

2023 FORM FIT-161 Instructions

Fiduciary Return of Income

Please print in **BLUE** or **BLACK** ink only.

Please do not staple or bind your return.

You may use binder clips, paper clips, or rubber bands.

General Information

WHO MUST FILE A 2023 VERMONT FIDUCIARY RETURN OF INCOME (Form FIT-161)?

A Form FIT-161 must be filed for every estate and trust required to:

- File a federal Form 1041, U.S. Income Tax Return for Estates and Trusts *and*
- The estate or trust earned or received more than \$100 of Vermont income *or*
- The estate or trust received \$1,000 or more in gross income from the sources listed on Schedule FIT-166, Vermont Income Adjustment and Tax Computation for Fiduciaries, Part III, Column B–Vermont Portion.

The fiduciary of a grantor trust is required to file with the Vermont Department of Taxes an information return, Form FIT-161, along with a Schedule K-1VT-F, Beneficiary Information for Fiduciaries, indicating the items of income, deduction, and credits against tax attributable to the trust treated as owned by the grantor/owner and send a copy of the Schedule K-1VT-F to the grantor/owner, who is required to report the income, deductions, and credits on their individual Vermont income tax return.

A Vermont Fiduciary Tax Return must be filed for any Section 468B Designated and Qualified Settlement Funds required to file a federal Form 1120-SF, U.S. Income Tax Return for Settlement Funds (Under Section 468B), that earned or received more than \$100 of Vermont income **OR** that earned or received \$1,000 or more in gross income from the sources listed under Schedule FIT-166, Part III, Column B–Vermont Portion.

A Vermont Fiduciary Tax Return must also be filed for an Electing Small Business Trust required to file a federal Form 1041.

A Vermont Fiduciary Tax Return filer may be entitled to certain State of Vermont incentives or credits.

If you have any questions, contact the Vermont Department of Taxes at (802) 828-6820.

NOTE: Use Vermont Form IN-111, Income Tax Return, not this form, to report income of a decedent from the beginning of the tax year to the date of death.

DEFINITIONS

Resident Estate

means the estate of a decedent who was domiciled in Vermont at the time of death.

Vermont Income of a Resident Estate or Trust

means the adjusted gross income of a resident less income exempted from state taxation under the laws of the United States.

Vermont Income of a Nonresident Estate or Trust

means the sum of the following items, to the extent the items are required to be included in federal adjusted gross income:

- Rents and royalties from ownership of property located in Vermont
- Gains from the sale or exchange of Vermont property including the sale of timber or timber rights
- Wages, salaries, commissions, or other income received for services performed in Vermont
- Income from every business, trade, profession or occupation conducted in Vermont, including money received **(1)** under an agreement not to compete with a business operation in Vermont, **(2)** for goodwill associated with the sale of a Vermont business, or **(3)** for contractual services associated with the sale of a Vermont business, unless it is shown that the compensation for services does not constitute income from the sale of the business
- Vermont income previously deferred under a non-qualified deferred compensation plan and income derived from such previously deferred income
- Examples of other income: gambling winnings including lotteries, raffles, or a lump-sum payment from the sale of a right to receive a future lottery annuity.

Vermont Income of Part-Year Resident Estate or Trust

means any income described in Vermont Income of a Nonresident Estate or Trust and all items earned or received during the period of Vermont residency described in Vermont Income of a Resident Estate or Trust.

Vermont Taxable Income

means federal taxable income with the addition of:

- interest, dividends or other distributions from non-Vermont state and local obligations to the extent this income is excluded from federal adjusted gross income;
- the capital gain deferral in a previous year for investment in a qualified business upon disposition of the taxpayer's interest in the business;
- the difference between depreciation using standard MACRS on assets qualified for 2023 federal bonus depreciation and the reported federal depreciation on those qualified assets as a result of Vermont disallowance of the bonus depreciation;
- state and local income taxes deducted on federal Form 1041, Line 11

with the subtraction of:

- interest income from U.S. government obligations to the extent such income is included in federal adjusted gross income;
- capital gains exclusion; and
- as a result of Vermont disallowance of the bonus depreciation, the difference between depreciation using standard MACRS on assets qualified for prior year federal bonus depreciation and the reported federal depreciation on those qualified assets.

Vermont Trust

A trust is a Vermont trust **(1)** if the settlor was a Vermont resident when the trust became irrevocable **OR (2)** if the trust is still revocable and the settlor was a Vermont resident when the trust was created **OR (3)** if the settlor was domiciled in Vermont at the time of their death.

EXTENSION TO FILE THE VERMONT FIDUCIARY TAX RETURN

For tax year 2021 and beyond, Vermont will accept the federal extension filed for a Fiduciary return to receive a five and a half month extension of time to file. You no longer need to file our Form FIT-168, Application for Extension of Time to File Vermont Fiduciary Tax Return, for an extension, unless you need to send in a payment. Please use our Form FIT-168 if you are remitting an extension payment. When completing the Vermont Fiduciary return, check the box indicating that the return was extended via a federal extension if it was, in fact, extended. **NOTE:** An extension of time to file the Vermont Fiduciary Tax Return does not extend the due date for the tax payment. Interest and penalty accrue on any tax owed from the due date to receipt of payment.

LATE-FILED RETURNS

Returns without an extension of time may be filed up to 60 days after the due date without a late file penalty charge. Returns without an extension filed on the 61st day after the due date or later will be charged a \$50 late file penalty. Returns with an extension filed on or before the extended due date are not charged a late file penalty. However, returns with an extension filed one or more days after the extended due date are charged a \$50 late file penalty. **NOTE:** The late file penalty applies even if the return results in a refund or no tax due.

TAX DUE

Returns with tax due that are filed after the due date are assessed interest and late payment penalty charges on the unpaid tax.

AMENDING OR CORRECTING VERMONT FIDUCIARY TAX RETURN INFORMATION

Vermont law requires an amended Vermont return be filed within 60 days of knowledge of the change, or receipt of the notice of change by the IRS, or the filing of an amended return with the IRS. A late file penalty will be assessed if the amended Vermont return is not filed within the 60 days.

- **Change to Vermont income** An amended return is due even if the change is not the result of filing an amended federal tax return or an adjustment made by the IRS; for example, the amount of income taxable to Vermont is different from the amount originally reported. The amended return must be filed within three years of the due date of the return, including extensions.
- **Change of federal tax information by IRS** If the IRS adjusted the federal taxable income, capital gains amount or any other change that affects the Vermont tax, an amended Form FIT-161 must be filed within 60 days of notification by the IRS, even if this is past the three-year limit. Attach a copy of all federal forms showing changes to the Vermont amended return. The IRS and Vermont Department of Taxes routinely share information. Differences in the information on file with the IRS and the Vermont Department of Taxes, other than those allowed by Vermont law, are identified and may be audited.
- **Filing an amended federal tax return** Filing an amended Vermont return is required within 60 days of filing an amended return with the IRS if Vermont income is affected.

FORM FOR AMENDING VERMONT FIDUCIARY TAX RETURN

Check the Amended box in the upper mid-section on Form FIT-161 for the applicable tax year(s).

NET OPERATING LOSSES

No Vermont refund is available for a carryback. The Vermont carryback or carryforward election for a net operating loss must be the same as elected for federal purposes.

Line-by-Line Instructions

- Line 1** Enter the taxable income amount from federal Form 1041, Line 23. For Qualified Settlement Funds, enter the amount from federal Form 1120-SF. If reporting Electing Small Business Trust (ESBT) income on federal Form 1041, include taxable income from the ESBT portion of the return here, adding it to the taxable income from federal Form 1041, Line 23. If you had a state and local income tax add back last year AND you received a refund from the state, deduct the refund amount from this line.
- Line 2a** Enter the calculation of Non-Vermont State & Local Obligations from Schedule FIT-166, Part I. For nonresident taxpayers, use Schedule FIT-166, Part II, Line 8, to adjust for Non-Vermont State and Local Obligations.
- Line 2b** **Federal Bonus Depreciation** Vermont does not recognize the bonus depreciation allowed under federal law for 2023. Enter the difference between the depreciation calculated by standard MACRS methods and the depreciation calculated using the federal bonus depreciation for assets placed in service in 2023. For more information on calculating the amount to add back to taxable income, see Technical Bulletin TB-44, Disallowance of Bonus Depreciation Provisions of Federal Economic Stimulus Act of 2008, on the Department's website.
- Line 2c** **State and Local Income Taxes** Enter the amount of state and local income taxes which are included on federal Form 1041, Line 11. If the state and local income taxes are calculated in the distributable net income and a distribution is MADE from the income and reported on federal Form 1041, Line 18, no add back is required. If federal Form 1041, Line 11, includes any property taxes, please indicate the break down by attaching a schedule. Property taxes do not get added back on Line 2c.
- Line 4a** **Interest Income from U.S. Obligations** Interest income from U.S. government obligations (such as U.S. Treasury bonds, bills, and notes) is exempt from Vermont tax under the laws of the United States. Enter the amount of interest income from U.S. Obligations on this line.
- Interest income is exempt when received directly from the U.S. Treasury or from a trust, partnership, or mutual fund that invests in direct obligations of the U.S. government.
- Income from the sale of U.S. government obligations is taxable in Vermont. Income from repurchase agreements, securities of FNMA, FHLMC or GNMA, or other investments that are not direct obligations of the U.S. government are also taxable. For more information, see Technical Bulletin TB-24, Exemption of Income of U.S. Government Obligations on the Department's website.
- Supporting Documentation Required** No attachment to return is required. However, obtain statements for the taxpayer's records in the event the Department requests such documentation.
- Acceptable statements need to show the sources of U.S. government interest income and the percentage from each source. Summary information from a K-1, or just a statement "U.S. government securities" without further identification is not acceptable.
- NOTE: If U.S. interest is distributed on federal Form 1041, Line 18, the deduction is lost.**
- Line 4b** **Capital Gains Exclusion** See Schedule FIT-162, Vermont Capital Gains Exclusions for Estates or Trusts, and instructions to calculate the capital gains exclusion for 2023. See Technical Bulletin TB-60, Taxation of Gain on the Sale of Capital Assets, on our website under "Tax Law and Guidance." Schedule FIT-162 is not included here. It may be downloaded at www.tax.vermont.gov in the "Forms" section, or mailed to you by calling (802) 828-2515.
- Line 4c** **Adjustment for Bonus Depreciation on Prior Year Property** Enter the difference between the depreciation calculated by standard MACRS methods and the depreciation calculated at the federal level. For information on calculating the amount that can be subtracted from taxable income, see Technical Bulletin TB-44.
- Line 5** Subtract Line 4d from Line 3. This is the Vermont taxable income.

Line 6	Using the tax rate schedule on Form FIT-161, page 2, compute the tax on the Vermont taxable income and enter the tax here.
Line 7	Additions to Vermont tax from Schedule FIT-166, Line 1c, enter here.
Line 8	Subtractions from Vermont tax from Schedule FIT-166, Line 2e, enter here.
Line 10	Most taxpayers should enter 100% on this line. However, a nonresident or part-year resident estate or trust should first complete Schedule FIT-166, Part III, to determine the income adjustment.
Line 12	Credit for Income Tax Paid to Other State or Canadian Province (for full-year and some part-year resident estates and trusts) Complete Schedule FIT-167, Vermont Credit for Tax Paid to Other State or Canadian Province for Fiduciaries, and enter the amount here.
Line 14a	From Form 1099. Enter the amount of Vermont income tax withheld. Attach the copy of the Form 1099 or other payment statement(s) to verify the amount.
Line 14b	Estimated payments are required to be made for trusts and estates beginning for tax year 2016. The rules are the same as for individual estimates. Use Form FIT-165, Fiduciary Estimated Tax Payment Vouchers, to make your estimated payments. Please be sure the correct period is indicated on the voucher for any estimate submitted.
Line 14c	From Form RW-171, Vermont Real Estate Withholding. If Vermont real estate was sold during the year and the buyer withheld Vermont income tax from the sales price, enter the amount withheld shown on Form RW-171, Vermont Withholding Tax Return for Transfer of Real Property, Schedule A, Line 12, here less any amounts allocated to beneficiaries via Schedule K-1VT-F. <i>Installment sales</i> - for information on installment sales, go to www.tax.vermont.gov under “Tax Law and Guidance.” See Technical Bulletin TB-10, Installment Sales of Real Estate.
Line 14d	Estimated Payments Made on Behalf of a Trust or Estate by a Business Entity for Nonresident Beneficiary. NONRESIDENTS enter the estimated income tax payments made on behalf of the Trust or Estate by a partnership, limited liability company, or S corporation toward the annual Vermont Fiduciary income tax less any amounts allocated to beneficiaries via Schedule K-1VT-F. The entity would have made these payments on Form WH-435, Estimated Income Tax Payments for Nonresident Shareholders, Partners, or Members. See Technical Bulletin TB-06, Estimated Payments by Corporations, Partnerships And Limited Liability Companies On Behalf Of Shareholder on the Department’s website.

Contacting the Department

Mail: Vermont Department of Taxes
PO Box 1700
Montpelier, VT 05601-1700

Phone: (866) 828-2865 (toll-free in Vermont)

Phone: (802) 828-6820 (local and out-of-state)

Fax: (802) 828-2720

Email: tax.estate@vermont.gov