

1 Introduced by Committee on Ways and Means

2 Date:

3 Subject: Taxation; miscellaneous tax

4 Statement of purpose of bill as introduced: This bill proposes to make
5 miscellaneous tax changes.

6 An act relating to making miscellaneous tax changes

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

8 * * * Tax Record Confidentiality * * *

9 Sec. 1. 32 V.S.A. § 3102(e) is amended to read:

10 (e) The Commissioner may, in his or her discretion and subject to such
11 conditions and requirements as he or she may provide, including any
12 confidentiality requirements of the Internal Revenue Service, disclose a return
13 or return information:

14 * * *

15 (3) To any officer, employee, or agent of any other state or Vermont
16 municipality that administers its own local option sales tax or meals and rooms
17 tax or gross receipts tax under its charter, provided that the information will be
18 used by that state or municipality for tax administration and that state or
19 municipality grants substantially similar disclosure privileges to this State and

1 provides for the secrecy of records in terms substantially similar to those
2 provided by this section.

3 * * *

4 (17) To the Department of Financial Regulation, if such return or return
5 information relates to the tax on premiums of captive insurance companies
6 contained in 8 V.S.A. chapter 141.

7 (18) To the Vermont Student Assistance Corporation if such return or
8 return information is necessary to verify eligibility for the matching allocation
9 required by 16 V.S.A. § 2880d(c).

10 * * * Tax Administration * * *

11 Sec. 2. 32 V.S.A. § 3208 is amended to read:

12 § 3208. ADMINISTRATIVE GARNISHMENT

13 (a) Notwithstanding other statutes which provide for levy or execution,
14 trustee process, or attachment, the Commissioner may garnish a taxpayer's
15 earnings pursuant to this section to satisfy amounts collectible by the
16 Commissioner under this title, subject to the exemptions provided in 12 V.S.A.
17 § 3170(a) and (b)(1).

18 * * *

19 (e) If, after 15 days, the taxpayer has not petitioned for a hearing, a notice
20 of garnishment shall direct an employer to transmit a specified portion of the
21 taxpayer's disposable earnings to the Commissioner from each periodic

1 payment that is due to the taxpayer until the taxpayer's obligation is paid in
2 full. The notice shall identify the taxpayer by Social Security number. An
3 employer is immune from any liability due to compliance with the
4 Commissioner's notice of garnishment.

5 * * * Current Use * * *

6 Sec. 3. 32 V.S.A. § 3754(b) is amended to read:

7 (b) Annually ~~in August~~ on or before October 15, the Board shall hold a
8 public hearing and such other hearings as they deem necessary to receive
9 public testimony on the criteria and values for use value appraisals in the
10 coming tax year and on the administration of this subchapter.

11 Sec. 4. 32 V.S.A. § 3755 is amended to read:

12 § 3755. ELIGIBILITY FOR USE VALUE APPRAISALS

13 * * *

14 (f) On or before September 1 of each year, the owner of agricultural land or
15 buildings enrolled in the use value program as agricultural land or buildings
16 shall certify in writing under oath to the Commissioner that the agricultural
17 land or buildings enrolled by that owner continue to meet the requirements for
18 enrollment in the use value program at the time of the certification. The form
19 of the certification shall be made on a form specified by the Director of
20 Property Valuation and Review.

1 Sec. 5. 32 V.S.A. § 3757(d) is amended to read:

2 (d) The land use change tax shall be due and payable by the owner 30 days
3 after the tax notice is mailed to the taxpayer. The tax shall be paid to the
4 Commissioner who shall remit to the municipality the lesser of one-half the tax
5 paid or \$2,000.00. The Director shall deposit three-quarters of the remainder
6 of the tax paid in the Education Fund, and one-quarter of the remainder of the
7 tax paid in the General Fund. The Commissioner shall issue a form to the
8 assessing officials which shall provide for a description of the land developed,
9 the amount of tax payable, and the fair market value of the land at the time of
10 development or withdrawal from use value appraisal. The owner shall fill out
11 the form and shall sign it under the penalty of perjury. After receipt of
12 ~~payment~~ the completed and signed form, the Commissioner shall furnish the
13 owner with one copy, shall retain one copy, and shall forward one copy to the
14 local assessing officials, one copy to the register of deeds of the municipality
15 in which the land is located, and one copy to the Secretary of Agriculture,
16 Food and Markets if the land is agricultural land and in all other cases to the
17 Commissioner of Forests, Parks and Recreation.

1 municipality, the Director shall not order commencement of the reappraisal
2 until the municipality has had one year to carry out that plan.

3 (c) If a municipality fails to submit an acceptable plan or fails to carry out
4 the plan, pursuant to subsection (b) of this section, the State shall withhold the
5 education, transportation, and other funds from the municipality until the
6 Director certifies that the town has carried out that plan.

7 (d) A sum not to exceed \$100,000.00 each year shall be paid from the
8 equalization and reappraisal account within the Education Fund to the Division
9 of Property Valuation and Review for the purpose of providing assessment
10 education for municipal assessing officials. The Director is authorized to
11 establish guidelines and requirements for education programs to be provided
12 using the funds described in this section. Education programs provided using
13 funds described in this section shall be provided at no cost or minimal cost to
14 the municipal assessing officials. In addition to providing the annual education
15 programs as described in this section, up to 20 percent of the amount available
16 for education programs may be reserved as a scholarship fund to permit
17 municipal assessing officials to attend national programs providing education
18 opportunities on advanced assessment topics. All applications for scholarships
19 shall be submitted to and approved by the Director.

20 ~~(d)~~(e) The Director shall adopt rules necessary for administration of this
21 section.

1 Sec. 7. 32 V.S.A. § 4465 is amended to read:

2 § 4465. APPOINTMENT OF PROPERTY ~~TAX~~ VALUATION HEARING

3 OFFICER; OATH; PAY

4 * * *

5 Sec. 8. 32 V.S.A. § 4467 is amended to read:

6 § 4467. DETERMINATION OF APPEAL

7 Upon appeal to the Director or the Court, the hearing officer or Court shall
8 proceed de novo and determine the correct valuation of the property as
9 promptly as practicable and to determine a homestead and a housesite value if
10 a homestead has been declared with respect to the property for the year in
11 which the appeal is taken. The hearing officer or Court shall take into account
12 the requirements of law as to valuation, and the provisions of Chapter I, Article
13 9 of the Constitution of Vermont and the 14th Amendment to the Constitution
14 of the United States. If the hearing officer or Court finds that the listed value
15 of the property subject to appeal does not correspond to the listed value of
16 comparable properties within the town, the hearing officer or Court shall set
17 said property in the list at a corresponding value. The findings and
18 determinations of the hearing officer shall be made in writing and shall be
19 available to the appellant. If the appeal is taken to the Director, the hearing
20 officer ~~shall~~ may inspect the property prior to making a determination.

21 * * * Income Tax * * *

1 Sec. 9. 32 V.S.A. § 5824 is amended to read:

2 § 5824. ADOPTION OF FEDERAL INCOME TAX LAWS

3 The statutes of the United States relating to the federal income tax, as in
4 effect for taxable year ~~2014~~ 2015, but without regard to federal income tax
5 rates under 26 U.S.C. § 1, are hereby adopted for the purpose of computing the
6 tax liability under this chapter.

7 Sec. 10. 32 V.S.A. § 5842 is amended to read:

8 § 5842. RETURN AND PAYMENT OF WITHHELD TAXES

9 (a) Every person required to deduct and withhold any amount under section
10 5841 of this title shall make return thereof and shall pay over that amount to
11 the Commissioner as follows:

12 (1) In quarterly payments to be made not later than ~~25 days following~~
13 ~~the last day of March, June, September, and December~~ the last day of the first
14 calendar month following the period for which it is made, if the person
15 reasonably estimates that the amount to be deducted and withheld during that
16 quarter will not exceed \$2,500.00; or

17 (2) In semiweekly payments, if the person is required to make
18 semiweekly payments of federal withholding pursuant to the Internal Revenue
19 Code. Semiweekly shall mean payment of tax withheld for pay dates on
20 Wednesday, Thursday, or Friday is due by the following Wednesday, and tax

1 withheld for pay dates on Saturday, Sunday, Monday, or Tuesday is due by the
2 following Friday.

3 (3) In monthly payments to be made not later than the ~~25th (23rd of~~
4 ~~February) day following the close of the calendar month during which the~~
5 ~~amount was withheld~~ 15th day of the first calendar month following the period
6 for which it is made, if subdivisions (1) and (2) of this subsection do not apply.

7 (b) The Commissioner shall prescribe the method of payment of tax and
8 may, without limitation, require electronic funds transfer or payment to a bank
9 depository. The Commissioner may, in writing, permit or require returns to be
10 made covering other periods and upon such dates as the Commissioner may
11 specify and require payments of tax liability at such intervals and based upon
12 such classifications as the Commissioner may designate:

13 (1) to conform to federal withholding law as the Commissioner deems
14 appropriate;

15 (2) in cases in which less frequent reporting is determined by the
16 Commissioner to be sufficient; and

17 (3) in cases in which the Commissioner determines that the taxpayer's
18 repeated failure to file or pay tax makes more frequent reporting necessary to
19 insure the prompt and orderly collection of the tax.

20 (c) In addition to the returns required to be filed and payments required to
21 be made under subsection (a) of this section, every person required to deduct

1 and withhold any tax under section 5841 of this title shall file an annual return
2 covering the aggregate amount deducted and withheld during the entire
3 preceding year, ~~not later than February 28~~ on or before January 31 of each
4 year. At the time of filing that return, the person shall pay over to the
5 Commissioner any amount deducted and withheld during the preceding
6 calendar year and not previously paid. The person shall, further, make such
7 annual report to payees and to the Commissioner of amounts paid and withheld
8 as the Commissioner by regulation shall prescribe.

9 (d) Notwithstanding section 5867 of this title, the Commissioner may, in
10 his or her discretion, prescribe that one or more or all of the returns required by
11 subsection (a) of this section are not required to be signed or verified by the
12 taxpayer. The Commissioner may require businesses and payroll service
13 providers to file information under this section by electronic means.

14 Sec. 11. 32 V.S.A. § 5864(b) is amended to read:

15 (b) Upon the failure of a taxpayer to file any return required under this
16 chapter within 15 days of the date of a notice to the taxpayer under section
17 5863 of this title, whether or not a petition has been or will be filed under
18 subsection (a) of this section, the Commissioner may compute the tax liability
19 of the taxpayer with respect to which the return was required to be filed,
20 according to the Commissioner's best information and belief. Upon that
21 computation, the Commissioner shall notify the taxpayer of his or her

1 deficiency with respect to the payment of that tax liability, and may assess any
2 penalty or interest with respect thereto, under ~~section 5881~~ sections 3202 and
3 3203 of this title.

4 Sec. 12. 32 V.S.A. § 5886 is amended to read:

5 § 5886. PAYMENT AND COLLECTION OF DEFICIENCIES AND
6 ASSESSMENTS; JEOPARDY NOTICES

7 (a) Upon notification to a taxpayer of any deficiency, and upon assessment
8 against the taxpayer of any penalty or interest, under ~~section 5881~~ sections
9 3202 and 3203 of this title, the amount of the assessment shall be payable
10 forthwith and the amount of the deficiency and assessment shall be collectible
11 by the Commissioner 60 days after the date of the notification or assessment.
12 The collection by the Commissioner of the deficiency, penalty, or interest shall
13 be stayed.

14 (1) If the taxpayer files a petition for determination by the
15 Commissioner in accordance with section 5883 of this title, collection shall
16 be stayed until 30 days after the notification of the taxpayer of the
17 determination; and

18 (2) If within 30 days of the notification of determination the taxpayer
19 files a notice of appeal, collection shall be stayed pending judgment of the
20 court upon the appeal; and

1 (3) Under such further circumstances and upon such terms as the
2 Commissioner prescribes.

3 (b) Notwithstanding subsection (a) of this section, the Commissioner, if he
4 or she believes the collection from a taxpayer of any deficiency, penalty or
5 interest to be in jeopardy, may demand, in writing, that the taxpayer pay the
6 deficiency, penalty or interest forthwith. The demand may be made
7 concurrently with, or after, the notice of deficiency or the assessment of
8 penalty or interest given to the taxpayer under ~~section 5884~~ sections 3202 and
9 3203 of this title. The amount of deficiency, penalty or interest shall be
10 collectible by the Commissioner on the date of the demand, unless the taxpayer
11 files with the Commissioner a bond in an amount equal to the deficiency,
12 penalty or interest sought to be collected as security for such amount as finally
13 may be determined. In the event that it is finally determined that the taxpayer
14 was not liable for the amount of the deficiency, penalty, or interest referred to
15 in any demand under this subsection, the Commissioner shall reimburse the
16 taxpayer, promptly upon such determination, for the reasonable cost to the
17 taxpayer of any bond obtained by him or her for the purposes of this
18 subsection.

19 Sec. 13. 32 V.S.A. § 5887 is amended to read:

20 § 5887. REMEDY EXCLUSIVE; DETERMINATION FINAL

1 (a) The exclusive remedy of a taxpayer with respect to the refund of monies
2 paid in connection with a return filed under this chapter shall be the petition for
3 refund provided under section 5884 of this title, and the appeal from an
4 adverse determination of the petition for refund provided under section 5885 of
5 this title. The exclusive remedy of a taxpayer with respect to a notification of
6 deficiency or assessment of penalty or interest under ~~section 5884~~ sections
7 3202 and 3203 of this title shall be the petition for determination of the
8 deficiency or assessment provided under section 5883 of this title, and the
9 appeal from an adverse determination of deficiency or assessment provided
10 under section 5885 of this title.

11 (b) Upon the failure of a taxpayer to petition in accordance with section
12 5883 of this title from a notice of deficiency or assessment under ~~section 5884~~
13 sections 3202 and 3203 of this title, or to appeal in accordance with section
14 5885 of this title from a determination of a deficiency or assessment of tax
15 liability under section 5883 of this title, the taxpayer shall be bound by the
16 terms of the notification, assessment, or determination, as the case may be.
17 The taxpayer shall not thereafter contest, either directly or indirectly, the tax
18 liability as therein set forth, in any proceeding including, without limitation, a
19 proceeding upon a claim of refund of all or any part of any payment made with
20 respect to the tax liability, or a proceeding for the enforcement or collection of
21 all or any part of the tax liability.

1 (c) Notwithstanding subsections (a) and (b) of this section, the
2 Commissioner may compromise a tax liability arising under this title upon the
3 grounds of doubt as to liability or doubt as to collectibility, or both. Upon
4 acceptance by the Commissioner of an offer in compromise, the liability of the
5 taxpayer in question is conclusively settled, and neither the taxpayer nor the
6 Commissioner may reopen the case except by reason of falsification or
7 concealment of assets by the taxpayer or mutual mistake of a material fact or
8 if, in the opinion of the Commissioner, justice requires it. The decision of the
9 Commissioner to reject an offer in compromise is not subject to review. The
10 Commissioner may adopt rules regarding the procedures to be followed for the
11 submission and consideration of offers in compromise.

12 Sec. 14. 32 V.S.A. § 5895 is amended to read:

13 § 5895. TAX LIABILITY AS PROPERTY LIEN

14 (a) If any corporation, partnership, individual, trust, or estate required to
15 pay or remit any tax liability under this chapter neglects or refuses to pay it in
16 accordance with this chapter after notification or assessment thereof under
17 ~~section 5881~~ sections 3202 and 3203 of this title, the aggregate amount of the
18 tax liability then due and owing, together with any costs that may accrue in
19 addition thereto, shall be a lien in favor of this State upon all property and
20 rights to property, whether real or personal, belonging to the corporation,
21 partnership, individual, trust, or estate. The lien shall arise at the time the

1 notification or assessment is made by the Commissioner and shall continue
2 until the aggregate tax liability with costs is satisfied in full or becomes
3 unenforceable by reason of lapse of time. The lien shall be valid as against any
4 subsequent mortgagee, pledgee, purchaser, or judgment creditor when notice
5 of the lien and the sum due has been filed by the Commissioner with the clerk
6 of the town or city in which the property subject to lien is situated, or, in the
7 case of an unorganized town, gore, or grant, in the office of the clerk of the
8 county wherein the property is situated. In the case of a motor vehicle, the lien
9 shall also be valid when a notation of the lien is made on the certificate of title
10 and shall only be valid as against any subsequent mortgagee, pledgee, bona
11 fide purchaser, or judgment creditor when such notation is made. In the case
12 of any prior mortgage on any real or personal property so written as to secure a
13 present debt and also future advances by the mortgagee to the mortgagor, the
14 lien herein provided, when notice thereof has been filed in the proper clerk's
15 office, shall be subject to the prior mortgage unless the Commissioner also
16 notifies the mortgagee of the recording of the lien in writing, in which case any
17 indebtedness thereafter created from the mortgagor to the mortgagee shall be
18 junior to the lien herein provided for.

19 (b) The Commissioner shall issue to the taxpayer a certificate of release of
20 the lien if:

1 (1) The Commissioner finds that the liability for the amount demanded,
2 together with costs, has been satisfied or has become unenforceable by reason
3 of lapse of time; or

4 (2) There is furnished to the Commissioner a bond with surety approved
5 by the Commissioner in a sum sufficient to equal the amount demanded,
6 together with costs, the bond to be conditioned upon the payment of any
7 judgment rendered in proceedings regularly instituted by the Commissioner to
8 enforce collection thereof at law or of any amount agreed upon in writing by
9 the Commissioner to constitute the full amount of the liability; or

10 (3) The Commissioner determines at any time that the interest of this
11 State in the property has no value.

12 (c) The lien provided for by this section may be foreclosed at any time after
13 the tax liability with respect to which the lien arose becomes collectible under
14 section 5886 of this title. In the case of real property, the lien may be
15 foreclosed in the manner prescribed in 12 V.S.A. §§ 4523 through 4530 and in
16 such rules as the Supreme Court may promulgate for the foreclosure of
17 mortgages on real estate. In the case of personal property, the lien may be
18 satisfied in the manner prescribed in 9A V.S.A. Article 9 for the disposition of
19 collateral under a security interest, or in the manner provided by law for the
20 foreclosure of other security interests in personal property.

21 Sec. 15. REPEAL

1 (a) By January 31 of each year, the owner of land rented as a portion of a
2 homestead in the prior calendar year shall furnish a certificate of rent to the
3 Department of Taxes and to each claimant who owned a portion of the
4 homestead and rented that land as a portion of a homestead in the prior
5 calendar year. The certificate shall indicate the proportion of total property tax
6 on that parcel which was assessed for municipal property tax, for local share
7 property tax, and for statewide property tax.

8 (b) The owner of each rental property consisting of more than one rented
9 homestead shall, not later than January 31 of each year, furnish a certificate of
10 rent to the Department of Taxes and to each person who rented a homestead
11 from the owner at any time during the preceding calendar year. All other
12 owners of rented homestead units shall furnish such certificate upon request of
13 the renter. If a renter moves prior to December 31, the owner may either
14 provide the certificate to the renter at the time of moving or mail the certificate
15 to the forwarding address if one has been provided by the renter or in the
16 absence of a forwarding address, to the last known address.

17 (c) A certificate under this section shall be in a form prescribed by the
18 Commissioner and shall include the name of the renter, the address and any
19 property tax parcel identification number of the homestead, notice of the
20 requirements for eligibility for the property tax adjustment provided by this

1 chapter, and any additional information which the Commissioner determines is
2 appropriate.

3 (d)(1) An owner who knowingly fails to furnish a certificate to the
4 Department or a renter as required by this section shall be liable to the
5 Commissioner for a penalty of \$200.00 for each failure to act. An owner shall
6 be liable to the Commissioner for a penalty equal to the greater of \$200.00 or
7 the excess amount reported who:

8 (A) willfully furnishes a certificate that reports total allocable rent in
9 excess of the actual amount paid; or

10 (B) reports a total amount of allocable rent that exceeds by 10 percent
11 or more the actual amount paid.

12 (2) Penalties under this subsection shall be assessed and collected in the
13 manner provided in chapter 151 for the assessment and collection of the
14 income tax.

15 (e) Failure to receive a rent certificate shall not disqualify a renter from the
16 benefits provided by this chapter.

* * * Estate Tax * * *

1
2 Sec. 20. 32 V.S.A. § 7475 is amended to read:

3 § 7475. ADOPTION OF FEDERAL ESTATE AND GIFT TAX LAWS

4 The laws of the United States relating to federal estate and gift taxes as in
5 effect on December 31, ~~2013~~ 2015, are hereby adopted for the purpose of
6 computing the tax liability under this chapter, except:

7 (1) the credit for State death taxes shall remain as provided for under
8 26 U.S.C. §§ 2011 and 2604 as in effect on January 1, 2001;

9 (2) the applicable credit amount shall under 26 U.S.C. § 2010 shall not
10 apply; and the tax imposed under section 7442a of this chapter shall be
11 calculated as if the applicable exclusion amount under 26 U.S.C. § 2010 were
12 \$2,750,000.00; and

13 (3) the deduction for State death taxes under 26 U.S.C. § 2058 shall not
14 apply.

15 Sec. 21. 32 V.S.A. § 7402(13) is amended to read:

16 (13) “Vermont gross estate” means for any decedent the value of the
17 federal gross estate under the laws of the United States; in excess of
18 \$2,450,000.00 without adjustment for any amount under 26 U.S.C.
19 § 2010(c)(4), but after adding back federal adjusted taxable gifts made by the
20 decedent within one year of death and excluding the value of real or tangible
21 personal property which has an actual situs outside Vermont at the time of

1 death of the decedent, ~~and also excluding in.~~ In the case of a nonresident of
2 Vermont, the value of intangible personal property owned by the decedent
3 shall also be excluded.

4 Sec. 22. 32 V.S.A. § 7442a is amended to read:

5 § 7442a. IMPOSITION OF A VERMONT ESTATE TAX AND RATE OF
6 TAX

7 (a) A 16 percent tax is hereby imposed on the transfer of the Vermont
8 taxable estate of every decedent ~~dying on or after January 1, 2002, who, at the~~
9 ~~time of death, was a resident of this State. The base amount of this tax shall be~~
10 ~~a sum equal to the amount of the credit for State death taxes allowable to a~~
11 ~~decedent's estate under 26 U.S.C. § 2011 as in effect on January 1, 2001. This~~
12 ~~base amount shall be reduced by the lesser of the following:~~

13 (1) ~~The total amount of all constitutionally valid State death taxes~~
14 ~~actually paid to other states; or~~

15 (2) ~~A sum equal to the proportion of the credit which the value of the~~
16 ~~property taxed by other states bears to the value of the decedent's total gross~~
17 ~~estate for federal estate tax purposes.~~

18 (b) ~~A tax is hereby imposed on the transfer of the Vermont estate of every~~
19 ~~decedent dying on or after January 1, 2002, who, at the time of death, was not~~
20 ~~a resident of this State. The amount of this tax shall be a sum equal to the~~
21 ~~proportion of the base amount of tax under subsection (a) of this section which~~

1 ~~the value of Vermont real and tangible personal property taxed in this State~~
2 ~~bears to the value of the decedent's total gross estate for federal estate tax~~
3 ~~purposes.~~

4 ~~(e) The Vermont estate tax shall not exceed the amount of the tax imposed~~
5 ~~by 26 U.S.C. § 2001 calculated as if the applicable exclusion amount under~~
6 ~~26 U.S.C. § 2010 were \$2,750,000.00, and with no deduction under 26 U.S.C.~~
7 ~~§ 2058.~~

8 ~~(d)(b)~~ All values shall be as finally determined for federal estate tax
9 purposes.

10 Sec. 23. 32 V.S.A. § 7475 is amended to read:

11 § 7475. ADOPTION OF FEDERAL ESTATE AND GIFT TAX LAWS

12 The laws of the United States relating to federal estate and gift taxes as in
13 effect on December 31, 2015, are hereby adopted for the purpose of computing
14 the tax liability under this chapter, except:

15 ~~(1) the credit for State death taxes shall remain as provided for under~~
16 ~~26 U.S.C. §§ 2011 and 2604 as in effect on January 1, 2001;~~

17 ~~(2) the applicable credit amount shall under 26 U.S.C. § 2010 shall not~~
18 ~~apply; and the tax imposed under section 7442a of this chapter shall be~~
19 ~~calculated as if the applicable exclusion amount under 26 U.S.C. § 2010 were~~
20 ~~\$2,750,000.00; and~~

1 ~~(3) the deduction for State death taxes under 26 U.S.C. § 2058 shall not~~
2 ~~apply to the extent such laws conflict with any provision of this chapter.~~

3 Sec. 24. 32 V.S.A. § 7402(13) is amended to read:

4 (13) “Vermont gross estate” means for any decedent the value of the
5 federal gross estate under the laws of the United States, in excess of
6 ~~\$2,450,000.00~~ \$3,900,000.00 without adjustment for any amount under
7 26 U.S.C. § 2010(c)(4), but after adding back federal adjusted taxable gifts
8 made by the decedent within ~~one year~~ two years of death and excluding the
9 value of real or tangible personal property which has an actual situs outside
10 Vermont at the time of death of the decedent, and also excluding in. In the
11 case of a nonresident of Vermont, the value of intangible personal property
12 owned by the decedent shall also be excluded.

13 Sec. 25. 32 V.S.A. § 7402(13) is amended to read:

14 (13) “Vermont gross estate” means for any decedent the value of the
15 federal gross estate under the laws of the United States, in excess of
16 ~~\$3,900,000.00~~ the basic exclusion amount under 26 U.S.C. § 2010(c)(3)
17 without adjustment for any amount under 26 U.S.C. § 2010(c)(4), but after
18 adding back federal adjusted taxable gifts made by the decedent within ~~two~~
19 three years of death and excluding the value of real or tangible personal
20 property which has an actual situs outside Vermont at the time of death of the
21 decedent, and also excluding in. In the case of a nonresident of Vermont the

1 value of intangible personal property owned by the decedent shall also be
2 excluded.

3 * * * Corporation Taxes * * *

4 Sec. 26. 32 V.S.A. § 8146 is amended to read:

5 § 8146. ADDITIONAL TAX; REFUNDS

6 When the Commissioner finds that owing to the incorrectness of a return or
7 any other cause, a tax paid pursuant to this chapter is too small, he or she shall
8 assess an additional tax sufficient to cover the deficit and shall forthwith notify
9 the parties so assessed. The administrative provisions of chapters 103 and 151
10 of this title shall apply to assessments and refund claims under this chapter.

11 Including those provisions governing interest and penalty in section 3202 of
12 chapter 103, appeals, and collection of assessments.

13 * * * Meals and Rooms Tax * * *

14 Sec. 27. 32 V.S.A. § 9202(15) is amended to read:

15 (15) “Restaurant” means:

16 (A) An establishment from which food or beverage of the type for
17 immediate consumption is sold or for which a charge is made, including a cafe,
18 cafeteria, dining room, diner, lunch counter, snack bar, private or social club,
19 bar, tavern, street vendor, or person engaged in the business of catering.

20 (B) An establishment 80 percent or more of whose total sales of food
21 and beverage in the previous taxable year were, or in the first taxable year are

1 reasonably projected to be, of alcoholic beverages, food, and beverage that are
2 taxable under subdivision (10)(C) of this section, and food and beverage that
3 are taxable under subdivision (10)(B) and are not exempt under subdivision
4 (10)(D) of this section.

5 (C) “Restaurant” shall not include a snack bar on the premises of a
6 retail grocery or “convenience” store.

7 ~~(D) A vending machine is not a restaurant, but food or beverage that~~
8 ~~is sold from a vending machine shall be deemed to be sold by a “restaurant” if~~
9 ~~the vending machine is located on the premises of a restaurant.~~

10 * * * Sales and Use Tax * * *

11 Sec. 28. 32 V.S.A. § 9701 is amended to read:

12 § 9701. DEFINITIONS

13 * * *

14 (5) "Retail sale" or "sold at retail" means any sale, lease, or rental for any
15 purpose other than for resale, sublease, or subrent, including sales to
16 contractors, subcontractors, or repair persons of materials and supplies for use
17 by them in erecting structures or otherwise improving, altering, or repairing
18 real property. A manufacturer or retailer shall be treated as a contractor when
19 purchasing material and supplies for use by them in erecting structures or
20 otherwise improving, altering, or repairing real property unless an election is
21 made under 32 V.S.A. § 9711.

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* * *

Sec. 29. 32 V.S.A. § 9711 is added to read:

§ 9711. ELECTION BY MANUFACTURER OR RETAILER

(a) For the purposes of this section:

(1) "Manufacturer" is any person that is primarily engaged in the business of manufacturing tangible personal property for sale.

(2) "Retailer" is any person that is primarily engaged in the business of making retail sales of tangible personal property.

(b) A manufacturer or retailer that purchases material and supplies for use by them in erecting structures or otherwise improving, altering, or repairing real property shall be permitted to make an election that it will be treated as a retailer on the purchase of those materials and supplies and such purchase will not be considered a retail sale under 32 V.S.A. § 9701(5).

(c) A manufacturer or retailer making an election under subsection (b) above shall charge sales tax to its customer on its materials and supplies or, in the case of a manufacturer, the finished manufactured products, when it uses those materials, supplies, or finished manufactured products in erecting structures or otherwise improving, altering, or repairing real property. The sales price for the purposes of calculating sales tax on materials, supplies, or finished manufactured products shall not be less than the manufacturer's or retailer's

1 best customer price. The tax charged shall be separately stated on any invoice
2 or receipt.

3 (d) An election made under subsection (b) shall be binding on a
4 manufacturer or retailer for a minimum of five years and shall remain in effect
5 until the manufacturer or retailer files a withdrawal of election. No
6 manufacturer or retailer shall be entitled to a refund on the basis of a
7 withdrawal of an election.

8 (e) The provisions of this section shall not excuse any person from the
9 obligation to collect tax on retail sales of tangible personal property not used in
10 erecting structures or otherwise improving, altering, or repairing real property
11 or from the obligation to pay sales tax or remit the use tax on tools, services,
12 and other materials that are not used in erecting structures or otherwise
13 improving, altering, or repairing real property.

14 (f) An election made under subsection (b) shall be made on a form
15 prescribed by the Commissioner and filed with the Department of Taxes at
16 least 30 days prior to such election taking effect.

17 Sec. 29a. 32 V.S.A. § 9771 is amended to read:

18 § 9771. IMPOSITION OF SALES TAX

19 Except as otherwise provided in this chapter, there is imposed a tax on retail
20 sales in this State. The tax shall be paid at the rate of six percent of the sales

1 price charged for but in no case shall any one transaction be taxed under more
2 than one of the following:

3 (1) tangible personal property, ~~including property used to improve, alter, or~~
4 ~~repair the real property of others by a manufacturer or any person who is~~
5 ~~primarily engaged in the business of making retail sales of tangible personal~~
6 ~~property;~~

7 * * * Independent Physicians and Dentists Provider Tax * * *

8 Sec. 30. 33 V.S.A. § 1951 is amended to read:

9 § 1951. DEFINITIONS

10 As used in this subchapter:

11 * * *

12 (5) “Health care provider” means any hospital, nursing home,
13 intermediate care facility for people with intellectual disabilities, home health
14 agency, ~~or~~ retail pharmacy, independent physician, or practicing dentist.

15 * * *

16 (15) “Independent physician” means an entity of one or more practicing
17 providers licensed under 26 V.S.A. chapters 23, 33, and 81 not employed by a
18 hospital; a hospital’s subsidiary, parent, or holding company; nursing home;
19 intermediate care facility for people with intellectual disabilities; home health
20 agency; ambulatory surgical center as defined in 18 V.S.A. § 9432; or
21 free-standing laboratory or free-standing x-ray facility.

1 (16) “Practicing dentist” means an entity of one or more providers
2 licensed under 26 V.S.A. chapter 12 practicing dentistry.

3 Sec. 31. 33 V.S.A. § 1955a is amended to read:

4 § 1955a. HOME HEALTH AGENCY ASSESSMENT

5 (a) Beginning October 1, 2011, each home health agency’s assessment
6 shall be 19.30 percent of its net operating revenues from core home health care
7 services, excluding revenues for services provided under Title XVIII of the
8 federal Social Security Act; provided, however, that each home health
9 agency’s annual assessment shall be limited to no more than six percent of its
10 annual net patient revenue. The amount of the tax shall be determined by the
11 Commissioner based on ~~the home health agency’s most recent audited~~
12 ~~financial statements at the time of submission, a copy of which shall be~~
13 ~~provided on or before May 1 of each year to the Department. For providers~~
14 ~~who begin operations as a home health agency after January 1, 2005, the tax~~
15 ~~shall be assessed as follows:~~

16 ~~(1) Until such time as the home health agency submits audited financial~~
17 ~~statements for its first full year of operation as a home health agency, the~~
18 ~~Commissioner, in consultation with the home health agency, shall annually~~
19 ~~estimate the amount of tax payable and shall prescribe a schedule for interim~~
20 ~~payments.~~

1 ~~(2)~~ At such time as the full year audited financial statement is filed, the
2 final assessment shall be determined, and the home health agency shall pay any
3 underpayment or the Department shall refund any overpayment. The
4 assessment for the State fiscal year in which a provider commences operations
5 as a home health agency shall be prorated for the proportion of the State fiscal
6 year in which the new home health agency was in operation. a uniform
7 reporting form developed by the Department of Vermont Health Access. The
8 form shall be provided online and shall be submitted by providers on or before
9 April 1 of each year and shall capture net operating revenues. For newly
10 contracted providers who begin operations after May 1, 2016, the Department
11 may estimate the revenue of the provider, tax the provider based on the
12 estimate, and, after one full year of operations, the Department will settle the
13 tax obligation based on this subsection.

14 (b) For all current contractors, the uniform reporting shall be made at the
15 end of the home health provider's most current fiscal year.

16 ~~(b)~~(c) Each home health agency shall be notified in writing by the
17 Department of the assessment made pursuant to this section. If no home health
18 agency submits a request for reconsideration under section 1958 of this title,
19 the assessment shall be considered final.

20 ~~(e)~~(d) Each home health agency shall submit its assessment to the
21 Department according to a payment schedule adopted by the Commissioner.

1 Variations in payment schedules shall be permitted as deemed necessary by the
2 Commissioner.

3 ~~(d)~~(e) Any home health agency that fails to make a payment to the
4 Department on or before the specified schedule, or under any schedule for
5 delayed payments established by the Commissioner, shall be assessed not more
6 than \$1,000.00. The Commissioner may waive the late-payment assessment
7 provided for in this subsection for good cause shown by the home health
8 agency.

9 Sec. 32. 33 V.S.A. § 1955c is added to read:

10 § 1955c. INDEPENDENT PHYSICIAN ASSESSMENT

11 (a) Beginning on January 1, 2016, there is imposed on every independent
12 physician a 2.35 percent annual assessment of the independent physician's net
13 operating revenues during the calendar year. The annual assessment shall be
14 paid to the Commissioner in one installment due by April 15.

15 (b) Each independent physician shall submit its assessment to the
16 Department according to a form and payment schedule adopted by the
17 Commissioner. Variations in payment schedules shall be permitted as deemed
18 necessary by the Commissioner.

19 (c) Any independent physician that fails to make a payment to the
20 Department on or before the specified schedule, or under any schedule for
21 delayed payments established by the Commissioner, shall be assessed not more

1 than \$1,000.00 in penalties. The Commissioner may waive this late payment
2 assessment provided for in this subsection for good cause shown.

3 (d) Pursuant to 42 U.S.C. § 1396b(w), no independent physician shall be
4 guaranteed, expressly or otherwise, that any additional costs reimbursed to the
5 provider will equal or exceed the amount of the tax paid by the independent
6 physician.

7 Sec. 33. 33 V.S.A. § 1955d is added to read:

8 § 1955d. PRACTICING DENTIST ASSESSMENT

9 (a) Beginning on January 1, 2016, there is imposed on every practicing
10 dentist a 2.35 percent annual assessment of the practicing dentist's net
11 operating revenues during the calendar year. The annual assessment shall be
12 paid to the Commissioner in one installment due by April 15th.

13 (b) Each practicing dentist shall submit its assessment to the Department
14 according to a form and payment schedule adopted by the Commissioner.
15 Variations in payment schedules shall be permitted as deemed necessary by the
16 Commissioner.

17 (c) Any practicing dentist that fails to make a payment to the Department
18 on or before the specified schedule, or under any schedule for delayed
19 payments established by the Commissioner, shall be assessed not more than
20 \$1,000.00 in penalties. The Commissioner may waive this late payment
21 assessment provided for in this subsection for good cause shown.

1 **Sec. 34a. OFFICE OF THE HEALTH CARE ADVOCATE**

2 Financial support for the Office of the Health Care Advocate established
3 pursuant to 18 V.S.A. chapter 229 for services related to the Green Mountain
4 Care Board’s regulatory and supervisory duties shall be considered expenses
5 incurred by the Board under 18 V.S.A. § 9374(h) and shall be an acceptable
6 use of funds realized pursuant to that section.

7 * * * Home Weatherization Assistance Program * * *

8 Sec. 35. 33 V.S.A. § 2503 is amended to read:

9 § 2503. FUEL GROSS RECEIPTS TAX

10 * * *

11 ~~(d) Fuel sellers, which are regulated “companies” as defined in subsection~~
12 ~~30 V.S.A. § 201(a), which provide conservation programs that meet the goals~~
13 ~~of the Weatherization Program in a manner approved by the Public Service~~
14 ~~Board, and which enhance the Weatherization Program’s capacity to serve~~
15 ~~low-income households may be eligible for rebates from the fuel gross receipts~~
16 ~~tax imposed under this section. To establish rebate eligibility, a company shall~~
17 ~~file with the Public Service Board, on or before August 15 of each year, a~~
18 ~~request for approval of rebates based on the company’s activities during the~~
19 ~~prior fiscal year. The Public Service Board shall make a determination of the~~
20 ~~amount of rebate for each applicant on or before January 15 of each year, and~~
21 ~~such amount shall be rebated by the State Office of Economic Opportunity~~

1 under the provisions of subsection (f) of this section. The Public Service
2 Board shall authorize rebates equal to the expenditures undertaken by the
3 regulated utilities provided that such expenditures were prudently incurred and
4 cost effective, that they provided weatherization services following a
5 comprehensive energy audit and work plan, except in cases where the fuel
6 seller and weatherization staff jointly conclude that the need for weatherization
7 services can be determined without a comprehensive energy audit, and that
8 they were targeted to households that meet the eligibility criteria for low-
9 income weatherization services as determined by the Office of Economic
10 Opportunity.

11 (e) Unregulated fuel sellers providing conservation programs that meet the
12 goals of the Weatherization Program in a manner approved by the State Office
13 of Economic Opportunity and that enhance the weatherization program's
14 capacity to serve low-income households may be eligible for rebates from the
15 fuel gross receipts tax imposed under this section. To establish rebate
16 eligibility, a company shall file with the State Office of Economic Opportunity,
17 on or before August 15 of each year, a request for approval of rebates based on
18 the company's activities during the prior fiscal year. The State Office of
19 Economic Opportunity shall make a determination of the amount of rebate for
20 each applicant on or before January 15 of each year, and that amount shall be
21 rebated by the State Office of Economic Opportunity under the provisions of

1 ~~this subsection. The State Office of Economic Opportunity shall authorize~~
2 ~~rebates equal to the expenditures undertaken by the unregulated fuel sellers~~
3 ~~provided that the expenditures were prudently incurred and cost effective, that~~
4 ~~they provided weatherization services following a comprehensive energy audit~~
5 ~~and work plan, except in cases where the fuel seller and weatherization staff~~
6 ~~jointly conclude that the need for weatherization services can be determined~~
7 ~~without a comprehensive energy audit, and that they were targeted to~~
8 ~~households at or below 150 percent of the federally established poverty~~
9 ~~guidelines.~~

10 ~~(f) On or before August 7 of each year, the Director of the State Office of~~
11 ~~Economic Opportunity shall set aside a sum of money equaling two and~~
12 ~~one-half percent of the tax receipts of the fuel gross receipts tax for the~~
13 ~~preceding fiscal year in an escrow account. The monies in the escrow account~~
14 ~~are to be used for rebate, as approved under subsections (d) and (e) of this~~
15 ~~section, of the gross receipts tax established in subsection (a) of this section.~~
16 ~~Upon approval of rebates, the Director shall pay the approved rebates out of~~
17 ~~the escrow account. In the event that the approved rebates exceed the amount~~
18 ~~of money set aside in the escrow account, the Director shall prorate each~~
19 ~~rebate. Any balance of rebate awards remaining unpaid as a result of proration~~
20 ~~may be carried forward for payment in a succeeding year. If monies set aside~~
21 ~~exceed approved rebates, then the balance shall be returned to the Fund. The~~

1 ~~Director of the State Office of Economic Opportunity shall use the remainder~~
2 ~~of the tax receipts of the fuel gross receipts tax for the preceding fiscal year to~~
3 ~~assure the provision of weatherization services as described in subsections~~
4 ~~2502(a), (b), and (c) of this title.~~

5 ~~(g) No tax under this section shall be imposed for any quarter ending after~~
6 ~~June 30, 2016. Monies from the escrow account shall be issued for rebates~~
7 ~~pursuant to subsection (f) of this section until March 1, 2017 2021.~~

8 * * * Effective Dates * * *

9 Sec. 36. EFFECTIVE DATES

10 (a) Notwithstanding 1 V.S.A. § 214, this section shall take effect
11 retroactively on January 1, 2015, Sec. 9 (annual update of income tax link to
12 the IRC) shall take effect retroactively on January 1, 2015 and apply to taxable
13 years beginning on and after January 1, 2015, and Sec. 20 (annual update of
14 estate tax link to the IRC) shall take effect retroactively on January 1, 2015 and
15 apply to decedents dying on or after January 1, 2015.

16 (b) Notwithstanding 1 V.S.A. § 214, Secs. 30 (provider definitions),
17 32 (assessment on independent physicians), and 33 (assessment on practicing
18 dentists) shall take effect retroactively on January 1, 2016 and shall apply to
19 taxable years beginning on and after January 1, 2016.

20 (c) Secs. 1–4, 6–8, 11–16, 18–19, 26–27, 31, 34, and 35 shall take effect on
21 passage.

1 (d) Notwithstanding 1 V.S.A. § 214, Secs. 5, 10, 17, and 28–29a shall take
2 effect retroactively on July 1, 2015.

3 (e) Secs. 21–23 (estate tax) shall take effect on January 1, 2016 and apply
4 to decedents dying after December 31, 2016.

5 (f) Sec. 24 (exclusion amount of \$3,900.00.00) shall take effect on
6 January 1, 2018, and apply to decedents dying after December 31, 2017.

7 (g) Sec. 25 (federal exclusion amount) shall take effect on January 1, 2020,
8 and apply to decedents dying after December 31, 2019.