

No. 175. An act relating to miscellaneous tax provisions.

(H.954)

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

* * * Education Property Tax * * *

Sec. 1. 32 V.S.A. § 4261 is amended to read:

§ 4261. CORRECTING OMISSION FROM GRAND LIST

When real or personal estate is omitted from the grand list by mistake; or an obvious error is found, the listers, with the approval of the ~~Selectboard~~ selectboard, on or before December 31, may supply such omissions or correct such errors and make a certificate thereon of the fact; provided, however, the listers may make a correction resulting from the filing or rescission of a homestead declaration without approval of the ~~Selectboard~~ selectboard.

Sec. 2. 32 V.S.A. § 4342 is amended to read:

§ 4342. EXTENSIONS BY THE DIRECTOR

On written application therefor made by the listers or assessors of any town, with the approval of the ~~Selectboard~~ selectboard of the town or mayor of the city, the several dates fixed by law and extended by the preceding section or the charter of any municipal corporation, on or before which certain acts must be done relating to duties of listers and assessors, may be further extended by the Director and such extensions shall be in writing ~~and shall be recorded in the office of the town clerk.~~

Sec. 3. 32 V.S.A. § 5405(f) is amended to read:

(f) Within the limits of the resources available for that purpose, the Commissioner may employ such individuals, whether on a permanent, temporary, or contractual basis, as shall be necessary, in the judgment of the Commissioner, to aid in the performance of duties under this section. The Commissioner shall pay each municipality the sum of \$1.00 per grand list parcel in the municipality; for services provided to the Commissioner in connection with ~~his or her~~ the performance of duties under this section. ~~Such payment shall be made from the equalization and reappraisal account within the Education Fund.~~ Each municipality shall deposit payments received under this subsection into a special fund that shall be used to support the preparation of the education property tax grand list.

Sec. 4. BILLING AND COLLECTION OF EDUCATION PROPERTY TAX;
DEPARTMENT OF TAXES; REPORT

On or before February 1, 2021, the Department of Taxes, in consultation with the Vermont League of Cities and Towns, the Vermont Municipal Clerks' and Treasurers' Association, the Vermont Bankers Association, and the Association of Vermont Credit Unions, shall submit to the House Committees on Ways and Means and on Government Operations and the Senate Committees on Finance and on Government Operations a report studying potential approaches to transitioning the responsibility for billing and collecting the statewide education property tax from municipalities to the

Department. The report shall include recommended legislation and estimates of the fiscal impact of the transition.

* * * Current Use * * *

Sec. 5. 32 V.S.A. § 3752(10) is amended to read:

(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 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.

* * * Property Tax Hearing Officer Per Diem * * *

Sec. 6. 32 V.S.A. § 4465 is amended to read:

§ 4465. APPOINTMENT OF PROPERTY VALUATION HEARING
OFFICER; OATH; PAY

When an appeal to the Director is not withdrawn, the Director shall refer the appeal in writing to a person not employed by the Director, appointed by the Director as hearing officer. The Director shall have the right to remove a hearing officer for inefficiency, malfeasance in office, or other cause. In like manner, the Director shall appoint a hearing officer to fill any vacancy created by resignation, removal, or other cause. Before entering into their duties, persons appointed as hearing officers shall take and subscribe the oath of the

office prescribed in the Constitution, which oath shall be filed with the Director. The Director shall pay each hearing officer a sum not to exceed ~~\$120.00~~ \$150.00 per diem for each day wherein hearings are held, together with reasonable expenses as the Director may determine. A hearing officer may subpoena witnesses, records, and documents in the manner provided by law for serving subpoenas in civil actions and may administer oaths to witnesses.

* * * Property Transfer Tax * * *

Sec. 7. 32 V.S.A. § 9605(a) shall be amended to read:

(a) The tax imposed by this chapter shall be paid to the Commissioner ~~at the time of~~ within 30 days after transfer of title to property subject to the tax or, in the case of a transfer or acquisition of a controlling interest in a person with title to property for which a deed is not given, within 30 days after transfer or acquisition.

* * * Sales and Use Tax * * *

Sec. 8. 32 V.S.A. § 5870 is amended to read:

§ 5870. REPORTING USE TAX ON INDIVIDUAL INCOME TAX

RETURNS

(a) The Commissioner of Taxes shall provide that individuals report use tax on their State individual income tax returns. Taxpayers are required to attest to the amount of their use tax liability under chapter 233 of this title for the period of the tax return. Alternatively, they may elect to report an amount that is a

percentage of their adjusted gross income determined under subsection (b) of this section, ~~as shown on a table published by the Commissioner of Taxes;~~ and use tax liability arising from the purchase of each item with a purchase price in excess of \$1,000.00 shall be added to the table amount shown under subsection (b) of this section.

(b) The amount of use tax a taxpayer may elect to report under subsection (a) of this section shall be ~~0.10 percent of their adjusted gross income based on the taxpayer's adjusted gross income as determined by the following tables;~~ provided, however, that a taxpayer shall not be required to pay more than ~~\$500.00~~ \$150.00 for use tax liability under this subsection; arising from total purchases of items with a purchase price of \$1,000.00 or less.

<u>If adjusted gross income is:</u>	<u>The tax is:</u>
<u>Not over \$20,000.00</u>	<u>\$ 0.00</u>
<u>\$20,001.00 to \$30,000.00</u>	<u>\$10.00</u>
<u>\$30,001.00 to \$40,000.00</u>	<u>\$15.00</u>
<u>\$40,001.00 to \$50,000.00</u>	<u>\$20.00</u>
<u>\$50,001.00 to \$60,000.00</u>	<u>\$25.00</u>
<u>\$60,001.00 to \$70,000.00</u>	<u>\$30.00</u>
<u>\$70,001.00 to \$80,000.00</u>	<u>\$35.00</u>
<u>\$80,001.00 to \$90,000.00</u>	<u>\$40.00</u>
<u>\$90,001.00 to \$100,000.00</u>	<u>\$45.00</u>

\$100,001.00 and over

the lesser of \$150.00 or

0.05% of adjusted gross

income.

Sec. 9. 32 V.S.A. § 9701(9) is amended to read:

(9) “Vendor” means:

* * *

(F) A person making sales of tangible personal property from outside this State to a destination within this State and not maintaining a place of business or other physical presence in this State that:

(i) engages in regular, systematic, or seasonal solicitation of sales of tangible personal property in this State:

(I) by the display of advertisements in this State;

(II) by the distribution of catalogues, periodicals, advertising flyers, or other advertising by means of print, radio, or television media; or

(III) by mail, Internet, telephone, computer database, cable, optic, cellular, or other communication systems, for the purpose of effecting sales of tangible personal property; and

(ii) has either made sales from outside this State to destinations within this State of at least \$100,000.00, or totaling at least 200 individual sales transactions, during ~~any~~ the 12-month period preceding the monthly period with respect to which that person’s liability for tax under this chapter is determined.

* * *

(J) A marketplace facilitator who has facilitated sales by marketplace sellers to destinations within this State of at least \$100,000.00, or totaling at least 200 individual sales transactions, during ~~any~~ the 12-month period preceding the monthly period with respect to which that person's liability for tax under this chapter is determined.

(K) A marketplace seller who has combined sales to a destination within this State and sales through a marketplace to a destination within this State of at least \$100,000.00, or totaling at least 200 individual sales transactions, during ~~any~~ the 12-month period preceding the monthly period with respect to which that person's liability for tax under this chapter is determined.

Sec. 10. 32 V.S.A. § 9712(c) is amended to read:

~~(c) Each noncollecting vendor shall file a copy of the notice required by subsection (b) with the Department of Taxes on or before January 31 of each year. The notice required by this subsection only apply to noncollecting vendors who made \$100,000.00 or more of sales into Vermont in the previous calendar year. Failure to file a copy of the notice required by this subsection shall subject the noncollecting vendor to a penalty of \$10.00 for each failure, unless the noncollecting vendor shows reasonable cause. [Repealed.]~~

Sec. 10a. [Deleted.]

* * * Universal Service Charge * * *

Sec. 11. 30 V.S.A. § 7521(e) is amended to read:

(e)(1) Notwithstanding any other provision of law to the contrary, beginning on January 1, 2020, the Universal Service Charge shall be imposed on all retail sales of prepaid wireless telecommunications service subject to the sales and use tax imposed under 32 V.S.A. chapter 233. The charges shall be collected by sellers or marketplace facilitators collecting sales tax pursuant to 32 V.S.A. § 9713 and remitted to the Department of Taxes in the manner provided under 32 V.S.A. chapter 233. Upon receipt of the charges, the Department of Taxes shall have 30 days to remit the funds to the fiscal agent selected under section 7503 of this chapter. The Commissioner of Taxes shall establish registration and payment procedures applicable to the Universal Service Charge imposed under this subsection consistent with the registration and payment procedures that apply to the sales tax imposed on such services and also consistent with the administrative provisions of 32 V.S.A. chapter 151, including any enforcement or collection action available for taxes owed pursuant to that chapter.

(2) If a minimal amount of prepaid wireless telecommunications service is sold with a prepaid wireless device for a single, nonitemized price, then the seller may elect not to apply the Universal Service Charge to such transaction.

(3) As used in this subsection:

(A) “Minimal amount” means an amount of service denominated as not more than 10 minutes or not more than \$5.00.

(B) “Prepaid wireless telecommunications service” means a telecommunications service as defined in subdivision 203(5) of this title that a consumer pays for in advance and that is sold in predetermined units or dollars that decline with use.

(C) “Seller” means a person who sells prepaid wireless telecommunications service to a consumer.

(D) “Marketplace facilitator” shall have the same meaning as in 32 V.S.A. § 9701(56).

* * * Meals and Rooms Tax * * *

Sec. 12. 32 V.S.A. § 9248 is amended to read:

§ 9248. INFORMATIONAL REPORTING

The Department of Taxes ~~shall~~ may collect information on operators from persons providing an Internet platform for the short-term rental of property for occupancy in this State. The information collected shall include any information the Commissioner shall require, and the name, address, and terms of the rental transactions of persons acting as operators through the Internet platform. The failure to provide information as required under this section shall subject the person operating the Internet platform to a fine of \$5.00 for each instance of failure. The Commissioner is authorized to adopt rules and procedures to implement this section.

* * * Income Tax * * *

* * * Annual Link to Federal Statutes * * *

Sec. 13. 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, ~~2018~~ 2019, 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. 14. 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, ~~2018~~ 2019. As used in this chapter, “Internal Revenue Code” has the same meaning as “laws of the United States” as defined in this subdivision.

* * * Income Tax Refunds * * *

Sec. 15. 32 V.S.A. § 5884(a) is amended to read:

(a) At any time within three years after the date a return is required to be filed under this chapter, six months from the date a tax liability is paid or offset, or six months after a refund was received from the United States with respect to an income tax liability, or an amount of taxable income, under the laws of the United States, reported in a return filed under the laws of the United States for the taxable year, with respect to which that return was filed under this chapter, whichever is later, a taxpayer may petition the

Commissioner for the refund of all or any part of the amount of tax paid ~~with~~ ~~respect to the return~~. Unless the period is extended by agreement of the Commissioner and the taxpayer, the Commissioner shall thereafter, upon notice to the taxpayer, hold a hearing on the claim and shall notify the taxpayer of his or her determination of the claim within 30 days of the hearing. The failure of the Commissioner to refund the amount claimed by a taxpayer within six months of the date of the petition for the refund, under this subsection, shall be considered to be a notification to the taxpayer of the Commissioner's determination concerning the claim. The notification shall be considered to have been given on the date of the expiration of the six-month period.

Sec. 16. PETITIONS FOR TY 2016 REFUNDS; COVID-19 PUBLIC
HEALTH EMERGENCY

Notwithstanding 32 V.S.A. § 5884(a), after April 15, 2020 and on or before July 15, 2020, the Commissioner of Taxes shall accept a taxpayer's petition for refund with respect to income tax returns filed for the taxable year 2016. If the Commissioner determines that the taxpayer has paid an amount of income tax under 32 V.S.A. chapter 151 that, as of the date of the determination, exceeds the amount of tax liability owing from the taxpayer to the State, the Commissioner shall forthwith refund the excess amount to the taxpayer together with interest pursuant to 32 V.S.A. § 5884(b).

* * * Income Tax Returns * * *

Sec. 17. 32 V.S.A. § 5866 is amended to read:

§ 5866. SUPPLEMENTAL INFORMATION; CHANGES IN FEDERAL
TAX LIABILITY OR TAXABLE INCOME

(a) If, after the time for filing any return required by this chapter, a taxpayer:

(1) becomes aware of any information ~~which~~ that makes that return materially false, inaccurate, or incomplete; or

(2) is notified of any assertion by the United States, whether under Section 6212 of the Internal Revenue Code of 1986 or otherwise, that the taxpayer's taxable income under the laws of the United States is other than the amount stated in the return; or

(3) files an amended return under the laws of the United States, the taxpayer shall, within ~~60~~ 180 days of the receipt of that information or notification of that assertion or filing that amended return, notify the Commissioner thereof, and of such particulars as may be relevant to the amount of any tax liability of the taxpayer under this chapter.

* * *

Sec. 18. 32 V.S.A. § 5868 is amended to read:

§ 5868. EXTENSION OF TIME FOR FILING OF RETURNS

The Commissioner may extend the time within which a taxpayer is required to file a return. The Commissioner shall, ~~upon receipt of documentation that a~~

~~corporation has been granted either an automatic or a good cause extension of the time for filing its United States income tax return,~~ extend the time for filing ~~the~~ a taxpayer's Vermont income tax return to the extended date for filing the United States income tax return if the taxpayer has been granted either an automatic or a good cause extension of time for filing the United States income tax return except that the time for filing a corporation's Vermont income tax return shall be extended to 30 days one month after the extended date for filing the United States income tax return. An extension of the time in which to file a return will not result in a corresponding extension of the time for the payment of the tax liability with respect to which the return is filed.

* * * 529 Plans * * *

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 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 except when the distribution:

(1) is used exclusively for costs of attendance at an approved postsecondary education institution as defined in 16 V.S.A. § 2822(6);

(2) qualifies as an expense associated with a registered apprenticeship program pursuant to 26 U.S.C. § 529(c)(8); or

(3) is made after the death of the beneficiary or after the beneficiary becomes disabled pursuant to subdivisions (q)(2)(C) and (m)(7) of 26 U.S.C. § 72.

(c) Repayments under ~~this~~ subsection (b) of this section 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. 19a. [Deleted.]

* * * Department of Taxes; Administration * * *

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

(n) Data reported to the Commissioner of Taxes by a deposit initiator under 10 V.S.A. § 1530 shall not be considered confidential return or return information under this section, provided that the Commissioner may disclose the data in summary or aggregated form that does not directly or indirectly identify individual deposit initiators except to the Secretary of Natural Resources in relation to the administration of 10 V.S.A. chapter 53.

Sec. 21. 10 V.S.A. § 1530(e) is amended to read:

(e) Data reported to the Secretary of Natural Resources and the Commissioner of Taxes by a deposit initiator under this section shall be confidential business information exempt from public inspection and copying under 1 V.S.A. § 317(c)(9) but shall not be confidential return information

under 32 V.S.A. § 3102, provided that the Commissioner of Taxes may use and disclose such information in summary or aggregated form that does not directly or indirectly identify individual deposit initiators except to the Secretary of Natural Resources in relation to the administration of this chapter.

Sec. 22. 32 V.S.A. § 3202(b)(5) is amended to read:

(5) Fraudulent failure to pay. When a taxpayer fraudulently or with willful intent to defeat or evade a tax liability imposed by this title, ~~either~~ fails to pay a tax liability on the date prescribed therefor, ~~or~~ requests and receives a refund of a tax liability, or requests but does not receive a refund of a tax liability, then, in addition to any interest payable pursuant to subsection (a) of this section, the Commissioner may assess and the taxpayer shall then pay a penalty equal to the amount of the tax liability unpaid on the prescribed date of payment ~~or~~, the amount received as a refund subsequent to that date, or the amount requested but not received as a refund.

* * * Offsets; Public Service; Billback Authority * * *

Sec. 23. 30 V.S.A. § 21 is amended to read:

§ 21. PARTICULAR PROCEEDINGS AND ACTIVITIES; ASSESSMENT
OF COSTS

(a) An agency may allocate the portion of the expense incurred or authorized by it in retaining additional personnel pursuant to section 20 of this title to the applicant or the company or companies involved. ~~It~~ As used in this

section, “agency” means an agency, board, commission, or department of the State enabled to authorize or retain personnel under section 20 of this title.

* * *

(i) If an invoice for expenses incurred under subsection (a) of this section is not paid within 45 days after the date of mailing:

(1) the Commission may withhold the issuance of or revoke any related certificate of public good, provided the applicant is given an opportunity for hearing after reasonable notice;

(2) an agency may charge simple interest of one percent per month on the unpaid amount of the invoice for the period from 45 days after the date of mailing to the date of full payment of the amount due; and

(3) an agency may either contract with private collection agencies to collect principal and interest due or use setoff debt collection, as provided in 32 V.S.A. §§ 5931–5940.

* * * Judiciary Branch Fees * * *

Sec. 24. 24 V.S.A. § 1981(a) is amended to read:

(a) Upon the filing of the complaint and entry of a judgment after hearing or entry of default by the hearing officer, subject to any appeal pursuant to 4 V.S.A. § 1107, the person found in violation shall have up to 30 days to pay the penalty to the Judicial Bureau. ~~Upon the expiration of the period to pay the penalty, the person found in violation shall be assessed a surcharge of \$10.00 for the benefit of the municipality.~~ All the civil remedies for collection of

judgments shall be available to enforce the final judgment of the Judicial Bureau.

Sec. 25. 32 V.S.A. § 1431(b) is amended to read:

(b)(1) Except as provided in subdivisions (2)-~~(5)~~(7) of this subsection, prior to the entry of any cause in the Superior Court, there shall be paid to the clerk of the court for the benefit of the State a fee of \$295.00 in lieu of all other fees not otherwise set forth in this section.

* * *

(7) Prior to the filing of any appeal from the Probate Division of the Superior Court to the Civil Division of the Superior Court, there shall be paid to the clerk of the court for the benefit of the State a fee of \$295.00 in lieu of all other fees not otherwise set forth in this section.

* * *

Sec. 25a. 32 V.S.A. § 5933(a) is amended to read:

(a) A claimant agency may submit any debt of ~~\$50.00~~ \$45.00 or more to the Department for collection under the procedure established by this chapter. This setoff debt collection remedy is in addition to and not in substitution for any other remedy available by law.

* * *

Sec. 26. [Deleted.]

Sec. 27. [Deleted.]

* * * Interest Rate; Overpayments and Underpayments * * *

Sec. 28. 32 V.S.A. § 3108(a) is amended to read:

(a) Not later than December 15 of each year, the Commissioner shall establish an annual rate of interest applicable to unpaid tax liabilities and tax overpayments 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. ~~Not later than December 15 of each year, the Commissioner shall establish an annual rate of interest applicable to unpaid tax liabilities, which in each instance shall be equal to the annual rate established for tax overpayments plus 200 basis points.~~ The ~~rates~~ rate 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.

* * * Tax Increment Financing Districts * * *

Sec. 29. TAX INCREMENT FINANCING DISTRICTS; DEBT

INCURRENCE PERIODS; EXTENSIONS

(a) Notwithstanding any other provision of law, the period to incur indebtedness is extended for the following tax increment financing districts:

(1) The Barre City Downtown Tax Increment Financing District is extended to March 31, 2023.

(2) The Bennington Downtown Tax Increment Financing District is extended to March 31, 2028.

(3) The Burlington Downtown Tax Increment Financing District is extended to March 31, 2022.

(4) The three properties located within the Burlington Waterfront Tax Increment Financing District at 49 Church Street and 75 Cherry Street, as designated on the City of Burlington's Tax Parcel Maps as Parcel ID# 044-4-004-000, Parcel ID# 044-4-004-001, and Parcel ID# 044-4-033-000, is extended to June 30, 2022; provided, however, that the extension of the period to incur indebtedness is subject to the City of Burlington's submission to the Vermont Economic Progress Council on or before June 30, 2022 of an executed construction contract with a completion guarantee by the owner of the parcels evidencing commitment to construct not less than \$50 million of private development on the parcels.

(5) The Montpelier Tax Increment Financing District is extended to March 31, 2029.

(6) The South Burlington Tax Increment Financing District is extended to March 31, 2023.

(7) The St. Albans City Downtown Tax Increment Financing District is extended to March 31, 2023.

(b) This section does not:

(1) extend any period that the municipal or education tax increment may be retained by the tax increment financing districts listed in subsection (a) of this section; or

(2) amend any other tax increment financing requirements set forth in 24 V.S.A. chapter 53, subchapter 5; 32 V.S.A. § 5404a; or the TIF District Rule adopted in May 2015, applicable to the tax increment financing districts listed in subsection (a) of this section.

Sec. 30. 2013 Acts and Resolves No. 80, Sec. 18, as amended by 2016 Acts and Resolves No. 134, Sec. 9a, is further amended to read:

Sec. 18. BURLINGTON WATERFRONT TIF

(a) The authority of the City of Burlington to incur indebtedness for its waterfront tax increment financing district is hereby extended for five years beginning January 1, 2015; provided, however, that the City is authorized to extend the period to incur indebtedness for 6.5 years beginning on January 1, 2015 for three properties located within the waterfront tax increment financing district at 49 Church Street and 75 Cherry Street, as designated on the City's Tax Parcel Maps as the following:

- (1) Parcel ID# 044-4-004-000;
- (2) Parcel ID# 044-4-004-001;
- (3) Parcel ID# 044-4-033-000.

* * *

~~(c) The extension of the period to incur indebtedness for the specific parcels in subdivision (a)(1)–(3) of this section is subject to the City of Burlington’s submission to the Vermont Economic Progress Council of an executed construction contract with a completion guarantee by the owner of the parcels evidencing commitment to construct not less than \$50 million of private development on the parcels.~~

* * * Effective Dates * * *

Sec. 31. EFFECTIVE DATES

This act shall take effect on passage except:

(1) Notwithstanding 1 V.S.A. § 214, Sec. 8, 32 V.S.A. § 5870 (use tax reporting), shall take effect retroactively on January 1, 2020 and apply to taxable years beginning on and after January 1, 2020.

(2) Sec. 11 (universal service charge) shall take effect on July 1, 2021.

(3) Notwithstanding 1 V.S.A. § 214, Secs. 13–14 (annual link to federal statutes) shall take effect retroactively on January 1, 2020 and apply to taxable years beginning on and after January 1, 2019.

(4) Notwithstanding 1 V.S.A. § 214, Sec. 16 (TY 2016 refunds) shall take effect retroactively on April 15, 2020.

Date Governor signed bill: October 8, 2020