

No. 51. An act relating to miscellaneous tax provisions.

(H.514)

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

* * * Miscellaneous Tax Proposals * * *

* * * Confidentiality of Tax Information; Tobacco Settlement Agreement * * *

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

(d) The Commissioner shall disclose a return or return information:

* * *

(8) to the Attorney General, the Data Clearinghouse established in the October 2017 Non-Participating Manufacturer Adjustment Settlement Agreement, which the State of Vermont joined in 2018, the National Association of Attorneys General, and counsel for the parties to the Agreement as required by the Agreement and to the extent necessary to comply with the Agreement and only as long as the State is a party thereto.

* * * Annual Calculation; Interest Rates * * *

Sec. 2. 32 V.S.A. § 3108(a) is amended to read:

(a) Not later than December 15 of each year, the Commissioner shall establish ~~a~~ an annual rate of interest applicable to tax overpayments ~~which that~~ shall be equal to the average prime rate charged by banks during the immediately preceding 12 months commencing on October 1 of the prior year, rounded upwards to the nearest quarter percent. ~~An annual rate thus established shall be converted to a monthly rate which shall be rounded upwards to the~~

~~nearest 10th of a percent.~~ Not later than December 15 of each year, the Commissioner shall establish an annual and monthly rates rate of interest applicable to unpaid tax liabilities, which in each instance shall be equal to the annual ~~and monthly rates~~ rate established for tax overpayments plus 200 basis points. The rates established hereunder shall be effective on January 1 of the immediately following year. As used in this section, the term “prime rate charged by banks” shall mean the average predominate prime rate quoted by commercial banks to large businesses as determined by the Board of Governors of the Federal Reserve Board.

* * * Fee Waiver for Property Tax Appeals * * *

Sec. 3. 32 V.S.A. § 4461(a) is amended to read:

(a) A taxpayer or the ~~Selectboard~~ selectboard members of a town aggrieved by a decision of the board of civil authority under subchapter 1 of this chapter may appeal the decision of the board to either the Director or the Superior Court of the county in which the property is located. The appeal to the Superior Court shall be heard without a jury. The appeal to either the Director or the Superior Court shall be commenced by filing a notice of appeal pursuant to Rule 74 of the Vermont Rules of Civil Procedure, within 30 days ~~of~~ after entry of the decision of the board of civil authority. The date of mailing of notice of the board’s decision by the town clerk to the taxpayer shall be deemed the date of entry of the board’s decision. The town clerk shall transmit a copy of the notice to the Director or to the Superior Court as indicated in the

notice and shall record or attach a copy of the notice in the grand list book.

The entry fee for an appeal to the Director is \$70.00; provided, however, that the Director may waive, reduce, or refund the entry fee in cases of hardship or to join appeals regarding the same parcel.

* * * Solar Energy Investment Income Tax Credit * * *

Sec. 4. 32 V.S.A. § 5822 is amended to read:

§ 5822. TAX ON INCOME OF INDIVIDUALS, ESTATES, AND TRUSTS

* * *

(c) The amount of tax determined under subsection (a) of this section shall be:

(1) increased by 24 percent of the taxpayer's federal tax liability for the taxable year for the following:

(A) additional taxes on qualified retirement plans, including individual retirement accounts and medical savings accounts and other tax-favored accounts;

(B) recapture of the federal investment tax credit ~~and increased by 76 percent of the Vermont property portion of the business solar energy investment tax credit component of the federal investment tax credit recapture for the taxable year~~ attributable to the Vermont portion of the investment;

(C) tax on qualified lump-sum distributions of pension income not included in federal taxable income; and

(2) decreased by 24 percent of the reduction in the taxpayer's federal tax liability due to farm income averaging.

(d)(1) A taxpayer shall be entitled to a credit against the tax imposed under this section of 24 percent of each of the credits allowed against the taxpayer's federal income tax for the taxable year as follows: credit for people who are elderly or permanently totally disabled, investment tax credit attributable to the Vermont-property portion of the investment, and child care and dependent care credits.

(2) Any unused ~~business~~ solar energy investment tax credit under this section may be carried forward for ~~no~~ not more than five years following the first year in which the credit is claimed.

* * *

* * * Annual Link to Federal Statutes * * *

Sec. 5. 32 V.S.A. § 5824 is amended to read:

§ 5824. ADOPTION OF FEDERAL INCOME TAX LAWS

The statutes of the United States relating to the federal income tax, as in effect on December 31, ~~2017~~ 2018, but without regard to federal income tax rates under 26 U.S.C. § 1, are hereby adopted for the purpose of computing the tax liability under this chapter.

Sec. 6. 32 V.S.A. § 7402(8) is amended to read:

(8) "Laws of the United States" means the U.S. Internal Revenue Code of 1986, as amended through December 31, ~~2015~~ 2018. As used in this

chapter, “Internal Revenue Code” ~~shall have~~ has the same meaning as “laws of the United States” as defined in this subdivision.

* * * Corporate Tax; Minimum Corporate Tax * * *

Sec. 7. 32 V.S.A. § 5832 is amended to read:

§ 5832. TAX ON INCOME OF CORPORATIONS

A tax is imposed for each calendar year, or fiscal year ending during that calendar year, upon the income earned or received in that taxable year by every taxable corporation, reduced by any Vermont net operating loss allowed under section 5888 of this title, such tax being the greater of:

* * *

(2)(A) \$75.00 for small farm corporations. “Small farm corporation” means any corporation organized for the purpose of farming, which during the taxable year is owned solely by active participants in that farm business and receives less than \$100,000.00 Vermont gross receipts from that farm operation, exclusive of any income from forest crops; or

(B) An amount determined in accordance with section 5832a of this title for a corporation ~~which~~ that qualifies as and has elected to be taxed as a digital business entity for the taxable year; or

(C) For C corporations with Vermont gross receipts from \$0–\$2,000,000.00, the greater of the amount determined under subdivision (1) of this section or \$300.00; or

(D) For C corporations with Vermont gross receipts from \$2,000,001.00–\$5,000,000.00, the greater of the amount determined under subdivision (1) of this section or \$500.00; or

(E) For C corporations with Vermont gross receipts greater than \$5,000,000.00, the greater of the amount determined under subdivision (1) of this section or \$750.00.

* * * Corporate Tax; Apportionment * * *

Sec. 8. 32 V.S.A. § 5833 is amended to read:

§ 5833. ALLOCATION AND APPORTIONMENT OF INCOME

(a) If the income of a taxable corporation is derived from any trade, business, or activity conducted entirely within this State, the Vermont net income of the corporation shall be allocated to this State in full. If the income of a taxable corporation is derived from any trade, business, or activity conducted both within and outside this State, the amount of the corporation's Vermont net income ~~which~~ that shall be apportioned to this State, so as to allocate to this State a fair and equitable portion of that income, shall be determined by multiplying that Vermont net income by the arithmetic average of the following factors, with the sales factor described in subdivision (3) of this subsection double-weighted:

(1) The average of the value of all the real and tangible property within this State (A) at the beginning of the taxable year and (B) at the end of the taxable year (but the Commissioner may require the use of the average of such

value on the 15th or other day of each month, in cases where he or she determines that such computation is necessary to more accurately reflect the average value of property within Vermont during the taxable year), expressed as a percentage of all such property both within and outside this State;

(2) The total wages, salaries, and other personal service compensation paid during the taxable year to employees within this State, expressed as a percentage of all such compensation paid whether within or outside this State;

(3) The gross sales, or charges for services performed, within this State, expressed as a percentage of such sales or charges whether within or outside this State.

(A) Sales of tangible personal property are made in this State if:

(i) the property is delivered or shipped to a purchaser, other than the ~~United States~~ U.S. government, who takes possession within this State, regardless of f.o.b. point or other conditions of sale; or

(ii) the property is shipped from an office, store, warehouse, factory, or other place of storage in this State; and

~~(A)(I)~~ the purchaser is the ~~United States~~ U.S. government; or

~~(B)(II)~~ the corporation is not taxable in the State in which the purchaser takes possession. ~~Sales other than sales of tangible personal property are in this State if the income producing activity is performed in this State or the income producing activity is performed both in and outside this State and a~~

~~greater proportion of the income producing activity is performed in this State than in any other state, based on costs of performance.~~

(B) Sales, other than the sale of tangible personal property, are in this State if the taxpayer's market for the sales is in this State. The taxpayer's market for sales is in this State:

(i) in the case of sale, rental, lease, or license of real property, if and to the extent the property is located in this State;

(ii) in the case of rental, lease, or license of tangible personal property, if and to the extent the property is located in this State;

(iii) in the case of sale of a service, if and to the extent the service is delivered to a location in this State; and

(iv) in the case of intangible property:

(I) that is rented, leased, or licensed, if and to the extent the property is used in this State, provided that intangible property utilized in marketing a good or service to a consumer is "used in this State" if that good or service is purchased by a consumer who is in this State; and

(II) that is sold, if and to the extent the property is used in this State, provided that:

(aa) a contract right, government license, or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area is "used in this State" if the geographic area includes all or part of this State;

(bb) receipts from intangible property sales that are contingent on the productivity, use, or disposition of the intangible property shall be treated as receipts from the rental, lease, or licensing of such intangible property under subdivision (iv)(I) of this subdivision (B); and

(cc) all other receipts from a sale of intangible property shall be excluded from the numerator and denominator of the receipts factor.

(C) If the state or states of assignment under subdivision (B) of this subsection cannot be determined, the state or states of assignment shall be reasonably approximated.

(D) If the taxpayer is not taxable in a state to which a receipt is assigned under subdivision (B) or (C) of this subsection, or if the state of assignment cannot be determined under subdivision (B) of this subsection or reasonably approximated under subdivision (C) of this subsection, such receipt shall be excluded from the denominator of the receipts factor.

(E) The Commissioner of Taxes shall adopt regulations as necessary to carry out the purposes of this section.

(b) If the application of the provisions of this section does not fairly represent the extent of the business activities of a corporation within this State, the corporation may petition for, or the Commissioner may require, with respect to all or any part of the corporation's business activity, if reasonable:

- (1) ~~Separate~~ separate accounting;
- (2) ~~The~~ the exclusion or modification of any or all of the factors;

(3) ~~The~~ the inclusion of one or more additional factors ~~which~~ that will fairly represent the corporation's business activity in this State; or

(4) the employment of any other method to effectuate an equitable allocation and apportionment of the corporation's income.

* * * Corporate Tax; Report * * *

Sec. 9. REPORT

As part of the General Assembly's continuing effort to modernize Vermont's corporate income tax code and to foster economic development in the State, the Department of Taxes, with the assistance of the Joint Fiscal Office and the Office of Legislative Council, shall provide the General Assembly with a report, not later than December 15, 2019, analyzing the following issues related to Vermont's corporate income tax. The report shall:

(1) identify and analyze any fiscal, legal, distributional, and administrative issues related to moving Vermont from its current apportionment formula under 32 V.S.A. § 5833 to a single sales factor;

(2) evaluate the impact of the current exclusion of overseas business organizations from an affiliated group, and identify and analyze any fiscal, legal, distributional, and administrative issues related to eliminating that exclusion;

(3) in consultation with the Vermont Banker's Association, compare the impact of the current bank franchise tax to the impact of a taxing regime where there is no bank franchise tax, and financial institutions pay the Vermont

corporate tax based on Vermont's current apportionment factors with the market-based sourcing changes made in this act; and

(4) examine alternatives to Vermont's corporate income tax which could more accurately capture corporate economic activity within Vermont, focusing particularly on corporations who conduct business in the State, but who have little or no taxable income.

* * * Publicly Traded Partnerships * * *

Sec. 10. 32 V.S.A. § 5920(h) is amended to read:

(h)(1) Notwithstanding any provisions in this section, a publicly traded partnership as defined in 26 U.S.C. § 7704(b); that is treated as a partnership for the purposes of the Internal Revenue Code, is exempt from any income tax liability and any compliance and payment obligations under ~~subsection subsections (b) and (c)~~ of this section, if information required by the Commissioner under subdivision (2) of this subsection is provided by the due date of the partnership's return. ~~This information includes the name, address, taxpayer identification number, and annual Vermont source of income greater than \$500.00 for each partner who had an interest in the partnership during the tax year. This information shall be provided to the Commissioner in an electronic format, according to rules or procedures adopted by the Commissioner.~~

(2) Publicly traded partnerships shall provide to the Commissioner in an electronic format, according to rules or procedures adopted by the

Commissioner, an annual return that includes the name, address, taxpayer identification number, and other information requested by the Commissioner for each partner with Vermont source income in excess of \$500.00.

(3) A lower-tier pass-through entity of a publicly traded partnership may request from the Commissioner an exemption from the compliance and payment obligations specified in subsections (b) and (c) of this section. The request for the exemption must be in writing and contain:

(A) the name, the address, and the account number or federal identification number of each of the lower-tier pass-through entity's partners, shareholders, members, or other owners; and

(B) information that establishes the ownership structure of the lower-tier pass-through entity and the amount of Vermont source income.

(4) The Commissioner may request additional documentation before granting an exemption to a lower-tier pass-through entity. As used in this subsection, a "lower-tier pass-through entity" means a pass-through entity for purposes of the Internal Revenue Code, which can include a partnership, S corporation, disregarded entity, or limited liability company and which allocates income, directly or indirectly, to a publicly traded partnership. The exemption under subdivision (3) of this subsection shall only apply to income allocated, directly or indirectly, to a publicly traded partnership.

(5) If granted, the exemption for the lower-tier pass-through entity shall be effective for three years following the date the exemption is granted. At the

end of the three-year period, the lower-tier pass-through entity of a publicly traded partnership shall submit a new exemption request to continue the exemption. The Commissioner may revoke the exemption for the lower-tier pass-through entity if the Commissioner determines that the lower-tier pass-through entity is not satisfying its tax payment and reporting obligations to the State with respect to income allocated, directly or indirectly, to nonresident partners or members that are not publicly traded partnerships.

Sec. 11. 32 V.S.A. § 3102(e)(20) is added to read:

(20) To a publicly traded partnership as defined in subdivision 5920(h)(1) of this title and to lower-tier pass-through entities of a publicly traded partnership as defined in subdivision 5920(h)(4) of this title for the purpose of reviewing, granting, or denying exemption requests from the requirements of section 5920 of this title.

* * * Meals and Rooms; Resale * * *

Sec. 12. 32 V.S.A. § 9202(10)(D)(iii) is added to read:

(iii) Food or beverage purchased for resale, provided that at the time of sale the purchaser provides the seller an exemption certificate in a form approved by the Commissioner. However, when the food or beverage purchased for resale is subsequently resold, the subsequent purchase does not come within this exemption unless the subsequent purchase is also for resale and an exemption certificate is provided.

* * * Appeal to Superior Court; Security * * *

Sec. 13. 32 V.S.A. § 9275 is amended to read:

§ 9275. APPEALS

Any person aggrieved by the decision of the Commissioner upon petition provided for in section 9274 of this title may, within 30 days after notice thereof from the Commissioner, appeal ~~therefrom~~ to the Superior Court of any county in which ~~such~~ the person has a place of business subject to this chapter. ~~The appellant shall give security, approved by the Commissioner, conditioned to pay the tax levied, if it remains unpaid, with interest and costs. Such appeals shall be preferred cases for hearing on the docket of such Court. Such Court~~ The court may grant such relief as may be equitable and may order the State Treasurer to pay to the aggrieved taxpayer the amount of such relief with interest at the rate established pursuant to ~~32 V.S.A. §~~ section 3108 of this title. Upon all such appeals ~~which may be~~ that are denied, costs may be taxed against the appellant at the discretion of the ~~Court~~ court but no costs shall be taxed against the State.

Sec. 14. 32 V.S.A. § 9817 is amended to read:

§ 9817. REVIEW OF COMMISSIONER'S DECISION

(a) Any aggrieved taxpayer may, within 30 days after any decision, order, finding, assessment or action of the Commissioner made under this chapter, appeal to the Washington Superior Court or the Superior Court of the county in which the taxpayer resides or has a place of business. ~~The appellant shall give~~

~~security, approved by the Commissioner, conditioned to pay the tax levied, if it remains unpaid, with interest and costs, as set forth in subsection (c) of this section.~~

* * *

(c) ~~Irrespective of any restrictions on the assessment and collection of deficiencies, the Commissioner may assess a deficiency after the expiration of the period specified in subsection (a) of this section, notwithstanding that a notice of appeal regarding the deficiency has been filed by the taxpayer, unless the taxpayer, prior to the time the notice of appeal is filed, has paid the deficiency, has deposited with the Commissioner the amount of the deficiency, or has filed with the Commissioner a bond (which may be a jeopardy bond) in the amount of the portion of the deficiency (including interest and other amounts) in respect of which review is sought and all costs and charges which may accrue against the taxpayer in the prosecution of the proceeding, including costs of all appeals, and with surety approved by the Superior Court, conditioned upon the payment of the deficiency (including interest and other amounts) as finally determined and all costs and charges. If as a result of a waiver of the restrictions on the assessment and collection of a deficiency any part of the amount determined by the Commissioner is paid after the filing of the appeal bond, the bond shall, at the request of the taxpayer, be proportionately reduced. [Repealed.]~~

* * * Report * * *

Sec. 15. TAX DATA ANALYSIS

(a) The Department of Taxes, with the cooperation of other executive agencies, shall analyze how existing federal and State tax data could be used to identify opportunities for State executive agencies to maximize the eligibility of Vermonters for federal and State programs. For each opportunity, the Department shall identify:

(1) how existing tax data could be used to streamline eligibility criteria and application processes;

(2) any current restrictions on the use of federal and State tax data in the context of the opportunity; and

(3) any changes to current law or to current data practices that would be required to maximize the benefit to the Vermont beneficiary while ensuring taxpayer confidentiality.

(b) The Department of Taxes shall submit its analysis in the form of a report to the Senate Committee on Finance and the House Committee on Ways and Means no later than December 1, 2019.

* * * 529 Plans * * *

Sec. 16. 16 V.S.A. § 2876 is amended to read:

§ 2876. DEFINITIONS

As used in this subchapter, except where the context clearly requires another interpretation:

* * *

(5) “Postsecondary education costs” means the qualified costs of tuition and fees and other expenses for attendance at an ~~institution of postsecondary education, as defined in the Internal Revenue Code~~ approved postsecondary education institution.

(6) ~~“Institution of postsecondary education”~~ “Approved postsecondary education institution” means ~~an institution as defined in the Internal Revenue Code~~ a postsecondary education institution as defined in section 2822 of this title.

* * *

Sec. 17. 16 V.S.A. § 2879a(a) is amended to read:

(a) Any participant may cancel a participation agreement at will, and any return of funds from the participant’s account shall be subject to terms and conditions established by the Corporation, provided that any penalties levied as a result comply with the ~~Internal Revenue Code’s~~ provisions of the Internal Revenue Code or Title 32 relating to Investment Plans.

Sec. 18. 16 V.S.A. § 2879e is amended to read:

§ 2879e. CONSTRUCTION AND APPLICATION

This subchapter shall be construed liberally in order to effectuate its legislative intent. The purposes of this subchapter and all provisions of this subchapter with respect to powers granted shall be broadly interpreted to effectuate such intent and purposes and not as to any limitation of powers.

This subchapter shall be interpreted and enforced in a manner that shall achieve this public purpose in compliance with the applicable provisions of the Internal Revenue Code, except to the extent the Code is inconsistent with the provisions of 32 V.S.A. § 5825a.

Sec. 19. 32 V.S.A. § 5825a(b) is amended to read:

(b) A taxpayer who has received a credit under subsection (a) of this section shall repay to the Commissioner 10 percent of any distribution from a higher education investment plan account, which distribution is not ~~excluded from gross income in the taxable year under 26 U.S.C. § 529, as amended,~~ used exclusively for costs of attendance at an approved postsecondary education institution as defined in 16 V.S.A. § 2822(6), up to a maximum of the total credits received by the taxpayer under subsection (a) of this section minus any amount of repayment of such credits in prior tax years. Repayments under this subsection shall be subject to assessment, notice, penalty and interest, collection, and other administration in the same manner as an income tax under this chapter.

Sec. 20. REPORT ON NONPOSTSECONDARY USE OF HIGHER
EDUCATION INVESTMENT PLAN FUNDS

As far as practicable, the Vermont Student Assistance Corporation shall report the amount of assets withdrawn by participants from the Vermont Higher Education Investment Plan in the preceding calendar year for education costs other than postsecondary education costs, as well as the total amount of

assets withdrawn by participants in the preceding calendar year, to the House
Committee on Ways and Means and the Senate Committee on Finance
annually on or before January 15.

Sec. 21. REPEAL

Sec. 20 (report) of this act shall be repealed on July 1, 2022.

* * * Education Property Tax * * *

* * * Definitions; Homestead; Nonhomestead * * *

Sec. 22. 32 V.S.A. § 5401 is amended to read:

§ 5401. DEFINITIONS

As used in this chapter:

* * *

(7) “Homestead”:

(A) “Homestead” means the principal dwelling and parcel of land surrounding the dwelling, owned and occupied by a resident individual as the individual’s domicile or owned and fully leased on April 1, provided the property is not leased for more than 182 days out of the calendar year, or for purposes of the renter property tax adjustment under subsection 6066(b) of this title, is rented and occupied by a resident individual as the individual’s domicile.

* * *

(E)(i) A homestead also includes a dwelling on the homestead parcel owned by a farmer as defined under section 3752 of this title, and occupied as

the permanent residence by a parent, sibling, child, grandchild of the farmer, or by a shareholder, partner, or member of the farmer-owner, provided that the shareholder, partner, or member owns more than 50 percent of the farmer-owner, including attribution of stock ownership of a parent, sibling, child, or grandchild.

(ii) A homestead further includes the principal dwelling of a widow or widower, provided the dwelling is owned by the estate of the deceased spouse and it is reasonably likely that the dwelling will pass to the widow or widower by law or valid will when the estate is settled.

* * *

* * * Definitions; Household Income * * *

Sec. 23. 32 V.S.A. § 6061 is amended to read:

§ 6061. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context requires otherwise:

* * *

(4)(A) “Household income” means modified adjusted gross income, but not less than zero, received in a calendar year by:

~~(A)~~(i) all persons of a household while members of that household;

and

~~(B)~~(ii) the spouse of the claimant who is not a member of that household and who is not legally separated from the claimant in the taxable

year as defined in subdivision (9) of this section, unless the spouse is at least 62 years of age and has moved to a nursing home or other care facility with no reasonable prospect of returning to the homestead.

(B) “Household income” does not mean:

(i) the modified adjusted gross income of the spouse or former spouse of the claimant, for any period that the spouse or former spouse is not a member of the household, if the claimant is legally separated or divorced from the spouse in the taxable year as defined in subdivision (9) of this section;

(ii) the modified adjusted gross income of the spouse of the claimant, if the spouse is subject to a protection order as defined in 15 V.S.A. § 1101(5) that is in effect at the time the claimant reports household income to the Department of Taxes.

(5) “Modified adjusted gross income” means “federal adjusted gross income”:

* * *

(C) Without the inclusion of: any gifts from nongovernmental sources other than those described in subdivision (B) of this subdivision (5); surplus food or other relief in kind supplied by a governmental agency; or the first \$6,500.00 of income earned by a full-time student who qualifies as a dependent of the claimant under the federal Internal Revenue Code; the first \$6,500.00 of income received by a person who qualifies as a dependent of the claimant under the Internal Revenue Code and who is the claimant’s parent or

adult child with a disability; any income attributable to cancellation of debt; or payments made by the State pursuant to 33 V.S.A. chapters 49 and 55 for foster care, or payments made by the State or an agency designated in 18 V.S.A. § 8907 for adult foster care or to a family for the support of a person who is eligible and who has a developmental disability. If the Commissioner determines, upon application by the claimant, that a person resides with a claimant who has a disability or was at least 62 years of age as of the end of the year preceding the claim, for the primary purpose of providing attendant care services (as defined in 33 V.S.A. § 6321) or homemaker or companionship services, with or without compensation, which allow the claimant to remain in his or her home or avoid institutionalization, the Commissioner shall exclude that person's modified adjusted gross income from the claimant's household income. The Commissioner may require that a certificate in a form satisfactory to him or her be submitted which supports the claim.

* * *

* * * Reappraisals * * *

Sec. 24. 32 V.S.A. § 4041a(b) is amended to read:

(b) If the Director of Property Valuation and Review determines that a municipality's education grand list is at a common level of appraisal below ~~80~~ 85 percent or above 115 percent, or has a coefficient of dispersion greater than 20, the municipality shall reappraise its education grand list properties. If

the Director orders a reappraisal, the Director shall send the municipality written notice of the decision. The municipality shall be given 30 days to contest the finding under procedural rules adopted by the Director, to develop a compliance plan, or both. If the Director accepts a proposed compliance plan submitted by the municipality, the Director shall not order commencement of the reappraisal until the municipality has had one year to carry out that plan.

* * * Common Level of Appraisal Districts * * *

Sec. 25. 32 V.S.A. § 5402 is amended to read:

§ 5402. EDUCATION PROPERTY TAX LIABILITY

* * *

(b) The statewide education tax shall be calculated as follows:

(1) The Commissioner of Taxes shall determine for each municipality the education tax rates under subsection (a) of this section, divided by the municipality's most recent common level of appraisal. The legislative body in each municipality shall then bill each property taxpayer at the homestead or nonresidential rate determined by the Commissioner under this subdivision, multiplied by the education property tax grand list value of the property, properly classified as homestead or nonresidential property and without regard to any other tax classification of the property. ~~Tax~~ Statewide education property tax bills shall show the tax due and the calculation of the rate determined under subsection (a) of this section, divided by the municipality's most recent common level of appraisal, multiplied by the current grand list

value of the property to be taxed. Statewide education property tax bills shall also include language provided by the Commissioner pursuant to subsection 5405(g) of this title.

* * *

Sec. 26. 32 V.S.A. § 5403 is added to read:

§ 5403. ASSESSMENT DISTRICTS

(a) A municipality may vote at any regular or special meeting to merge with one or more other municipalities in the same unified union school district to create or join an assessment district for the purpose of standardized property valuation.

(b) All municipalities merged into an assessment district shall agree to implement standardized assessment procedures approved by the Commissioner. The Commissioner shall provide written guidance to municipalities relating to how they may receive approval under this subsection.

(c) A vote to merge with an assessment district shall be binding on a municipality for five years. After five years, a municipality may vote at any regular or special meeting to leave the assessment district, unless the assessment district has consolidated all administrative functions.

(d) All municipalities within an assessment district shall be treated as a single municipality for purposes of the equalization process established by section 5405 of this chapter.

(e) Municipalities within an assessment district shall maintain independent grand lists for municipal taxation, as well as independent processes for grievances, property valuation appeals, abatements, grand list filing, use value appraisal parcel management, reappraisal, and financial interaction with the Agency of Education, unless the Commissioner, in writing, authorizes the municipalities of an assessment district to consolidate all property valuation administrative functions.

Sec. 27. 32 V.S.A. § 5405 is amended to read:

§ 5405. DETERMINATION OF EQUALIZED EDUCATION PROPERTY
TAX GRAND LIST AND COEFFICIENT OF DISPERSION

* * *

(g) The Commissioner shall provide to municipalities for the front of property tax bills the district homestead property tax rate before equalization, the nonresidential tax rate before equalization, and the calculation process that creates the equalized homestead and nonresidential tax rates. The Commissioner shall further provide to municipalities for the back of property tax bills an explanation of the common level of appraisal, including its origin and purpose.

* * * Technical Correction * * *

Sec. 27a. 32 V.S.A. § 6066 is amended to read:

§ 6066. COMPUTATION OF ADJUSTMENT

(a) An eligible claimant who owned the homestead on April 1 of the year in which the claim is filed shall be entitled to an adjustment amount determined as follows:

* * *

(5) In no event shall the credit provided for in subdivision (3) or (4) of this subsection exceed the amount of the reduced property tax. The adjustments under ~~subdivisions (3) and~~ subdivision (4) of this subsection shall be calculated considering only the tax due on the first \$400,000.00 in equalized housesite value.

* * *

* * * Distribution of Property Tax Adjustments * * *

Sec. 28. 32 V.S.A. § 6066a is amended to read:

§ 6066a. DETERMINATION OF PROPERTY TAX ADJUSTMENTS

(a) Annually, the Commissioner shall determine the property tax adjustment amount under section 6066 of this title, related to a homestead owned by the claimant. The Commissioner shall notify the municipality in which the housesite is located of the amount of the property tax adjustment for the claimant for homestead property tax liabilities, ~~on July 1 for timely filed claims and on November 1 for late claims filed by October 15~~ on a monthly basis. The tax adjustment of a claimant who was assessed property tax by a

town ~~which~~ that revised the dates of its fiscal year, however, is the excess of the property tax ~~which~~ that was assessed in the last 12 months of the revised fiscal year, over the adjusted property tax of the claimant for the revised fiscal year as determined under section 6066 of this title, related to a homestead owned by the claimant.

* * *

(f) Property tax bills.

(1) For taxpayers and amounts stated in the notice to towns on or before July 1, municipalities shall create and send to taxpayers a homestead property tax bill, instead of the bill required under subdivision 5402(b)(1) of this title, providing the total amount allocated to payment of homestead education property tax liabilities and notice of the balance due. Municipalities shall apply the amount allocated under this chapter to current-year property taxes in equal amounts to each of the taxpayers' property tax installments that include education taxes. Notwithstanding section 4772 of this title, if a town issues a corrected bill as a result of the ~~November 1~~ notice sent by the Commissioner under subsection (a) of this section, issuance of ~~such~~ the corrected new bill does not extend the time for payment of the original bill, nor relieve the taxpayer of any interest or penalties associated with the original bill. If the corrected bill is less than the original bill, and there are also no unpaid ~~current~~ year current-year taxes, interest, or penalties and no ~~past-year~~ past-year

delinquent taxes or penalties and interest charges, any overpayment shall be reflected on the corrected tax bill and refunded to the taxpayer.

* * *

(g) ~~Annually, on August 1 and on November 1, the~~ The Commissioner of Taxes shall pay monthly to each municipality the amount of property tax adjustment of which the municipality was last notified ~~on July 1 for the August 1 transfer, or November 1 for the November 1 transfer,~~ related to municipal property tax on homesteads within that municipality, as determined by the Commissioner of Taxes.

* * * Income Sensitivity * * *

Sec. 29. 32 V.S.A. chapter 154 is redesignated to read:

CHAPTER 154. HOMESTEAD PROPERTY TAX ~~INCOME~~

~~SENSITIVITY ADJUSTMENT CREDIT~~

Sec. 30. 32 V.S.A. § 6061(1) is amended to read:

(1) "~~Adjustment Property tax credit~~" means ~~an adjustment a credit of the~~ prior tax year's statewide or local share property tax liability or a homestead owner or renter credit, as authorized under section 6066 of this title, as the context requires.

Sec. 31. 32 V.S.A. § 6066 is amended to read:

§ 6066. COMPUTATION OF ~~ADJUSTMENT~~ PROPERTY TAX CREDIT

(a) An eligible claimant who owned the homestead on April 1 of the year in which the claim is filed shall be entitled to an ~~adjustment~~ a credit for the prior year's homestead property tax liability amount determined as follows:

* * *

Sec. 32. 32 V.S.A. § 6066a is amended to read:

§ 6066a. DETERMINATION OF PROPERTY TAX ~~ADJUSTMENTS~~
CREDITS

(a) Annually, the Commissioner shall determine the property tax ~~adjustment~~ credit amount under section 6066 of this title, related to a homestead owned by the claimant, based on the prior taxable year's income and crediting property taxes paid in the prior year. The Commissioner shall notify the municipality in which the housesite is located of the amount of the property tax ~~adjustment~~ credit for the claimant for homestead property tax liabilities, on July 1 for timely filed claims and on November 1 for late claims filed by October 15. The tax ~~adjustment~~ credit of a claimant who was assessed property tax by a town which revised the dates of its fiscal year, however, is the excess of the property tax which was assessed in the last 12 months of the revised fiscal year, over the adjusted property tax of the claimant for the revised fiscal year as determined under section 6066 of this title, related to a homestead owned by the claimant.

* * *

Sec. 33. CONFORMING REVISIONS

When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Council shall make the following revisions throughout the statutes as needed for consistency with Secs. 29–32 of this act, as long as the revisions have no other effect on the meaning of the affected statutes:

(1) replace “property tax adjustment” with “property tax credit”;

(2) replace “adjustment” with “credit”; and

(3) revisions that are substantially similar to those described in subdivisions (1) and (2) of this section.

* * * Use Value Appraisals * * *

* * * Definitions * * *

Sec. 34. 32 V.S.A. § 3752 is amended to read:

§ 3752. DEFINITIONS

As used in this subchapter:

* * *

(5) “Development” means, for the purposes of determining whether a land use change tax is to be assessed under section 3757 of this chapter, the construction of any building, road, or other structure, or any mining, excavation, or landfill activity. “Development” also means the subdivision of a parcel of land into two or more parcels, regardless of whether a change in use actually occurs, where one or more of the resulting parcels contains less than

25 acres each; but if subdivision is solely the result of a transfer to one or more of a spouse, ex-spouse in a divorce settlement, parent, grandparent, child, grandchild, niece, nephew, or sibling of the transferor, or to the surviving spouse of any of the foregoing, then “development” shall not apply to any portion of the newly created parcel or parcels ~~which qualifies~~ that qualify for enrollment and for which, within 30 days following the transfer, each transferee or transferor applies for reenrollment in the use value appraisal program. “Development” also means the cutting of timber on property appraised under this chapter at use value in a manner contrary to a forest or conservation management plan as provided for in subsection 3755(b) of this title during the remaining term of the plan, or contrary to the minimum acceptable standards for forest management if the plan has expired; or a change in the parcel or use of the parcel in violation of the conservation management standards established by the Commissioner of Forests, Parks and Recreation. “Development” also means notification of the Director by the Secretary of Agriculture, Food and Markets under section 3756 of this title that the owner or operator of agricultural land or a farm building is violating the water quality requirements of 6 V.S.A. chapter 215 or is failing to comply with the terms of an order issued under 6 V.S.A. chapter 215, subchapter 10. The term “development” shall not include the construction, reconstruction, structural alteration, relocation, or enlargement of any building, road, or other structure for farming, logging, forestry, or conservation purposes, but shall

include the subsequent commencement of a use of that building, road, or structure for other than farming, logging, or forestry purposes.

* * *

(10) "Owner" means the person who is the owner of record of any land or the lessee under a perpetual lease as defined in subsection 3610(a) of this title provided the term of the lease ~~exceeds~~ is for a minimum of 999 years exclusive of renewals. When enrolled land is mortgaged, the mortgagor shall be deemed the owner of the land for the purposes of this subchapter, until the mortgagee takes possession, either by voluntary act of the mortgagor or foreclosure, after which the mortgagee shall be deemed the owner.

* * *

* * * Insurance Taxes * * *

Sec. 35. 32 V.S.A. § 8557 is amended to read:

§ 8557. VERMONT FIRE SERVICE TRAINING COUNCIL

(a)(1) Sums for the expenses of the operation of training facilities and curriculum of the Vermont Fire Service Training Council not to exceed \$1,200,000.00 per year shall be paid to the Fire Safety Special Fund created by 20 V.S.A. § 3157 by insurance companies, ~~including surplus lines companies,~~ writing fire, homeowners multiple peril, allied lines, farm owners multiple peril, commercial multiple peril (fire and allied lines), private passenger and commercial auto, and inland marine policies on property and persons situated within the State of Vermont within 30 days after notice from the

Commissioner of Financial Regulation of such estimated expenses. Captive companies shall be excluded from the effect of this section.

(2) The Commissioner shall annually, on or before July 1, apportion such charges among all such companies and shall assess them for the ~~same~~ charges on a fair and reasonable basis as a percentage of their gross direct written premiums on such insurance written during the second prior calendar year on property situated in the State. The Department of Taxes shall collect all assessments under this section.

(3) An amount not less than \$100,000.00 shall be specifically allocated to the provision of what are now or formerly referred to as Level I, units I, II, and III (basic) courses for ~~entry-level~~ entry-level firefighters.

(4) An amount not less than \$150,000.00 shall be specifically allocated to the Emergency Medical Services Special Fund established under 18 V.S.A. § 908 for the provision of training programs for emergency medical technicians, advanced emergency medical technicians, and paramedics.

(5) The Department of Health shall present a plan to the Joint Fiscal Committee ~~which~~ that shall review the plan prior to the release of any funds.

(b) All administrative provisions of chapter 151 of this title, including those relating to the collection and enforcement of the income tax by the Commissioner, shall apply to this section.

Sec. 36. 8 V.S.A. § 5034 is amended to read:

§ 5034. QUARTERLY REPORTS; SUMMARY OF EXPORTED
BUSINESS

On or before the end of each month next following each calendar quarter, each surplus lines broker shall file with the Commissioner of Taxes, on forms prescribed by him or her, a verified report of all surplus lines insurance transacted during the preceding calendar quarter.

Sec. 37. 8 V.S.A. § 5035 is amended to read:

§ 5035. SURPLUS LINES TAX

* * *

(b) At the time of filing his or her quarterly report with the Commissioner of Taxes, each surplus lines broker shall ~~file a duplicate report and~~ remit the premium tax due thereon to the Commissioner of Taxes.

(c) ~~If the tax collectible by a surplus lines broker under this section is not paid within the time prescribed, it shall be recoverable in a suit brought by the Commissioner against the surplus lines broker and the surety on the bond filed under section 4800 of this title~~ The Commissioner of Taxes shall collect the tax imposed by this section. All administrative provisions of 32 V.S.A. chapter 151, including those relating to the collection and enforcement of the income tax by the Commissioner of Taxes, shall apply to this section.

Sec. 38. 8 V.S.A. § 5036 is amended to read:

§ 5036. DIRECT PLACEMENT OF INSURANCE

(a) Every insured and every self-insurer in this State for whom this is their home state who procures or causes to be procured or continues or renews insurance from any non-admitted insurer, covering a subject located or to be performed within this State, other than insurance procured through a surplus lines broker pursuant to this chapter, shall, before March 1 of the year after the year in which the insurance was procured, continued or renewed, file a written report with the Commissioner of Taxes on forms prescribed and furnished by the Commissioner of Taxes. The report shall show:

- (1) the name and address of the insured or insureds;
- (2) the name and address of the insurer or insurers;
- (3) the subject of the insurance;
- (4) a general description of the coverage;
- (5) the amount of premium currently charged for it; and
- (6) such additional pertinent information as may be reasonably

requested by the Commissioner of Taxes.

* * *

(d) A tax at the rate of three percent of the gross amount of premium, less any return premium, in respect of risks located in this State, shall be levied upon an insured who procures insurance subject to subsection (a) of this section. Before March 1 of the year after the year in which the insurance was

procured, continued, or renewed, the insured shall remit to the Commissioner of Taxes the amount of the tax. ~~The Commissioner before June 1 of each year shall certify and transmit to the Commissioner of Taxes the sums so collected.~~

(e) ~~The tax shall be collectible from the insured by civil action brought by the Commissioner.~~ All administrative provisions of 32 V.S.A. chapter 151, including those relating to the collection and enforcement of the income tax by the Commissioner of Taxes, shall apply to this section.

* * * Sales and Use Tax; Automotive Parts * * *

Sec. 39. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

* * *

(12) Motor vehicle purchases and use taxed under chapter 219 of this title and the transactions exempted therefrom which are listed in section 8911 of this title. Provided, however, that notwithstanding subdivision 8911(5), construction, earthmoving, logging, and motorized equipment ~~which~~ that has not been registered as a motor vehicle is subject to tax under this chapter; and further provided that power take off and other auxiliary equipment on motor vehicles, whether attached prior to or subsequent to registration, is not exempt under this section. Motor vehicle parts purchased by a dealer registered under

the provisions of 23 V.S.A. §§ 451–468 shall be exempt from the tax under this chapter when used to recondition a used motor vehicle owned by the dealer in its inventory for resale.

* * *

* * * Repeals * * *

Sec. 40. REPEALS

The following sections in Title 32 are repealed:

- (1) Section 5930z (business solar energy tax credit).
- (2) Section 8661 (taxation of electric generating plants).

* * * Effective Dates * * *

Sec. 41. EFFECTIVE DATES

This act shall take effect on passage, except:

(1) Notwithstanding 1 V.S.A. § 214, Secs. 4 (solar energy investment tax credit), 7 (minimum corporate income tax), 16–20 (Vermont higher education investment plan credit), and 41(1) (repeal of business solar energy tax credit) shall take effect retroactively on January 1, 2019 and apply to taxable years beginning on January 1, 2019 and thereafter.

(2) Notwithstanding 1 V.S.A. § 214, Secs. 5–6 (annual link-up to federal statutes) shall take effect retroactively on January 1, 2019 and apply to taxable years beginning on January 1, 2018 and thereafter.

(3) Sec. 8 (market-based sourcing) shall take effect on January 1, 2020, and apply to tax years starting after that date.

(4) Secs. 12 (taxable meal resale) and 39 (automotive parts) shall take effect on July 1, 2019.

(5) Secs. 22–33 (property tax sections) shall take effect on July 1, 2019 and apply to grand lists lodged after that date.

(6) Sec. 27a (technical correction) shall take effect July 2, 2019.

Date Governor signed bill: June 10, 2019