Vermont Legislative Joint Fiscal Office

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FISCAL NOTE

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H.514: An act relating to miscellaneous tax provisions – As passed by the Senate and amended by the House Committee on Ways and Means.

Summary: This bill proposes to make numerous substantive and administrative changes to Vermont's tax laws. The bill permits the creation of merged property assessment districts to match merged school districts. The bill moves the collection and administration of the fire safety insurance tax, the direct placement insurance tax, and the surplus lines tax from the Department of Financial Regulation to the Department of Taxes. The bill makes numerous other changes, including changes to the current use lien system, the definitions of household income and homestead, tobacco taxes, and higher education investment plans. The bill clarifies the sales tax exemption for veterinary supplies and medication to include only prescription medications sold by a veterinarian. The bill also changes Vermont's corporate income tax apportioning methodology for intangible sales to market-based sourcing, from cost-of-performance).

Fiscal Impact

JFO estimates that this bill will generate an additional $1.4 million in Fiscal Year (FY) 2020 and in future fiscal years. This revenue is split between the following funds.

- General Fund: $190,000
- Education Fund: $1.21 million

In future fiscal years, the additional revenue for the General Fund is expected to grow to approximately $910,000 as the revenue impacts of apportionment changes in the corporate income tax are fully realized.

Sections	Provision	FY2020	FY2021	FY2022
	H.514 (Senate passed, Amended by Houses Ways and Means): Revenue Impact, in millions			
	Department of Taxes/Miscellaneous Provisions			
1	Tax disclosure exemption for tobacco settlement			
2	Elimination of monthly interest rate for tax over/underpayment			
3	PVR Fee waiver			
4	Clean up of VT Solar Energy Tax Credit language			
5-6	Annual link up to federal statutes for income tax			
7	Corporate minimum tax receipts clarification to include Vermont gross receipts			
7a	Changes Vermonts apportionment methodology to market-based sourcing	$0.14	$0.85	$0.88
8-9	Extends withholding exemption to lower-tier passthrough affliates			
10	Adds meals for resale to definition of taxable meal			
11-12	Removal of security requirement for tax appellants			
12a	Requires Department of Taxes to analyze tax data to discover public program eligibility			
	529 Plans			
13-17	529 plan/credit repayment/definition changes	$0.06	$0.06	$0.06
	Education Property Tax			
18	Amendment of homestead definition to include widow/widowers			
20	Definition of household income amended to exclude income of separated spouse, exclusion of debt foregiveness from calculation of household income	-$0.005	-$0.005	-$0.005
21	Allows Tax to order reappraisals with CLA lower than 85 or exceeds 115			
22-24	Merged districts can merge assessment districts			
25	Increases frequency with which Tax Department pays municipalities for homestead adjustment			
26-30	Changes term "property tax adjustment" to "property tax credit" **(Deleted in Senate)**			
	Use Value Appraisal Provisions			
31	Exemption for transfer of property in current use for divorces			
32	Replaces the current use lien requirement with a notice of contingent lien be filed, with a lien to be filed when land is developed.			
32a	Requires Department of Taxes to make recommendations for rulemaking to the Current Use Advisory Board for land valuation when only a portion of land is developed			
	Other Taxes			
33-36	Shifts certain collection duties from DFR to Tax Department			
36a	Clarifies that auto parts used to recondition a motor vehicle are exempt from sales tax			
	Repeals			
37	Repeals sections on land use change tax subordination, solar tax credit, and electrical generation tax			
38	Effective dates			
	Total Revenue Impact (General Fund)	**$0.19**	**$0.91**	**$0.94**

20	Definition of household income amended to exclude income of separated spouse, exclusion of debt foregiveness from calculation of household income	-$0.02	-$0.02	-$0.02
36b	Clarifies sales tax exemption for veterinary supplies to include only perscription drugs sold by veterinarians.	$1.23	$1.25	$1.27
	Total Revenue Impact (Education Fund)	**$1.21**	**$1.23**	**$1.25**

Explanation

Section 7a: Market based sourcing for the Corporate Income Tax

Under Vermont's corporate income tax, C-corporations pay tax on the net income they earn from the economic activity they produce in Vermont. For example, a large multinational company based in California will only pay Vermont corporate income tax on the amount of business it has in Vermont.

To determine what percentage of their business is taxable in Vermont, current law states that their apportionment percentage is determined by a three factor formula:

- Their Vermont-based property as a percentage of their total property nationwide.
- Their Vermont-based payroll as a percentage of their total payroll nationwide.
- Their Vermont-based sales as a percentage of their total sales.

In Vermont, the sales factor is double weighted.

For producers of intangible goods (mostly services), Vermont's current apportionment methodology states that the sales are attributable to the state where the service is produced, not delivered. For example, a New York-based corporation providing online wealth management services to a Vermont customer has attributable sales of zero to Vermont because the service itself (the investing, the portfolio management) is based in New York. This methodology is called Cost of Performance.

This bill shifts to a Market Based Sourcing methodology: the attributable sales are to where the service is delivered, not produced. In the example above, the attributable sales of the online wealth management firm would now be in Vermont since the services were delivered to a customer in Vermont.

JFO estimates this change in methodology will generate $135,000 in new corporate income tax revenues in FY2020. In subsequent fiscal years, this change will generate up to $850,000 in additional revenues. All these revenues would be available to the General Fund.

Section 36b: Taxation of Veterinary Supplies

Under 32 V.S.A. § 9741(3), veterinary supplies are exempt from the sales tax. However, this section of statute largely refers to agricultural supplies and intermediate goods. As a result, there has existed some ambiguity over whether this exemption applies to veterinary supplies and medications sold to and/or by non-agricultural animal veterinarians. Current practice is that all veterinarian supplies, whether they are used for agricultural or non-agricultural purposes, are exempt from the sales tax. However, the Department of Taxes has recently issued guidance that stated that this exemption is only for agricultural purposes. As such, should no legislation be passed, all veterinary supplies sold for non-agricultural purposes would be subject to the sales tax, per Department of Taxes interpretation.

The bill clarifies the language by exempting all prescription medications sold by veterinarians, regardless of whether they are used for agricultural or non-agricultural animals. It further clarifies the exemption to exempt durable medical equipment purchased by a veterinarian and also supplies sold to a veterinarian but only if these items are used for agricultural purposes.

As a result, the following items would now become taxable:

- Durable medical equipment sold to a veterinarian if it is used for non-agricultural animals.
- Veterinary supplies sold to or by a veterinarian if they are used for non-agricultural animals.

JFO estimates this will generate an additional $1.23 million in sales tax revenues in FY2020, growing in future fiscal years. This money would be dedicated to the Education Fund.