

Non-Property Education Fund Revenue

House Committee on Ways & Means
Patrick Titterton, Senior Fiscal Analyst
January 31, 2024



Overview

- In addition to property taxes the Education Fund receives revenue from several other sources that include:
 - Sales and Use Tax
 - 1/3 of Purchase and Use Tax
 - 1/4 of Meals and Rooms Tax
 - Profits from the State lotteries
 - Certain school service-based Medicaid reimbursement funds
 - Other miscellaneous revenue sources



Potential Revenue Sources

- Excise Tax on Sugar Sweetened Beverages
- Apply the Sales & Use tax to:
 - Candy
 - Clothing above a certain threshold
 - Prewritten software accessed remotely
- Increasing the sales tax rate
- Changes to the sales tax base



Sugar sweetened beverages



Excise tax of sugar sweetened beverages

- JFO used past proposed legislation as a model for the estimate (H.234 from 2013 is an example)
- \$0.01 or \$0.02 tax per ounce
 - 12 ounce can of soda would generate \$0.12 to \$0.24
- Sugar sweetened beverages defined as any nonalcoholic beverage, carbonated or noncarbonated, that is intended for human consumption and contains any added sweetener
- Also applies to powders or syrups meant to be mixed with water



Sugar sweetened beverages

- What is included:
 - Soft drinks,
 - Fruit beverages,
 - Sports drinks,
 - Ready-to-drink tea,
 - Energy drinks, and
 - Ready-to-drink coffee.
- What is not included:
 - Beverages with 100% natural fruit or vegetable juice,
 - Infant formula,
 - Milk or milk alternatives (i.e. soy milk, almond milk, etc.),
 - Diet soft drinks,
 - Ready-to-drink diet tea, and
 - Flavored water.



Sugar sweetened beverages

- Currently no other states have a specific tax on sugar sweetened beverages, but there are 10 localities that do.

City	Tax Rate	Eligible Drinks	Paid By
Albany, CA	\$0.01 per ounce	Sugar sweetened beverages	Distributors
Berkley, CA	\$0.01 per ounce	Sugar sweetened beverages	Distributors
Boulder, CO	\$0.02 per ounce	Sugar sweetened beverages	Distributors
Oakland, CA	\$0.01 per ounce	Sugar sweetened beverages	Distributors
Philadelphia, PA	\$0.015 per ounce	Sweetened Beverages (including diet drinks)	Distributors
San Francisco, CA	\$0.01 per ounce	Sugar sweetened beverages	Distributors
Seattle, WA	\$0.0175 per ounce	Sugar sweetened beverages	Distributors
Washington, D.C.	8% sales tax	Sweetened Beverages (including diet drinks)	Consumers



Sugar sweetened beverages estimate

- JFO estimates that a \$0.01 per ounce tax on sugar sweetened beverages would result in \$15.2 million in tax revenue in FY 2025.
- A \$0.02 per ounce tax would result in \$29.8 million in tax revenue in FY 2025.



Applying the sales tax to candy



Applying the sales tax to candy

- Currently Vermont exempts groceries from the sales tax and candy is treated as a grocery.
- While many states exempt grocery purchases from the Sales and Use tax, some do not consider candy to be a grocery item, meaning that candy purchases are subject to the Sales and Use tax.
- In some states groceries are subject to the sales tax and candy is taxed because it is considered a grocery.
- Overall, 27 states and Washington, D.C. apply the Sales and Use tax to candy.
- JFO estimates that if the Sales and Use tax were applied to purchases of candy, the revenue generated would amount to **\$3.7 million in FY 2025.**



Applying the sales tax to clothing and footwear above a threshold



What is exempt?

- 32 V.S.A. § 9741(45) spells out that clothing is exempt but accessories, protective equipment, and sport or recreational equipment are not.
- Examples of “clothing” and “footwear”:
 - Aprons, household and shop
 - Uniforms (athletic and non-athletic), athletic supporters, and costumes
 - Bathing suits and caps
 - Belts and suspenders
 - Shoes, sneakers, boots, sandals, steel-toed shoes, shoelaces, and slippers
 - Coats and jackets
 - Diapers, child and adult, including disposable diapers
 - Hats, caps, earmuffs, gloves, and mittens
 - Formal wear, neckties and wedding apparel
 - Underwear, hosiery, pantyhose, socks, and stockings



What is not exempt?

- “Protective Equipment” is not exempt and is defined as “items for human wear and designed as protection of the wearer against injury or disease...and not suitable for general use.”
 - Breathing masks and respirators
 - Cleaning apparel and equipment
 - Ear and hearing protectors
 - Face shields
 - Hardhats and helmets
 - Protective gloves
 - Safety belts, glasses and goggles
 - Tool belts



What is not exempt?

- “Sport or recreational equipment” is taxable and defined as “items designed for human use and worn in conjunction with an athletic or recreational activity that are not suitable for general use:
 - Ballet and tap shoes
 - Athletic shoes, cleated or spiked
 - Gloves, including baseball, bowling, boxing, hockey and golf, goggles
 - Hand, elbow, shoulder, and shin guards
 - Life preservers and vests
 - Mouth guards
 - Ice skates and roller blades
 - Ski boots
 - Waders, wetsuits and fins



Statutory Purpose and History

- **Purpose:** “to limit the tax burden on the purchase of goods that are necessary for the health and welfare of all people in Vermont.”
 - No specific references to lowering the tax burden on a specific group of people.
 - No reference to making the tax code more progressive
- **History:** Act 49 of 1999 created the exemption, but it was only for clothing, effective December 1, 1999.
 - Footwear was made exempt in the same act, but only effective July 1, 2001.
 - Only items less than \$110 were exempt.
- In 2007, the \$110 threshold was removed when Vermont joined the Streamlined Sales and Use Tax Agreement



Estimated Revenue

- Removing the exemption on clothing and footwear above:
 - \$110 is estimated to increase revenue by \$6.8 million in FY 2025
 - \$150 is estimated to increase revenue by \$5.6 million in FY 2025
 - \$175 is estimated to increase revenue by \$4.4 million in FY 2025



Applying the sales tax to prewritten software accessed remotely



Applying the sales tax to prewritten software accessed remotely

- Vermont sales tax applies to the retail sale of tangible personal property, unless an exemption applies. 32 V.S.A. §9771(1).
- Tangible personal property includes prewritten software:
 - “Tangible personal property” means personal property which may be seen, weighed, measured, felt, touched, or in any other manner perceived by the senses. “Tangible personal property” includes electricity, water, gas, steam, and prewritten computer software. 32 V.S.A. § 9701(7).
- Unlike tangible personal property, charges for a service are generally not taxable, unless specifically enumerated. 32 V.S.A. § 9771.



Why is prewritten software accessed remotely not currently taxed?

- Session law:
 - 2015 Acts and Resolves, No. 51, Sec. G.8 created a sales tax exemption for prewritten computer software when it is accessed remotely.
- Sec. G.8 states that charges for the right to access remotely prewritten software shall not be considered charges for tangible personal property under 32 V.S.A. § 9701(7).



What would become taxable?

“Software as a Service” (“SaaS”), **“Platform as a Service”** (“PaaS”), and **“Infrastructure as a Service”** (“IaaS”) are all currently exempt in Vermont.

- The terms are not uniformly defined in law (or in the computing industry):
 - **SaaS** is when a service provider hosts software applications over the internet for a customer. It is also known as “cloud application services”.
 - **PaaS** is a service containing elements of both IaaS and SaaS. PaaS provides a framework for developers to build on and use to create customized applications.
 - **IaaS** is when a service provider owns, maintains, operates, and houses equipment (such as hardware, servers, network components, etc.) used to support a customer's operations. Customer accesses equipment over the internet and has complete control over the infrastructure.



What would become taxable? Examples

- **Software as a Service (SaaS)**
 - TurboTax and Quickbooks
 - Microsoft Office Online
 - Dropbox
 - Mail Chimp
 - Google Apps (like Docs, Sheets, etc)
 - Toast and Square
- **Platform as a Service (PaaS)**
 - Squarespace web design
 - Force.com (as part of Salesforce)
- **Infrastructure as a Service (IaaS)**
 - Amazon Web Services
 - Google Compute Engine



Revenue Impact of applying the sales tax to prewritten software accessed remotely

- Estimate: **\$20.4 million** in FY 2025
 - Was estimated to be \$18.4 million in 2024 but updated data shows continued growth in the industry
 - This market is rapidly growing



Increasing the sales tax rate



Increasing the sales tax rate

- Vermont currently has a sales tax rate of 6% which puts it in the middle of the pack when compared to other northeast states.
 - Notably New Hampshire does not have a sales tax

Comparison of Sales Tax Rates	
New England States - Tax Year 2022	
State	State Sales Tax Rate (does not include local rates)
Vermont	6.00%
Connecticut	6.35%
Maine	5.50%
Massachusetts	6.25%
New Hampshire	None
New York	4.00%
Rhode Island	7.00%



Increasing the sales tax rate

- The January 2024 consensus forecast projects Vermont will generate approximately \$606.9 million in sales tax revenue in FY 2025.
- This translates to a sales tax base of approximately \$10.1 billion in taxable sales.
- JFO estimates that for each 0.1% increase in the Sales and Use tax rate, the State could expect to raise roughly \$9.3 million in FY 2025.



Other expansions of the sales tax



Other expansions of the sales tax

- Vermont exempts many items from the Sales and Use tax
- The 2023 Biennial Tax Expenditure Report provides estimates for 38 of these exemptions (will be updated this summer)
- The report estimates that these exemptions will result in approximately \$332.2 million in foregone revenue in FY 2024
- The largest exemptions are for groceries, medical products, energy purchases for a residence, and clothing and footwear.
 - These four exemptions are estimated to result in \$270.8 million in foregone revenue in FY 2024.



Summary of estimated revenue in FY 2025

Taxes	Tax Change	FY 2025 Revenue Estimate
Sugar Sweetened Beverages Tax	\$0.01 per ounce	\$15.2 million
Sugar Sweetened Beverages Tax	\$0.02 per ounce	\$29.8 million
Candy	6% sales tax	\$3.7 million
Clothing and Footwear	\$110 cap	\$6.8 million
	\$150 cap	\$5.6 million
	\$175 cap	\$4.4 million
Prewritten Software Accessed Remotely	6% sales tax	\$20.4 million
Increase in the Sales Tax Rate	per 0.1% increase	\$9.3 million
Other Expansions to the Sales Tax Base	6% sales tax	Estimated up to \$304.5 million



Questions?



Resources

- 2023 Report on Possible Revenue Sources for Universal School Meals, Joint Fiscal Office
 - [https://ljfo.vermont.gov/assets/Subjects/2023-Session-Documents/b1e815752c/GENERAL-366503-v1-USM Revenue Report v2.pdf](https://ljfo.vermont.gov/assets/Subjects/2023-Session-Documents/b1e815752c/GENERAL-366503-v1-USM_Revenue_Report_v2.pdf)
- 2023 Vermont Tax Expenditures Biennial Report, Joint Fiscal Office
 - <https://ljfo.vermont.gov/assets/Subjects/Tax-Expenditure-Reports/3f5011dba8/2023-Tax-Expenditure-Report-v2.pdf>

