

SALT Cap Workaround
Considerations for Legislators

- Legislature vs Administration regarding implementation and details
 - Language defines the workaround, but Legislative input is more hands off on the details.
 - While several states have this, parameters are not all the same:
 - Mandatory versus elective adoption for pass throughs
 - Available to all pass-through ownership types?
 - Right now, sole props would be ineligible, unless they have formed an LLC or LLP.
 - Are all shareholders all required to agree on the election of the entity level tax?
 - Can individual shareholders elect to opt out of the tax?
 - Can the offsetting PIT credit be larger than the tax paid under the income tax?
 - What about entity taxes paid to other states?
 - Vermont taxpayer who operates a Connecticut S-corp. Do they get a credit against taxes paid under CT's entity tax?
 - Draft says yes, but not refundable.
 - Language gives the commissioner power to put the tax into effect after working with JFO
 - Report to JFO and E-Board, but no authority/ability for these bodies to pause enactment or make changes.
 - These bodies typically do not enact tax policy even if they had to ability to determine whether the entity tax goes through.
- Tax policy considerations
 - The proposal allows for a business owner who has an S-corp, LLC, LLP to access a Federal tax benefit.
 - Not applicable to wage earners, pensioners, retirees who live on 401k, etc...
 - Also not applicable to sole props or business owners who have not set up these business structures.
 - Tax code incentivizing different classification of the same income
 - State tax code complexity

Beneficiaries of a SALT Cap Workaround

2019: S-Corp and Partnership Income by Income Group			
	Number of Returns	Average	Share of Total Income
Less than Zero	920	-\$77,101	-0.3%
\$1-\$10,000	620	-\$3,282	0.7%
\$10,000 to \$25,000	1,260	\$2,895	1.6%
\$25,000 to \$50,000	2,290	\$5,638	1.3%
\$50,000 to \$75,000	2,360	\$9,621	0.7%
\$75,000 to \$100,000	2,310	\$14,169	1.1%
\$100,000 to \$200,000	5,640	\$25,954	5.3%
\$200,000 to \$500,000	3,700	\$77,305	4.5%
\$500,000 to \$1m	910	\$231,390	6.1%
\$1m+	490	\$781,265	34.5%
Total	20,500	\$49,991	4.5%

Source: Internal Revenue Service, SOI Historic Table 2

Vermont: Tax Year 2017 State and Local Tax Deductions				
	Number of Returns	Amount Deducted	Average	Share of Total Income Deducted
Less than Zero	0	\$0	\$0	0%
\$1-\$10,000	1,660	\$6,493,000	\$3,911	-2%
\$10,000 to \$25,000	4,210	\$17,525,000	\$4,163	7%
\$25,000 to \$50,000	12,040	\$58,324,000	\$4,844	6%
\$50,000 to \$75,000	15,800	\$101,229,000	\$6,407	3%
\$75,000 to \$100,000	14,140	\$118,954,000	\$8,413	4%
\$100,000 to \$200,000	31,670	\$406,168,000	\$12,825	15%
\$200,000 to \$500,000	9,740	\$270,069,000	\$27,728	5%
\$500,000 to \$1m	1,280	\$87,589,000	\$68,429	3%
\$1m+	530	\$114,925,000	\$216,840	13%
Total	91,070	\$1,181,276,000	\$12,971	6%

Source: Internal Revenue Service, SOI Historic Table 2

Vermont: Tax Year 2019 State and Local Tax Deductions				
	Number of Returns	Amount Deducted	Average	Share of Total Income Deducted
Less than Zero	0	\$0		0.0%
\$1-\$10,000	330	\$1,426,000	\$4,321	0.6%
\$10,000 to \$25,000	760	\$3,385,000	\$4,454	0.3%
\$25,000 to \$50,000	2,260	\$12,210,000	\$5,403	0.4%
\$50,000 to \$75,000	3,750	\$25,165,000	\$6,711	0.8%
\$75,000 to \$100,000	3,450	\$27,772,000	\$8,050	1.0%
\$100,000 to \$200,000	6,800	\$64,653,000	\$9,508	1.0%
\$200,000 to \$500,000	3,980	\$39,403,000	\$9,900	1.1%
\$500,000 to \$1m	890	\$8,879,000	\$9,976	0.8%
\$1m+	470	\$4,676,000	\$9,949	0.2%
Total	22,690	\$187,569,000	\$8,267	2.1%

Source: Internal Revenue Service, SOI Historic Table 2

Context: Federal Tax Cuts and Jobs Act of 2017

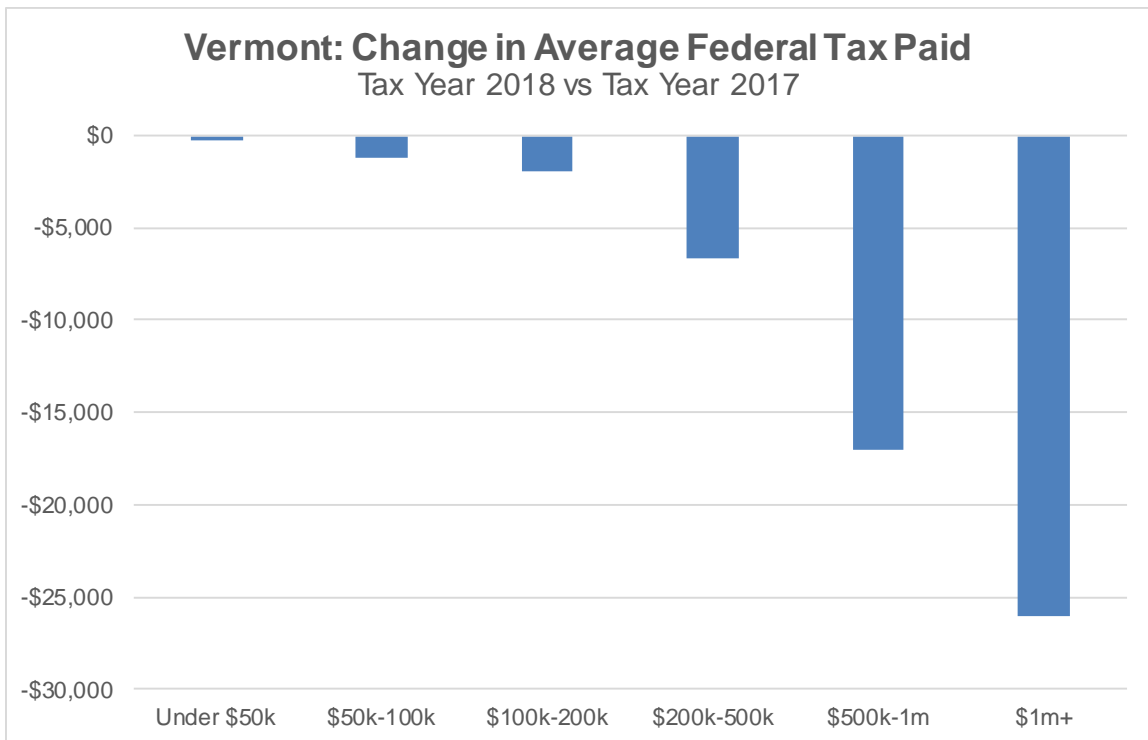
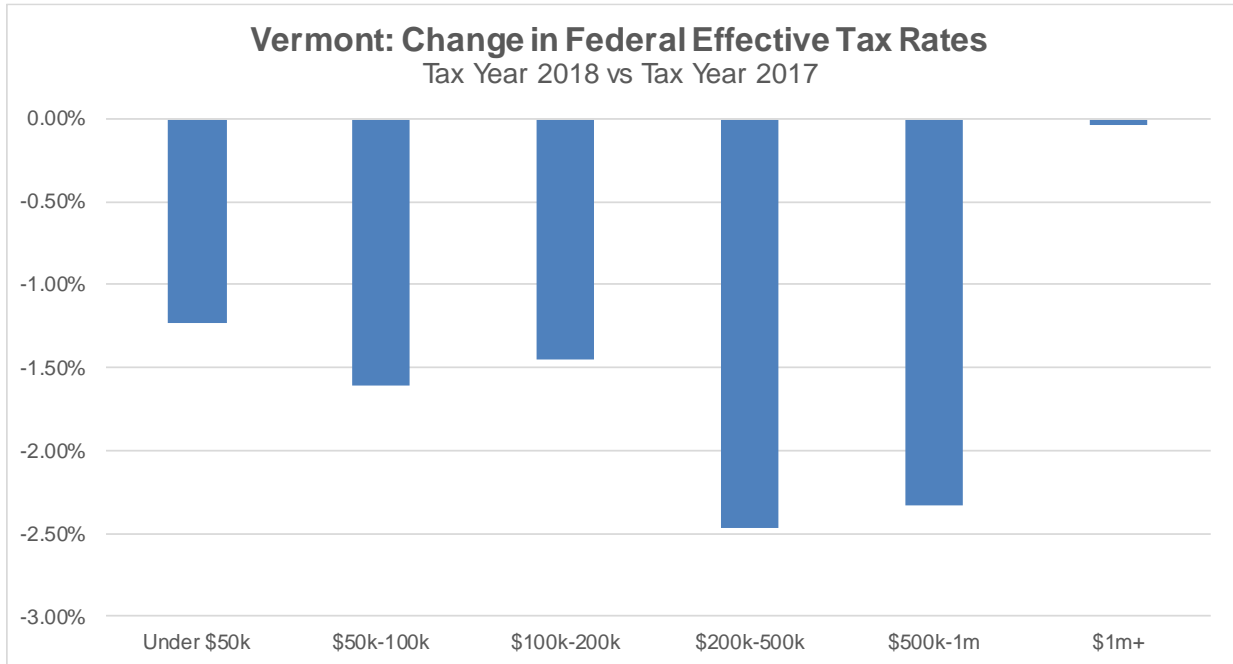
- Section 199 deduction passed in TCJA
 - 20% deduction of all pass-through income subject to occupational and income limits
 - Deduction limited for certain professions, but only past the income limits (\$329,800 married, \$164,900 single)
 - Deduction greatly reduces the tax liabilities of taxpayers with AGI above \$100,000
 - JCT analysis below: 92% of tax reductions go to taxpayers with AGI above \$100,000

Table 3.—Distribution of Tax Benefit for Pass-Through Deduction Under Section 199A

Income Category [1]	2018		2024	
	Returns (Millions)	\$ Billions	Returns (Millions)	\$ Billions
Less than \$10,000.....	[2]	[3]	[2]	[3]
\$10,000 to \$20,000.....	0.5	-\$0.1	0.6	-\$0.1
\$20,000 to \$30,000.....	0.7	-\$0.2	0.7	-\$0.2
\$30,000 to \$40,000.....	0.8	-\$0.2	0.8	-\$0.3
\$40,000 to \$50,000.....	0.9	-\$0.3	1.0	-\$0.4
\$50,000 to \$75,000.....	2.5	-\$1.0	2.6	-\$1.3
\$75,000 to \$100,000.....	2.5	-\$1.2	2.6	-\$1.5
\$100,000 to \$200,000.....	6.2	-\$6.3	6.5	-\$8.0
\$200,000 to \$500,000.....	3.0	-\$9.4	3.2	-\$11.6
\$500,000 to \$1,000,000.....	0.2	-\$3.6	0.3	-\$5.3
\$1,000,000 and over.....	0.2	-\$17.8	0.2	-\$31.6
Total, All Taxpayers.....	17.4	-\$40.2	18.4	-\$60.3

Source: Joint Committee on Taxation, April 2018

<https://www.jct.gov/CMSPages/GetFile.aspx?guid=5ce9eb00-6770-497c-b637-05caf612a358>



Source: IRS Statistics of Income, Historical Table 2