

**S. 45, SALT DEDUCTION CAP WORKAROUND – AS PASSED BY SENATE**  
Section-by-Section Summary

Sec.	Summary	Notes
1	<p><b>Findings and purpose</b></p> <p>Summarizes bill purpose and legal background and other states’ legislative action</p> <ul style="list-style-type: none"> <li>• Federal Tax Cuts and Jobs Act of 2017 created special rules for the itemized deduction for state and local taxes paid in tax years 2018-2025. I.R.C. § 164(b)(6). <ul style="list-style-type: none"> <li>○ \$10,000 cap on amount of taxes that an individual can deduct federally for any tax year (\$5,000 for married individuals filing separately)</li> <li>○ Only applicable from tax years 2018-2025</li> </ul> </li> <li>• In response, since 2018, 29 states have enacted laws that impose either a mandatory or elective entity-level income tax on pass-throughs that do business or have income derived from or connected with sources in the state.</li> <li>• State tax paid by pass-through is deductible from pass-through’s income at federal level because SALT deduction cap doesn’t apply to businesses; only individuals. <ul style="list-style-type: none"> <li>○ A pass-through’s reduced federal tax liability is then passed onto pass-through members, so members pay less federal income tax.</li> </ul> </li> <li>• Pass-through also passes state tax onto its individual members. <ul style="list-style-type: none"> <li>○ Individual members can then claim a corresponding or offsetting state income tax benefit (like a credit) against the amount of pass-through entity tax paid to the state.</li> </ul> </li> </ul>	
2	<p><b>Adds a new subchapter 10C into the income tax chapter 151 of title 32 on taxation</b></p> <p><b>Definitions</b></p> <p>32 V.S.A. § 5921a</p> <ul style="list-style-type: none"> <li>• “Distributive proceeds” means net income, dividends, royalties, interest, rents, guaranteed payments, and gains.</li> <li>• “Member” means a member of an LLC; a partner in a general, limited, or limited liability partnership; or a shareholder of an S corporation. Only natural persons; no C Corporations.</li> <li>• “Pass-through entity” means partnership, S corporation, or limited liability company. No C Corporations.</li> </ul> <p><b>Creates new tax on pass-through entities</b></p> <p>32 V.S.A. § 5921b</p> <ul style="list-style-type: none"> <li>• Creates a new entity-level tax on pass-throughs’ distributive proceeds derived from or connected with Vermont sources.</li> <li>• Rate is second highest marginal individual income tax rate (7.6%) under 32 V.S.A. § 5822.</li> <li>• Only pass-throughs that are made up entirely of individuals (no C corporations) are eligible to make the election.</li> </ul>	

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	<ul style="list-style-type: none"> <li>• Election applies for entire year and to every member.</li> <li>• At least one member of pass-through must be liable for income tax in Vermont.</li> <li>• Election is made by consent of either each member of entity or authorized officer, manager, or member of the entity.</li> <li>• Nonresident members of a pass-through whose only Vermont income is from the pass-through subject to the Vermont tax are not liable for Vermont income tax nor required to file a Vermont return.</li> </ul> <p><b>Creates new credit against tax on pass-through entities</b></p> <p>32 V.S.A. § 5921c</p> <ul style="list-style-type: none"> <li>• Refundable income tax credit for individual members of pass-throughs that elect to pay entity-level tax.</li> <li>• Credit is 90% of member’s pro rata share of tax paid by pass-through.</li> </ul>	
3	<p><b>Creates new credit against taxes paid to other states on pass-through entities</b></p> <p>32 V.S.A. § 5825(c)</p> <ul style="list-style-type: none"> <li>• Creates nonrefundable income tax credit for entity-level taxes paid to other states.</li> <li>• Limits credit to 90% of other states’ entity-level taxes paid.</li> </ul>	
4	<p><b>Repeals*</b></p> <ul style="list-style-type: none"> <li>• SALT deduction cap workaround is repealed.</li> <li>• Credit for SALT deduction cap workaround taxes paid in other states is repealed.</li> </ul> <p><i>*Contingent; see effective dates</i></p>	
5	<p><b>Effective dates</b></p> <ul style="list-style-type: none"> <li>• SALT deduction cap workaround is effective retroactively on January 1, 2023, so it applies to taxable years beginning on and after January 1, 2023 <ul style="list-style-type: none"> <li>○ Tax and credit are first available starting in 2024 filing season.</li> </ul> </li> <li>• Contingent repeal of SALT deduction cap workaround on the current date when federal cap expires (Dec. 31, 2025) OR on the date the cap is repealed by federal legislation or other means; whichever is later.</li> </ul>	