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H.367

Introduced by Representatives Pearson of Burlington, Moran of Wardsboro,
Christie of Hartford, Cole of Burlington, Connor of Fairfield,
Cross of Winooski, Davis of Washington, Fay of St. Johnsbury,
French of Randolph, Kitzmiller of Montpelier, Krowinski of
Burlington, Macaig of Williston, McCarthy of St. Albans City,
McCormack of Burlington, McCullough of Williston, Mrowicki
of Putney, Nuovo of Middlebury, O'Sullivan of Burlington,
Peltz of Woodbury, Ram of Burlington, Spengler of Colchester,
Stevens of Waterbury, Toleno of Brattleboro, Townsend of
Randolph, Townsend of South Burlington, Weed of Enosburgh,
Wizowaty of Burlington, Woodward of Johnson, Yantachka of
Charlotte, and Zagar of Barnard

Referred to Committee on

Date:

Subject: Taxation

Statement of purpose of bill as introduced: This bill proposes to make
numerous changes to Vermont's tax code.

An act relating to making changes to Vermont's tax code

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

2 * * * Bottle Deposits * * *

3 Sec. 1. 10 V.S.A. § 1521 is amended to read:

4 § 1521. DEFINITIONS

5 ~~For the purpose of~~ As used in this chapter:

6 (1) "Beverage" means beer or other malt beverages and mineral waters,
7 mixed wine drink, soda water ~~and~~, carbonated soft drinks, noncarbonated
8 water, and all nonalcoholic carbonated or noncarbonated drinks in liquid form
9 and intended for human consumption, except for rice milk, soymilk, hempseed
10 milk, milk, and dairy products. As of January 1, 1990, "beverage" also shall
11 mean liquor.

12 (2) "Biodegradable material" means material which is capable of being
13 broken down by bacteria into basic elements.

14 (3) "Container" means the individual, separate, bottle, can, jar, or carton
15 composed of glass, metal, paper, plastic, or any combination of those materials
16 containing a consumer product. This definition shall not include containers
17 made of biodegradable material.

18 (4) "Distributor" means every person who engages in the sale of
19 consumer products in containers to a dealer in this ~~state~~ State including any
20 manufacturer who engages in such sales. Any dealer or retailer who sells, at

1 the retail level, beverages in containers without having purchased them from a
2 person otherwise classified as a distributor, shall be a distributor.

3 (5) "Manufacturer" means every person bottling, canning, packing, or
4 otherwise filling containers for sale to distributors or dealers.

5 (6) "Recycling" means the process of sorting, cleansing, treating, and
6 reconstituting waste and other discarded materials for the purpose of reusing
7 the materials in the same or altered form.

8 (7) "Redemption center" means a store or other location where any
9 person may, during normal business hours, redeem the amount of the deposit
10 for any empty beverage container labeled or certified pursuant to section 1524
11 of this title.

12 (8) "Secretary" means the ~~secretary of the agency of natural resources~~
13 Secretary of Natural Resources.

14 (9) "Mixed wine drink" means a beverage containing wine and more
15 than 15 percent added plain, carbonated, or sparkling water; and which
16 contains added natural or artificial blended material, such as fruit juices,
17 flavors, flavoring, adjuncts, coloring, or preservatives; and which contains not
18 more than 16 percent alcohol by volume; or other similar product marketed as
19 a wine cooler.

20 (10) "Liquor" means spirits as defined in 7 V.S.A. § 2.

1 (11) “Deposit initiator” means the first distributor or manufacturer to
2 collect the deposit on a beverage container sold to any person within the State.

3 Sec. 2. 10 V.S.A. § 1530 is added to read:

4 § 1530. ABANDONED DEPOSITS; DEPOSIT TRANSACTION ACCOUNT

5 (a) A deposit initiator shall open a separate interest-bearing account in a
6 Vermont branch of a financial institution to be known as the deposit
7 transaction account. The deposit initiator shall keep the deposit transaction
8 account separate from all other revenues and accounts. Each deposit initiator
9 shall deposit in the deposit transaction account the refund value established by
10 section 1522 of this title for all beverage containers sold by the deposit
11 initiator. The deposit initiator shall deposit the refund value for each beverage
12 container in the account not more than three business days after the date the
13 beverage container is sold. All interest, dividends, and returns earned on the
14 deposit transaction account shall be paid directly to the account and may be
15 transferred from the deposit transaction account for use by the deposit initiator.

16 (b) Beginning January 10, 2014 and by the tenth day of each month
17 thereafter, every deposit initiator shall report to the Secretary of Natural
18 Resources and the Commissioner of Taxes concerning transactions affecting
19 the deposit initiator’s deposit transaction account in the preceding month. The
20 report shall be submitted on a form provided by the Commissioner of Taxes
21 and shall include:

1 (1) the balance of the account at the beginning of the preceding month;

2 (2) the number of nonreusable beverage containers sold in the preceding
3 month and the number of nonreusable beverage containers returned in the
4 preceding month;

5 (3) the amount of beverage container deposits received by the deposit
6 initiator and deposited into the deposit transaction account;

7 (4) the amount of refund payments made from the deposit transaction
8 account in the preceding month;

9 (5) any income earned on the deposit transaction account in the
10 preceding month;

11 (6) any other transactions, withdrawals, or service charges on the
12 deposit transaction account from the preceding month; and

13 (7) any additional information required by the Commissioner of Taxes.

14 (c) On or before January 10, 2014 and on the tenth day of each month
15 thereafter, each deposit initiator shall remit from its deposit transaction account
16 to the Commissioner of Taxes any abandoned beverage container deposits
17 from the preceding month. The amount of abandoned beverage container
18 deposits for a month is the amount equal to the amount of deposits that should
19 be in the account less the sum of:

20 (1) income earned on amounts on the account during that month; and

1 (2) the total amount of refund value received by the deposit initiator for
2 nonrefillable containers during that month.

3 (d) The Secretary of Natural Resources may prohibit the sale of a beverage
4 that is sold or distributed in the State by a deposit initiator who fails to comply
5 with the requirements of this chapter. The Secretary may allow the sale of a
6 beverage upon the deposit initiator's coming into compliance with the
7 requirements of this chapter.

8 (e) The abandoned beverage container deposits remitted to the
9 Commissioner of Taxes under subsection (c) of this section shall be deposited
10 in the General Fund.

11 * * * Capital Gains * * *

12 Sec. 3. 32 V.S.A. § 5811(21) is amended to read:

13 (21) "Taxable income" means federal taxable income determined
14 without regard to Section 168(k) of the Internal Revenue Code and:

15 (A) Increased by the following items of income (to the extent such
16 income is excluded from federal adjusted gross income):

17 (i) interest income from non-Vermont state and local obligations;

18 (ii) dividends or other distributions from any fund to the extent
19 they are attributable to non-Vermont state or local obligations; and

20 (iii) the amount in excess of \$5,000.00 of state and local income
21 taxes deducted from federal adjusted gross income for the taxable year, but in

1 no case in an amount that will reduce total itemized deductions below the
2 standard deduction allowable to the taxpayer; and

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

5 (i) income from United States government obligations;

6 (ii) ~~with respect to adjusted net capital gain income as defined in~~
7 ~~Section 1(h) of the Internal Revenue Code: either the first \$5,000.00 of~~
8 ~~adjusted net capital gain income; or 40 percent of adjusted net capital gain~~
9 ~~income from the sale of assets held by the taxpayer for more than three years;~~
10 ~~except not adjusted net capital gain income from:~~

11 (I) ~~the sale of any real estate or portion of real estate used by~~
12 ~~the taxpayer as a primary or nonprimary residence; or~~

13 (II) ~~the sale of depreciable personal property other than farm~~
14 ~~property and standing timber; or stocks or bonds publicly traded or traded on~~
15 ~~an exchange, or any other financial instruments; regardless of whether sold by~~
16 ~~an individual or business;~~

17 ~~and provided that the total amount of decrease under this~~
18 ~~subdivision (21)(B)(ii) shall not exceed 40 percent of federal taxable income;~~

19 and

20 (iii) ~~recapture of state and local income tax deductions not taken~~
21 ~~against Vermont income tax.~~

1 * * * Income Taxes * * *

2 Sec. 4. 32 V.S.A. § 5822(b) is amended to read:

3 (b) For purposes of this section:

4 (1) “Married individuals”, “surviving spouse”, “head of household”,
5 “unmarried individual”, “estate” and “trust” have the same meaning as that
6 under the Internal Revenue Code.

7 (2) The amounts of taxable income shown in the tables in this section
8 shall be adjusted annually for inflation by the commissioner of taxes, using the
9 Consumer Price Index adjustment percentage, in the manner prescribed for
10 inflation adjustment of federal income tax tables for the taxable year by the
11 Commissioner of Internal Revenue, beginning with taxable year 2003.

12 (3) For taxpayers filing under subdivisions (a)(1)–(4) of this section:

13 (A) a taxpayer whose taxable income is in the highest bracket shall
14 pay tax as if all of his or her income in the three lowest brackets was taxed at
15 the rate in the fourth lowest bracket and the remainder of his or her income was
16 taxed under the remaining bracket and rate as specified; and

17 (B) a taxpayer whose taxable income is in the second highest bracket
18 shall pay tax as if all of his or her income in the lowest two brackets was taxed
19 at the rate in the third lowest bracket and the remainder of his or her income
20 was taxed under the remaining brackets and rates as specified.

21 * * *

1 * * * Alternative Minimum Tax * * *

2 Sec. 5. 32 V.S.A. § 5822 is amended to read:

3 § 5822. TAX ON INCOME OF INDIVIDUALS, ESTATES, AND TRUSTS

4 * * *

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

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

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

12 (B) recapture of federal investment tax credit and increased by 76
13 percent of the Vermont-property portion of the business solar energy
14 investment tax credit component of the federal investment tax credit recapture
15 for the taxable year;

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

18 (D) alternative minimum tax imposed under Section 55 of the
19 Internal Revenue Code; and

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

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

7 * * *

8 * * * Bank Franchise Tax * * *

9 Sec. 6. 32 V.S.A. § 5836(g) is amended to read:

10 (g) A corporation which is subject to the tax imposed by this section shall
11 ~~not be subject to the~~ pay the greater of the tax imposed by this section or the
12 tax imposed by section 5832 of this title.

13 * * * Estate Taxes * * *

14 Sec. 7. 32 V.S.A. § 7442a(c) is amended to read:

15 (c) The Vermont estate tax shall not exceed the amount of the tax imposed
16 by 26 U.S.C. § 2001 calculated as if the applicable exclusion amount under 26
17 U.S.C. § 2010 were ~~\$2,750,000.00~~ \$1,000,000.00, and with no deduction
18 under 26 U.S.C. § 2058.

1 * * * Property Transfer Tax * * *

2 Sec. 8. 32 V.S.A. § 9602 is amended to read:

3 § 9602. TAX ON TRANSFER OF TITLE TO PROPERTY

4 A tax is hereby imposed upon the transfer by deed of title to property
5 located in this ~~state~~ State. The amount of the tax equals one and one-quarter
6 percent of the value of the property transferred, or \$1.00, whichever is greater,
7 except as follows:

8 (1) with respect to the transfer of property to be used for the principal
9 residence of the transferee: the tax shall be imposed at the rate of five-tenths of
10 one percent of the first \$100,000.00 in value of the property transferred ~~and at~~
11 ~~the rate of one and one quarter percent of the value of the property transferred~~
12 ~~in excess of \$100,000.00~~ at the rate of one and one quarter percent of the value
13 of the property transferred between \$100,000.01 and \$500,000.00, and at the
14 rate of two percent of the value of the property transferred over \$500,000.00;
15 except that no tax shall be imposed on the first \$110,000.00 in value of the
16 property transferred if the purchaser obtains a purchase money mortgage
17 funded in part with a homeland grant through the Vermont ~~housing and~~
18 ~~conservation trust fund~~ Housing and Conservation Trust Fund or which the
19 Vermont ~~housing and finance agency~~ Housing and Finance Agency or U.S.
20 Department of Agriculture and Rural Development has committed to make or

1 purchase and tax at the rate of one and one-quarter percent shall be imposed on
2 the value of that property in excess of \$110,000.00.

3 * * *

4 * * * Sales Tax * * *

5 Sec. 9. 32 V.S.A. § 9741 is amended to read:

6 § 9741. SALES NOT COVERED

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

10 * * *

11 (13) Sales of food, food stamps, purchases made with food stamps, food
12 products and beverages, but not bottled water, sold for human consumption off
13 the premises where sold.

14 * * *

15 (45) Clothing; but clothing shall not include the value of an article of
16 clothing in excess of \$100, clothing accessories or equipment, protective
17 equipment, or sport or recreational equipment.

18 * * *

1 § 10403. PAYMENT

2 Each manufacturer shall prepare and submit to the Department a monthly
3 report according to procedures established by the Commissioner showing the
4 total gallons of groundwater withdrawn during the preceding month and other
5 information the Commissioner may require. The groundwater withdrawal
6 royalty shall be paid each month to the Department at the same time the report
7 is submitted and deposited in the General Fund.

8 § 10404. RECORDS

9 Each manufacturer shall keep a record of all groundwater withdrawn in this
10 State, and that record must be open at all times to inspection by the
11 Commissioner of Taxes.

12 § 10405. ENFORCEMENT

13 The groundwater withdrawal royalty imposed under this chapter shall be
14 enforced using the enforcement and collection provisions set forth in chapter
15 103 of this title.

16 Subchapter 2. Earth Resources

17 § 10410. EARTH RESOURCE EXTRACTION TAX

18 There is imposed on each person extracting earth resources, including sand,
19 gravel, peat, topsoil, crushed stone, or quarried material, who is also subject to
20 the fee in 10 V.S.A. § 6083a(4) a tax of \$0.02 per cubic yard of the total
21 volume of earth resources extracted each year. Extracted material that is not

1 sold or does not otherwise enter the commercial marketplace shall not be
2 subject to the tax.

3 § 10411. PAYMENT

4 Each person subject to the tax in section 8710 of this title shall prepare and
5 submit to the Department a monthly report according to procedures established
6 by the Commissioner showing the total earth resources extracted during the
7 preceding month and other information the Commissioner may require. The
8 tax in section 8710 shall be paid each month to the Department at the same
9 time the report is submitted and deposited in the General Fund.

10 § 10412. RECORDS

11 Each person subject to the tax in section 8710 shall keep a record of all
12 earth resources extracted by that person in this State, and that record must be
13 open at all times to inspection by the Commissioner of Taxes.

14 § 10413. ENFORCEMENT

15 The tax imposed under section 8710 shall be enforced using the
16 enforcement and collection provisions set forth in chapter 103 of this title.

17 Sec. 11. EFFECTIVE DATES

18 (a) This section shall take effect on passage.

19 (b) Secs. 1 and 2 (bottle deposit), and Sec. 10 (extraction taxes) of this act
20 shall take effect on January 1, 2014.

1 (c) Sec. 3 (capital gains) shall take effect on January 1, 2014 and apply to
2 tax year 2014 and forward.

3 (d) Sec. 4 (income taxes), Sec. 6 (bank franchise tax), and Sec. 7 (estate
4 taxes) shall take effect on January 1, 2014 and apply to tax year 2014 and
5 forward.

6 (e) Sec. 5 (alternative minimum tax) shall apply to taxable year 2013 and
7 after, except that the amendment to 32 V.S.A. § 5822(d)(1) shall apply to
8 credits related to alternative minimum taxes paid for taxable year 2013 and
9 after.

10 (f) Sec. 8 (property transfer tax) shall take effect on January 1, 2014 and
11 apply to property transferred after that date.

12 (g) Sec. 9 (sales tax) shall take effect on July 1, 2013.