

AGENCY OF ADMINISTRATION

# Department of Taxes

 

## RESIDENT

If you were a Vermont resident during the tax year, calculate your income using the information that follows to determine whether you must file a Vermont income tax return.

### Who Is A Resident Of Vermont?

You qualify as a **Vermont resident** (<http://legislature.vermont.gov/statutes/section/32/151/05811>) for that part of the taxable year during which:

- You are **domiciled** (<http://tax.vermont.gov/home/tax-learning-center/glossary#domicile>) in Vermont, or
- You maintain a permanent home in Vermont, and you are present in Vermont for more than 183 days of the taxable year.

If you are a Vermont resident, your income starts with federal adjusted gross income **less** the following:

- Income exempted from state taxation by the laws of the United States
- Full-time active duty pay from the armed services when the pay is earned outside of Vermont
- Up to \$2,000 military pay for unit training in Vermont for National Guard and U.S. Reserve personnel when the unit certifies the training was completed during the calendar year and the service member's Federal adjusted gross income is less than \$50,000
- Funds received through the federal armed forces educational loan repayment program under 10 U.S.C. chapters 109 and 1609, to the extent the funds are included in adjusted gross income of the taxpayer for the taxable year
- Payment by the state of Vermont to families for support of a person with a developmental disability as long as the amount is included in the federal adjusted gross income

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- Wages received under federal incentive work programs as long as wages are part of federal adjusted gross income under Section 280c of the Internal Revenue Code
- Railroad retirement income Tier I and Tier II
- Expenses incurred on a Vermont property to meet the Americans with Disabilities Act

If the result is **more than \$100**, then you must file a Vermont income tax return.

Learn more about [part-year residents](http://tax.vermont.gov/individuals/income-tax-returns/who-needs-to-file/part-year-resident) (<http://tax.vermont.gov/individuals/income-tax-returns/who-needs-to-file/part-year-resident>) and [nonresidents](http://tax.vermont.gov/individuals/income-tax-returns/who-needs-to-file/nonresident) (<http://tax.vermont.gov/individuals/income-tax-returns/who-needs-to-file/nonresident>).

## Contact Us

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### Taxpayer Assistance Window

Office Hours: 7:45 a.m. - 4:30 p.m. Monday  
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## The Vermont Statutes Online

### Title 32 : Taxation And Finance

#### Chapter 151 : Income Taxes

##### Subchapter 001 : Definitions; General Provisions

(Cite as: 32 V.S.A. § 5811)

#### § 5811. Definitions

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

(1) [Repealed.]

(2) "Commissioner" means the Commissioner of Taxes appointed under section 3101 of this title or any officer or employee of the Department authorized by the Commissioner (directly or indirectly by one or more redelegations of authority) to perform the functions mentioned or described in this chapter.

(3) "Corporation" means any business entity subject to income taxation as a corporation, and any entity qualified as a small business corporation, under the laws of the United States, with the exception of the following entities which are exempt from taxation under this chapter:

(A) Railroad and insurance companies that are taxed under chapter 211 of this title;

(B) Credit unions organized under 8 V.S.A. chapter 71 and federal credit unions;

(C) Nonprofit hospital service corporations organized under 8 V.S.A. chapter 123;

(D) Nonprofit medical service corporations organized under 8 V.S.A. chapter 125.

(4) [Repealed.]

(5) "Fiscal year" means an accounting period of 12 months ending on the last day of any month except December, or an accounting period of less than 12 months, which period is employed as the fiscal year of the taxpayer for U.S. income tax purposes.

(6) "Individual" means a natural person. However, if, for any taxable year, a husband and wife or a surviving spouse file a joint income tax return under this chapter they shall be considered to be a single individual for that taxable year.

(7) "Laws of the United States" means, for any taxable year, the statutes of the United States relating to federal income taxes, whether enacted before or after this chapter effective for the taxable year, unless otherwise provided.

(8) "Nonresident estate" means any estate other than a resident estate.

(9) "Nonresident individual or trust" means, for any taxable year, an individual or trust not qualifying for residency in this State during any part of that taxable year.

(10) "Part-year resident individual or trust" means, for any taxable year, an individual or trust qualifying for residency in this State during only part of that taxable year.

(11) "Residency."

(A) An individual qualifies for residency in this State for that portion of the taxable year during which:

(i) the individual is domiciled in this State; or

(ii) the individual maintains a permanent place of abode within this State if the individual both maintains a permanent place of abode and is present in this State for more than an aggregate of 183 days of that taxable year.

(B) A trust qualifies for residency in this State if it is:

(i) a trust, or a portion of a trust, consisting of property transferred by will or by a decedent who at his or her death was domiciled in this State; or

(ii) a trust, or portion of a trust, consisting of property of:

(I) a person domiciled in this State at the time such property was transferred to the trust, if such trust or portion of a trust was then irrevocable, or if it was then revocable and has not subsequently become irrevocable; or

(II) a person domiciled in this State at the time such trust, or portion of a trust, became irrevocable, if it was revocable when such property was transferred to the trust but has subsequently become irrevocable.

(C) As used in subdivision (B) of this subsection, a trust or a portion of a trust is revocable if it is subject to a power, exercisable immediately or at any future time, to vest title in the person whose property constitutes such trust or portion of a trust, and a trust or portion of a trust becomes irrevocable when the possibility that such power may be exercised has been terminated.

(12) "Resident estate" means the estate of a decedent who, at his or her death, was domiciled in this State.

(13) "Resident individual or trust" means, for any taxable year, an individual or trust qualifying for residency in this State during the entirety of that taxable year.

(14) "Tax" or "tax liability" includes the liability for all amounts owing by a taxpayer to the State of Vermont under this chapter.

(15) "Taxable corporation" means, for any taxable year, a corporation which, at any time during that taxable year:

(A) Was incorporated under the laws of this State;

(B) Possessed a certificate of authority to do business within this State; or

(C) Received any income allocable or apportionable to this State under the provisions of section 5833 of this title, except that a corporation which would otherwise be taxable under this subdivision shall be exempt if the corporation's activities in this State are limited to the performance of any activities which, without more, would not subject the corporation to taxation in this State, plus either:

(i) fulfillment operations as follows:

(I) maintenance of cash balances with banks or trust companies in this State;

(II) the following actions by a person unrelated to the corporation, taken on behalf of the corporation:

(aa) sales order processing service;

(bb) credit card processing services;

(cc) receipt, storage and removal from storage of property of the corporation, in conjunction with the packaging or repackaging of such property for shipment to a customer of the corporation; and

(dd) reproduction of property of the corporation contained in or on electromagnetic or optical media, such as computer discs, magnetic tapes, compact discs, laser discs, and microprocessor chips, onto tangible media, and receipt, storage, and removal from storage, of property of the corporation for shipment to a customer of the corporation or to the corporation itself in conjunction with any such reproduced property; or

(ii) any or all of the following necessary to create or maintain a Worldwide Web page or Internet site for the corporation:

(I) ownership of data or programming code in this State, or use of that data or programming code by a person other than the corporation or by a person not in this State;

(II) ownership of, or receipt of services from, computer servers in this State;

(III) receipt of computer processing or web hosting services from a computer service provider or web hosting service in this State.

(16) "Taxable year" means the calendar year, or the fiscal year ending during the calendar year, with respect to which a tax is imposed under this chapter, and, in the case of a return filed with respect to a fractional part of a year, the period with respect to which the return is filed.

(17) "Taxpayer" means a person obligated to file a return with or pay or remit any amount to this State under this chapter.

(18) "Vermont net income" means, for any taxable year and for any corporate taxpayer:

(A) the taxable income of the taxpayer for that taxable year under the laws of the United States, without regard to 26 U.S.C. § 168(k) of the Internal Revenue Code, and excluding income which under the laws of the United States is exempt from taxation by the states:

(i) increased by:

(I) the amount of any deduction for State and local taxes on or measured by income, franchise taxes measured by net income, franchise taxes for the privilege of doing business and capital stock taxes; and

(II) to the extent such income is exempted from taxation under the laws of the United States by the amount received by the taxpayer on and after January 1, 1986 as interest income from State and local obligations, other than obligations of Vermont and its political subdivisions, and any dividends or other distributions from any fund to the extent such dividend or distribution is attributable to such Vermont State or local obligations;

(III) the amount of any deduction for a federal net operating loss; and

(ii) decreased by:

(I) the "gross-up of dividends" required by the federal Internal Revenue Code to be taken into taxable income in connection with the taxpayer's election of the foreign tax credit; and

(II) the amount of income which results from the required reduction in salaries and wages expense for corporations claiming the Targeted Job or WIN credits.

(B) In the case of an "electing small business corporation" ("Subchapter S Corporation") under the laws of the United States, "Vermont net income" shall include only the Vermont net income of the corporation (as defined in this section) which is taxable to the corporation under the provisions of the Internal Revenue Code.

(C) For a taxable corporation that is a member of an affiliated group and that is engaged in a unitary business with one or more other members of that affiliated group, "Vermont net income" includes the allocable share of the combined net income of the group.

(D) For a corporation with federal exempt status, "Vermont net income" means all income that is subject to federal income tax, including unrelated business income under 26 U.S.C. § 511 and any income arising from debt-financed property subject to taxation under 26 U.S.C. § 514.

(19) "Commercial film production" means production of motion pictures intended for theater or video release or exhibition on international or national television by a network, cable network, or for syndication; or production of television advertisements; or production of a pilot for, or an episode or segment of, an internationally or nationally televised series by a network, cable network or for syndication or

video release.

(20) "Person" shall include an individual, firm, partnership, association, joint stock company, corporation, trust, estate, or other entity.

[Subdivision (21) applies to taxable year 2017 and before.]

(21) "Taxable income" means federal taxable income determined without regard to 26 U.S.C. § 168(k) and:

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

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

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

(iii) the amount of State and local income taxes deducted from federal adjusted gross income for the taxable year, but in no case in an amount that will reduce total itemized deductions below the standard deduction allowable to the taxpayer; and

(iv) the amount of total itemized deductions, other than deductions for State and local income taxes, medical and dental expenses, or charitable contributions, deducted from federal adjusted gross income for the taxable year, that is in excess of two and one-half times the standard deduction allowable to the taxpayer; and

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

(i) income from U.S. government obligations;

(ii) with respect to adjusted net capital gain income as defined in 26 U.S.C. § 1(h) reduced by the total amount of any qualified dividend income: either the first \$5,000.00 of such adjusted net capital gain income; or 40 percent of adjusted net capital gain income from the sale of assets held by the taxpayer for more than three years, except not adjusted net capital gain income from:

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

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

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

(iii) recapture of State and local income tax deductions not taken against Vermont income tax.

[Subdivision (21) shall apply to taxable years 2018 and after.]

(21) "Taxable income" means, in the case of an individual, federal adjusted gross income determined without regard to 26 U.S.C. § 168(k) and:

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

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

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

and

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

(i) income from U.S. government obligations;

(ii) with respect to adjusted net capital gain income as defined in 26 U.S.C. § 1(h) reduced by the total amount of any qualified dividend income: either the first \$5,000.00 of such adjusted net capital gain income; or 40 percent of adjusted net capital gain income from the sale of assets held by the taxpayer for more than three years, except not adjusted net capital gain income from:

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

(II) the sale of depreciable personal property other than farm property and standing timber; or stocks or bonds publicly traded or traded on an exchange, or any other financial instruments; regardless of whether sold by an individual or business; and provided that the total amount of decrease under this subdivision (21)(B)(ii) shall not exceed 40 percent of federal taxable income; and

(iii) recapture of State and local income tax deductions not taken against Vermont income tax; and

(C) Decreased by the following exemptions and deductions:

(i) the amount of personal exemptions taken at the federal level;

(ii) for taxpayers who do not itemize at the federal level, the amount of the standard deduction taken at the federal level; and

(iii) for taxpayers who itemize at the federal level:

(I) the amount of federally itemized deductions for medical and dental expenses and charitable contributions;

(II) the total amount of federally itemized deductions, other than deductions for State and local income taxes, medical and dental expenses, and charitable contributions, deducted from federal adjusted gross income for the taxable year, but in no event shall the amount under this subdivision exceed two and one-half times the federal standard deduction allowable to the taxpayer; and

(III) in no event shall the total amount of deductions allowed under subdivisions (I) and (II) of this subdivision (21)(C)(iii) reduce the total amount of itemized deductions below the federal standard deduction allowable to the taxpayer.

(22) "Affiliated group" means a group of two or more corporations in which more than 50 percent of the voting stock of each member corporation is directly or indirectly owned by a common owner or owners, either corporate or noncorporate, or by one or more of the member corporations, but shall exclude overseas business organizations or corporations taxable under 8 V.S.A. § 6014.

(23) "Unitary business" means one or more related business organizations engaged in business activity both within and outside the State among which there exists a unity of ownership, operation, and use; or an interdependence in their functions.

(24) "Overseas business organization" means a business organization that ordinarily has 80 percent or more of its payroll and property outside the 50 states and the District of Columbia.

(25) "Vermont net operating loss" means any negative income after allocation and apportionment of Vermont net income pursuant to section 5833 of this chapter.

(26) "Digital business entity" means a business entity which, during the entire taxable year:

(A) was not a member of an affiliated group or engaged in a unitary business with one or more members of an affiliated group that is subject to Vermont income taxation; did not have any Vermont property, payroll, or sales and did not perform any activities in this State which would constitute doing business for purposes of income taxation except activities described in subdivisions (15)(C)(i) (fulfillment operations) and (C)(ii) (web page or Internet site maintenance) of this section; and

(B) used mainly computer, electronic, and telecommunications technologies in its formation and in the conduct of its business meetings, in its interaction with shareholders, members, and partners, in executing any other formal requirements.

(27)(A) For purposes of subdivision (21)(B)(ii)(I) of this section, the sale of a farm shall mean the disposition of real and personal property owned by a farmer as that term is defined in subsection 3752(7) of this title and used by the farmer in the business of farming as that term is defined in 26 C.F.R. § 1.175-3.

(B) For purposes of subdivision (21)(B)(ii)(I) of this section, the sale of standing timber shall mean the disposition of standing timber by an owner of timber that would give rise to the owner recognizing a capital gain or loss as defined in 26 U.S.C. § 631(b).

[Subdivision (27) shall apply to taxable years 2018 and after.]

(27)(A) For the purposes of subdivisions (21)(B)(ii)(I), (21)(B)(ii)(II), (28)(B)(ii)(I), and (28)(B)(ii)(II) of this section, the sale of a farm shall mean the disposition of real and personal property owned by a farmer as that term is defined in subsection 3752(7) of this title and used by the farmer in the business of farming as that term is defined in 26 C.F.R. § 1.175-3.

(B) For the purposes of subdivisions (21)(B)(ii)(II) and (28)(B)(ii)(II) of this section, the sale of standing timber shall mean the disposition of standing timber by an owner of timber that would give rise to the owner recognizing a capital gain or loss as defined in 26 U.S.C. § 631(b).

[Subdivision (28) shall apply to taxable years 2018 and after.]

(28) "Taxable income" means, in the case of an estate or a trust, federal taxable income determined without regard to 26 U.S.C. § 168(k) and:

(A) increased by the following items of income:

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

and

- (iii) the amount of State and local income taxes deducted from federal gross income for the taxable year; and

(B) decreased by the following items of income:

- (i) income from U.S. government obligations;

(ii) with respect to adjusted net capital gain income as defined in 26 U.S.C. § 1(h), reduced by the total amount of any qualified dividend income: either the first \$5,000.00 of such adjusted net capital gain income; or 40 percent of adjusted net capital gain income from the sale of assets held by the taxpayer for more than three years, except not adjusted net capital gain income from:

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

(II) the sale of depreciable personal property other than farm property and standing timber; or stocks or bonds publicly traded or traded on an exchange, or any other financial instruments; regardless of whether sold by an individual or business; and provided that the total amount of decrease under this subdivision (28)(B)(ii) shall not exceed 40 percent of federal taxable income; and

(iii) recapture of State and local income tax deductions not taken against Vermont income tax. (Added 1966, No. 61 (Sp. Sess.), § 1, eff. Jan. 1, 1966; amended 1967, No. 121, § 1, eff. Jan. 1, 1968 for taxable years beginning on or after January 1, 1968; 1971, No. 73, § 12, eff. April 16, 1971; 1973, No. 90, § 4; 1975, No. 190 (Adj. Sess.), § 3, eff. for tax years beginning after December 31, 1974; 1977, No. 17, § 1, eff., March 22, 1977 for tax years ending on and after December 31, 1976; 1977, No. 117 (Adj. Sess.), §§ 1, 2, eff. Jan. 27, 1978 for tax years commencing on and after January 1, 1977; 1979, No. 105 (Adj. Sess.), §§ 1, 2, § 45, eff. April 2, 1980 for taxable years beginning after January 1, 1979; 1981, No. 152 (Adj. Sess.), § 1, eff. April 12, 1982 for taxable years beginning on and after Jan. 1, 1982; 1985, No. 262 (Adj. Sess.), §§ 5-7, eff. June 4, 1986, affecting income taxes beginning on and after Jan. 1, 1986; 1985, No. 266 (Adj. Sess.), §§ 1, 2, eff. June 4, 1986 for taxable years beginning on and after Jan. 1, 1986; 1987, No. 82, §§ 4, 5, 9, eff. June 9, 1987 affecting taxable years beginning on and after Jan. 1, 1987; 1987, No. 210 (Adj. Sess.), § 4; 1989, No. 119, § 2, eff. June 22, 1989, applying to taxes payable for taxable years beginning on and after Jan. 1, 1989; 1989, No. 210 (Adj. Sess.), § 296, eff. May 31, 1990, affecting taxable years beginning on or after Jan. 1, 1990; 1989, No. 222 (Adj. Sess.) § 4, eff. May 31, 1990, applying to taxable years beginning on or after Jan. 1, 1990; 1991, No. 32, eff. May 18, 1991, §§ 31, 32, eff. May 18, 1991, applying retroactively to taxable years beginning on and after January 1, 1990, § 33 eff. May 18, 1991, applying to loss

years ending on and after April 30, 1991; 1991, No. 67, § 25, eff. June 19, 1991; 1995, No. 29, §§ 7, 8, eff. April 14, 1995; 1995, No. 169 (Adj. Sess.), §§ 14, 22, eff. May 15, 1996; 1997, No. 156 (Adj. Sess.), §§ 3, 51, eff. April 29, 1998; 2001, No. 67, §§ 2, 3, eff. June 16, 2001; 2001, No. 140 (Adj. Sess.), §§ 1-3, eff. June 21, 2002; 2001, No. 144 (Adj. Sess.), § 28, eff. June 21, 2002; 2003, No. 67, § 24a, eff. July 1, 2003; 2003, No. 152 (Adj. Sess.), § 2, eff. June 7, 2004; 2005, No. 94 (Adj. Sess.), § 1, eff. March 8, 2006; 2005, No. 207 (Adj. Sess.), §§ 9, 15, eff. May 31, 2006; 2007, No. 190 (Adj. Sess.), §§ 19, 36; 2009, No. 1 (Sp. Sess.), §§ H.25, H.47, H.51; 2009, No. 2 (Sp. Sess.), §§ 16a, 16b, 17, eff. June 9, 2009; 2009, No. 160 (Adj. Sess.), § 60, eff. June 4, 2010; 2013, No. 73, §§ 17, 18, eff. June 5, 2013; 2015, No. 57, § 64, eff. Jan. 1, 2015; 2017, No. 73, § 13a, eff. Jan. 1, 2018.)

