Feedback to Tax Structure Commission from Joint Fiscal Office on Chapter 7 (formerly 6) – Obsolete Tax -received by 12/10/2020

Commissioner Trenholm's Draft Chapter 7~~6~~ – v11-16-2020

Status: Discussed with Commissioners 11/9. No edits since discussion.

Chapter 7~~6~~: Obsolete and Inefficient Taxes

TELEPHONE PERSONAL PROPERTY TAX (TPP)

The Telephone Personal Property Tax is a tax on every person or entity owning or operating a telephone line or business in Vermont. The tax equal to 2.37 percent of net book value as of the preceding December 31st of all personal property located in Vermont, used in whole or in part for conducting a telecommunications business. The applicable law is located at Vermont Statutes Title 32, Section 8521.

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Any person or entity that owns or operates a telephone line, or that owns or operates a business that provides telecommunications services, is subject to the telephone personal property tax. Persons or entities that provide traditional telecommunications services through a public switched telephone network (PSTN) are subject to the telephone personal property tax. Persons or entities that provide telecommunications services through mechanisms other than a PSTN, including Voice over Internet Protocol (VOIP) technology, are also subject to the telephone personal property tax.

All personal property used in whole or in part for conducting a telecommunications business is subject to this tax, including personal property under construction, materials, and supplies. Property subject to tax as real property is not subject to the Telephone Personal Property Tax.

"Net book value" of personal property means the original cost less depreciation of the property as computed for the federal income tax return required to be filed with the federal authorities for the corresponding tax year. Accelerated depreciation taken in accordance with Federal income tax law, including "bonus depreciation" under IRC § 168(k), is includable when calculating net book value. This depreciation would include bonus depreciation allowed at the federal level. This

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Per Fiscal Facts and the Vermont Tax Study, 2005-2015, TPP revenue fell from $10.5M in 2005 to $7.9M in 2010, $7.7M in 2015, $4.7M in 2018, and was forecast to drop to $3.2M by FY21.

According to the Vermont D~~d~~epartment of Taxes, there are currently sixteen filers and the annual cost to administer this tax is about $25,000.

The telecommunications landscape is changing rapidly in Vermont as well as the entire United States. “Land lines” as they are referred to are in many cases being replaced solely by cellular phone communications, which is not subject to this tax, rather is taxable in another Section of the Vermont Tax Code. This would beg the question of how much new investment in property subject to this tax will be made going forward, which will be a contributing factor to the annual decline in revenue from this tax. The following recap was found in a 2015 white paper authored by the National Conference of State Legislatures entitled “Property Taxation on Communications Providers: A Primer for State Legislatures”.

In Vermont, most businesses pay property taxes on real property and personal property. Property generally is assessed at 100 percent of fair market value. In the case of business personal property, a town may provide that such property is to be assessed at (1) fifty percent of its cost (with a ten percent floor), or (2) at its net book value (with a ten percent floor), at the election of the taxpayer. Most intangible personal property is nontaxable, and a specific exemption exists for money, securities, mortgages, and other evidences of debt. Municipalities, at their discretion, may elect to not tax business inventory. Valuation methods for real and personal property vary from locality to locality, but the cost (based on replacement cost), income, and market data approaches are used. Real and personal property, except land and buildings, used in carrying on a telephone business in Vermont is exempt from local taxation. Each person or corporation owning or operating a telephone line or business in Vermont, excluding resellers of telephone transmission capacity who do not own or operate and telephone lines or transmission facilities in the state, are subject to central assessment by the Vermont Department of Taxes, Division of Property Valuation and Review. This state-imposed tax is imposed on the net book value of all personal property of the owner or operator located in the state. Cable companies are assessed locally. A state-imposed education property tax is also levied on all nonresidential property. Real and personal property, except land and buildings, used in carrying on a telephone business in Vermont is exempt from the education property tax. Cable companies are subject to the education property tax.
https://www.nbrc.gov/uploads/Application%20Materials/VT%20Telecom%20Plan%202014.pdf

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Recommendations of this Commission:

- Consider the repeal of this tax as it is declining every year and is based on somewhat outdated technology as a base for the tax, and replace the lost revenue with another source based on more contemporary and long-term sustainable technology. Also supporting the repeal of this tax is the fact that the same equipment used by cable companies to provide telephone service are taxed at the local level, and not the state level. As technology with respect to provision of voice communications systems, so must the methods of taxation applied to them change. The Vermont Department of Public Service Vermont Telecommunication Plan 2014 also discusses the decline in the use of traditional telephone communication. https://www.nbrc.gov/uploads/Application%20Materials/VT%20Telecom%20Plan%202014.pdf

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GASOLINE AND MOTOR FUEL TAXES

Technology in the area of transportation is moving in the direction of less and less dependence on fossil fuels and more use of clean energy technology. This is a great step forward for climate change, and the environment in general as well as new industries and new jobs. The other side of the coin is the fact that our roads, which are the backbone of our transportation infrastructure are supported by the Gasoline and Motor Fuels taxes. This change in technology affects both private passenger vehicles, public transportation vehicles and public safety vehicles. Also as a result of the Pandemic, we are seeing less driving which is also resulting in lower taxes collected from this source.

The Commission has not studied this in detail, rather is bringing this to the attention of the Legislature as a problem that needs to be addressed. Here is the recommendation from the Commission:

- The Tax Department can study the decline in this revenue source and determine the necessary funds to make up this decrease.
- The Legislature can look at alternative taxes on the vehicles and or energy sources used to power these alternative fuel vehicle but must balance the fact that these vehicles accomplish the purpose of climate change and environmental stability with the reality that the transportation infrastructure must still be supported.

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