



PROPERTY TRANSACTIONS & VT HOMESTEAD DECLARATION

A Guide for Lawyers, Real Estate Agents and Financial Institutions

Purchasing real estate is a major event in most people's lives, and property taxes are an important consideration in that decision. We know you work hard for your client to make sure the purchase goes as smoothly as possible. This guide offers information on the Homestead Declaration and will help eliminate surprises later. Please do not hesitate to contact the Vermont Department of Taxes if you have further questions.

HOMESTEAD DECLARATIONS

The Homestead Declaration is no longer required to be filed each year. The declaration filed in calendar year 2010 will remain on record until that declaration is withdrawn because the property is sold or there is a change in the use of the homestead property.

NOTE: The claim for a property tax adjustment must still be filed each year. The filing due dates, eligibilities and the process remains the same but there is a new form – Form HS-145.

SELLING PROPERTY

Seller's Obligations

When selling a property declared as a homestead, the seller must notify the Vermont Department of Taxes of the sale and withdraw the homestead declaration on the property within thirty (30) days of the date that ownership of the property is transferred to the new owner(s).

The Seller can complete the homestead withdrawal form and send it to the Department at the time of the closing.

Sale also includes transfer of title to an estate, a trust and creation of a life estate.

NOTE: The Seller can complete the homestead withdrawal at the time of the closing and file it immediately with the Department. The Buyer also can complete and file a Homestead Declaration at the time of closing and file it immediately with the Department. Based on the transaction date, the Department will hold the forms and notify the town for the appropriate grand list year.



How to Withdraw a Homestead Declaration

Use Form HS-132, Notice to Withdraw a Homestead Declaration. There are several ways to file the form:

- file on our free, online web filing program (Available January 18, 2011)
- download from our website
- order by email at formsrequest@state.vt.us
- order by calling 802-828-2515

Due Date to Withdraw a Homestead Declaration

Form HS-132 must be filed with the Vermont Department of Taxes of within thirty (30) days of the property transfer.

32 V.S.A. §5410(g) provides for a penalty if the notification is filed after thirty (30) days. The penalty is equal to three percent (3%) of the education tax on the property if the town's nonresidential tax rate is higher than the town's homestead tax rate. In any other case, the penalty is eight percent (8%) of the education tax on the property. The penalty is assessed and billed by the town.

Seller's Property Tax Adjustment

The property tax adjustment remains with the property.

Unless the Seller and Buyer agree otherwise, any property tax adjustment based on the Seller's claim should be treated as a payment of property tax by the Seller and allocated upon closing.

32 V.S.A. §6063(b).

Other Reasons to Withdraw a Homestead Declaration

Form HS-132, Notice to Withdraw a Homestead Declaration, must be filed in the additional circumstances:

- Property no longer used as a homestead
Example – you move out of the property declared as your homestead but do not sell the property.
- Property owned by a decedent's estate qualifies as homestead only until the following April 1 following the homeowner's death
Example – the owner who declared the homestead died in 2010 and the property is now owned by the decedent's estate. The



property retains its homestead designation until the April 1, 2011 grant list. The declaration needs to be withdrawn as of that date.

- The declaration submitted in error
Example – the owner used the wrong SPAN to identify the Homestead on the declaration, or the property is not used as a homestead.

Due Date to Withdraw a Homestead Declaration

Sale of Property – File Form HS-132 with the Vermont Department of Taxes within thirty (30) days of the transaction.

Withdrawal by an Estate - the following April 15th due date but no later than September 1st.

Submitted in Error – File Form HS-132 with the Vermont Department of Taxes as soon as the error is discovered.

BUYING PROPERTY

Buyer's Obligation

If the Buyer will use the property as his or her homestead, Form HS-131, Homestead Declaration, must be filed with the Vermont Department of Taxes. The Homestead Declaration must be filed if the Buyer:

- Expects to be a VT resident on April 1, and
- Owns and occupies the VT property on April 1 as his or her principal home.

How to File a Homestead Declaration

Use Form HS-131, Homestead Declaration. There are several ways to obtain the form:

- file on our free, online web filing program
(Available January 18, 2011)
- download from our website
- order by email at formsrequest@state.vt.us
- order by calling 802-828-2515

NOTE: The Buyer can complete and file the Homestead Declaration at the time of closing and file it immediately with the Department. Based on the transaction date, the Department will hold the form and notify the town for the appropriate grand list year.



Other Reasons to File a Homestead Declaration

HS-131, Homestead Declaration, must also be filed when there is:

A change of use of the Declared Homestead – When there is change in the use of the homestead, a new declaration must be filed. Change of use means the percentage of the homestead used for business or for rental has increased or decreased. A new Homestead Declaration must be filed with the Vermont Department of Taxes by April 15 following the date of change.

A Declared Homestead is transferred to revocable trust or life estate is created - A new Homestead Declaration must be filed with the Vermont Department of Taxes by April 15 following the date of a transfer that amends the ownership type.

NOTE: The Homestead Declaration can be filed at the time the change occurs. Based on the effective date of the change, the Department will hold the form and notify the town for the appropriate grand list year.

OTHER TRANSACTIONS

Filing a new Homestead Declaration when the name of the owner on the grand list will differ from the name on the Department records alerts the Department to these exceptions. This facilitates processing the declaration and any property tax adjustment claim.

Homestead Conveyed to a Revocable Trust

Property conveyed to a revocable trust may qualify as a homestead of the donor if

- The property was the homestead of the person who made the transfer; and
- That person is the sole beneficiary of the revocable trust.

See 32 V.S.A. §§5401(7)(D) and 6062(e) and Reg. §1.5401(7)(e)(3).

For purposes of this provision, husband and wife are considered a sole beneficiary.

The sole beneficiary files Form HS-131, Homestead Declaration, and checks Box 4a.



Life Estate

A life estate in the property qualifies as a homestead. A deed filed in the office of the town or city clerk where the property is located is evidence of a life estate. The life estate holder must occupy the property as his or her principal dwelling. See Reg. §1.5407(7)(e)(2). The life estate holder files Form HS-131, Homestead Declaration, and checks Box 4b.

Homestead Held by an Estate

A dwelling that is held by the decedent's estate may retain the homestead classification until the next April 1 grand list:

- The property was declared by the decedent as a homestead for the year of death;
- The property was the decedent's homestead at the date of death; and
- The property is not rented during the estate ownership.

The estate files Form HS-131, Homestead Declaration, with the Vermont Department of Taxes listing the owner as "Estate of [Name]."

The estate must file HS-132, Notice to Withdraw a Homestead Declaration, to withdraw the declaration if it still holds the property on April 1 following the date of death.

Example: The homeowner filed a 2010 Homestead Declaration. The homeowner dies in 2011. The estate may retain the homestead classification up to April 1, 2012. If the estate sells the property prior to April 1, 2012, the estate files a notice to withdraw the homestead at the time of the sale. Otherwise, the notice to withdraw the homestead is due by April 15, 2012.



OTHER USEFUL INFORMATION

Why Declare a Homestead?

The Homestead Declaration identifies property for purposes of the education property tax. Vermont classifies property as either Homestead or Nonresidential. A different education property tax rate applies to a Homestead than to a Nonresidential property. It is important to have the property classified properly. The Nonresidential education property tax rate is higher than the Homestead education property tax rate in approximately 70% of Vermont towns and cities.

What is a Homestead?

A homestead is the principal dwelling and the parcel of land surrounding the dwelling that is owned and occupied by a Vermont resident as his or her domicile. 32 V.S.A. §5401(7)(A).

NOTE: The Homestead definition is different from the Housesite definition used for property tax adjustment.

What is not a Homestead?

Property is classified as Nonresidential (not a Homestead) when the property is

- Used for commercial purposes; or
- Used as a second home, camp, vacation or summer cottage; or
- Used for purposes other than a homestead on April 1; or
- Not declared as a homestead by the due date.

One property may be classified as both Homestead and Nonresidential if a portion of the property is used for business or rental.

The percentage of the dwelling used for business purposes must be reported on the Homestead Declaration only when the business use exceeds 25%.

Any percentage of the property that is rental property must be identified on the Homestead Declaration. There is no exception threshold.



CONTACT INFORMATION

Taxpayer Services for Homestead Declaration and
Property Tax Adjustment Claims

Telephone: 1-866-828-2865 (toll-free in VT)
802-828-2865 (local or out-of-state)
Select Option 2 to speak with an examiner

Fax: 802-828-2720

Email: schooltaxes@state.vt.us

Property Transfer Tax

Telephone: 802-828-2542

Fax: 802-828-2824

Email: landtax@state.vt.us

Land Gains Tax

Telephone: 802-828-2550

Fax: 802-828-2824

Email: landtax@state.vt.us

Real Estate Withholding

Telephone: 802-828-2777

Fax: 802-828-2824

Email: landtax@state.vt.us
