft drinks; however, a tax on soft drinks is easier to implement than candy.
- Service industry will likely not support Tax's analysis on taxing services.

**7. Rationale for recommendation:** *Justify recommendation stated above.*

**8. Specific modifications that would be needed to recommend support of this bill:** *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*

### **What administration may want to request for next year**

- Add inflator to minimum tax (and maybe address filing status?)
- Remove lottery tax ban
- Requirement that taxpayers report change in income for purpose of property tax adjustment
- ACCD will likely want to change 10 year sunset for affordable housing exemption certificates

### **What legislators may request next year**

- Change in agricultural equipment exemption
- Sales tax on services

## **9. Gubernatorial appointments to board or commission?**

Sec. 54—Use Value Appraisal Municipal Reimbursement Study Committee. Governor must appoint a member of the public. First meeting by 9/1/15.

**Secretary/Commissioner has reviewed this document: Mary Peterson      Date: 06/04/2015**