

# The Vermont Statutes Online

## Title 32 : Taxation And Finance

### Chapter 135 : Education Property Tax

#### § 5410. Declaration of homestead

(a) A homestead owner shall declare ownership of a homestead for purposes of education property tax.

(b) Annually on or before the due date for filing the Vermont income tax return, without extension, each homestead owner shall, on a form prescribed by the Commissioner, which shall be verified under the pains and penalties of perjury, declare his or her homestead, if any, as of, or expected to be as of, April 1 of the year in which the declaration is made.

(c) In the event that an unsigned but otherwise completed homestead declaration is filed with the declarant's signed State income tax return, the Commissioner may treat such declaration as signed by the declarant.

(d) The Commissioner shall provide a list of homesteads in each town to the town listers by May 15. The listers shall notify the Commissioner by June 1 of any residences on the Commissioner's list which do not qualify as homesteads. The listers shall separately identify homesteads in the grand list.

(e) The Commissioner shall adopt rules governing the eligibility requirements for declaring a homestead.

(f) [Repealed.]

(g) If the property identified in a declaration under subsection (b) of this section is not the taxpayer's homestead, or if the owner of a homestead fails to declare a homestead as required under this section, the Commissioner shall notify the municipality, and the municipality shall issue a corrected tax bill that may, as determined by the governing body of the municipality, include a penalty of up to three percent of the education tax on the property. However, if the property incorrectly declared as a homestead is located in a municipality that has a lower homestead tax rate than the nonresidential tax rate, or if an undeclared homestead is located in a municipality that has a lower nonresidential tax rate than the homestead tax rate, then the governing body of the municipality may include a penalty of up to eight percent of the education tax liability on the property. If the Commissioner determines that the declaration or failure to declare was with fraudulent intent, then the municipality shall assess the taxpayer a penalty in an amount equal to 100 percent of the education tax on the property; plus any interest and late-payment fee or commission which may be due. Any penalty imposed under this section and any additional property tax interest and late-payment fee or commission shall be assessed and collected by the municipality in the same manner as a property tax under chapter 133 of this title.

Notwithstanding section 4772 of this title, issuance of a corrected bill issued under this section does not extend the time for payment of the original bill, nor relieve the taxpayer of any interest or penalties associated with the original bill. If the corrected bill is less than the original bill, and there are also no unpaid current year taxes, interest or penalties and no past year delinquent taxes or penalties and interest charges, any overpayment shall be reflected on the corrected tax bill and refunded to the taxpayer.

(h) The filing of a new or corrected declaration or rescission of an erroneous declaration, on or before September 1 of the property tax year, that is not reflected in the first Education Fund payment under 16 V.S.A. § 4028 for that fiscal year or in a municipality's first payment to the Education Fund under subsection 5402(c) of this title for that fiscal year, shall be reflected in the final net payment to or from the Education Fund for that fiscal year. The municipality may retain 0.225 of one percent of the tax collected. Any reduction in tax paid to a municipality due to a new, revised, or rescinded declaration shall be paid by the municipality to the taxpayer no later than May 15 of the fiscal year. No later than June 1, each municipality shall provide to the State Treasurer a list of taxpayers who filed late or corrected declarations or rescinded declarations, the amount of the change in education tax, and the amount of any interest and penalty billed the taxpayer.

(i) An owner filing a new or corrected declaration, or rescinding an erroneous declaration, after October 15 shall not be entitled to a refund resulting from the correct property classification; and any additional property tax and interest which would result from the correct classification shall not be assessed as tax and interest, but shall instead constitute an additional penalty, to be assessed and collected in the same manner as penalties under subsection (g) of this section. Any change in property classification under this subsection shall not be entered on the grand list.

(j) A taxpayer may appeal a determination of domicile for purposes of a homestead declaration or an assessment of fraud penalty under this section to the Commissioner, in the same manner as an appeal under chapter 151 of this title. A taxpayer may appeal an assessment of any other penalty under this section to the listers within 14 days after the date of mailing of notice of the penalty, and from the listers to the Board of Civil Authority and thereafter to the courts, in the same manner as an appraisal appeal under chapter 131 of this title. The legislative body of a municipality shall have authority in cases of hardship to abate all or any portion of a penalty appealable to the listers under this section and any tax, penalty, and interest arising out of a corrected property classification under this section; and shall state in detail in writing the reasons for its grant or denial of the requested abatement. The legislative body may delegate this abatement authority to the Board of Civil Authority or the board of abatement for the municipality. Requests for abatement shall be made to the municipal treasurer or other person designated to collect current taxes, and that person shall forward all requests, with his or her recommendation, to the body authorized to grant or deny abatement.

(k) A municipality may retain any penalties and interest assessed and collected in accord with this section.

(l) "Hardship" under this section means an owner's inability to pay as certified by the Commissioner of Taxes in his or her discretion; or means an owner's filing an incorrect, or failing to file a correct, homestead declaration due to one or more of the following:

(1) full-time active military duty of the declarant outside the State;

(2) serious illness or disability of the declarant;

(3) serious illness, disability, or death of an immediate family member of the declarant;

(4) fire, flood, or other disaster. (Added 1997, No. 60, § 45, eff. Jan. 1, 1999; amended 1997, No. 71 (Adj. Sess.), §§ 12, 13, 14, eff. Jan. 1, 1998; 1997, No. 71 (Adj. Sess.), § 76, eff. January 1, 1999; 1999, No. 1, § 60g(b); 1999, No. 49, §§ 31, 53, eff. June 2, 1999; 2003, No. 68, § 6, eff. July 1, 2004; 2003, No. 76 (Adj. Sess.), §§ 2, 20, eff. Feb. 17, 2004; 2003, No. 107 (Adj. Sess.), § 18a; 2005, No. 38, § 6, eff. Jan. 1, 2006; 2005, No. 38, § 17; 2005, No. 185 (Adj. Sess.), § 6, eff. Jan. 1, 2006; 2007, No. 190 (Adj. Sess.), § 12; 2009, No. 1 (Sp. Sess.), § H.24, eff. June 2, 2009; 2009, No. 160 (Adj. Sess.), § 47, eff. June 4, 2010; 2011, No. 45, § 11, eff. May 24, 2011; 2011, No. 143 (Adj. Sess.), § 25, eff. Jan. 1, 2013; 2013, No. 174 (Adj. Sess.), §§ 17, 18.)