

## MEMORANDUM

**TO:** Kaj Samsom, Commissioner, Vermont Department of Taxes; Chair,  
Taxation and Regulation Subcommittee to Governor's Marijuana Advisory  
Commission

**FROM:** Abby Shepard, Tax Policy Analyst, Vermont Department of Taxes

**DATE:** Friday, October 20, 2017

**RE:** Questions from First Subcommittee Meeting on Sept. 28, 2017

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This memo answers several questions that were asked during the first Marijuana Taxation and Regulation Subcommittee meeting held on September 28, 2017. Those questions were:

1. Where may Vermont dispensaries obtain their medical marijuana? ..... 1
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### **1. Where may Vermont dispensaries obtain their medical marijuana?**

Dispensaries may obtain the cannabis that they sell to registered patients and caregivers from multiple sources, including their own cultivation. 18 V.S.A. § 4472(5). They may only “acquire, purchase, or borrow marijuana, marijuana-infused products, or services from another registered Vermont dispensary or give, sell, or lend marijuana, marijuana-infused products, or services to another registered Vermont dispensary.” 18 V.S.A. §§ 4474b 4474e(a)(2)(B). Dispensaries must record the product, amount, and recipient of any transfers; must stay below the legal cultivation possession limits determined by the number of patients designating that dispensary; and may not transfer eligibility to another dispensary. *Id.* This is consistent with the federal law constraints on the interstate flow of cannabis as a controlled Schedule I substance.

### **2. What fees are imposed on medical marijuana in Vermont?**

**Administration:** All fees are paid to the Department of Public Safety. All fees are deposited into a fund used for administering the Vermont Marijuana Registry. 18 V.S.A. §§ 4474a, 4474k.

| Type & Payee                                      | Amount | Purpose   |
|---|--------|---|
| Registered patient /<br>caregiver<br>registration | \$50   | 1. Application fee for a registry ID card paid at time of application and annually thereafter.<br>2. Annual renewal fee and application required. 18 V.S.A. §§ 4474a. |

| Type & Payee  | Amount                                 | Purpose   |
|---|--|---|
| Patient designation of, and change in dispensary                    | \$25                                   | Registered patient must submit form and fee to change designated dispensary. Patients not allowed to change designated dispensary more than once in any 30-day period. 18 V.S.A. § 4474h(a).  |
| Dispensary application for registration certificate                 | \$2,500                                | Fee for application to operate as registered dispensary. 18 V.S.A. § 4474f(c).  |
| Dispensary registration   | Initial: \$20,000<br>Renewal: \$25,000 | After dispensary is approved, but before it begins operations, it must submit registration fee:<br>1. Initial registration fee: \$20,000; and<br>2. Annual registration renewal fee: \$25,000. 18 V.S.A. § 4474f(g)(4).   |
| Dispensary registry identification card; criminal background checks | \$50                                   | 1. Initial fee for registry ID cards for all dispensary owners, principals, financiers, and employees.<br>2. Annual renewal fee required. 18 V.S.A. § 4474g.  |
| Laboratory testing  | Variable                               | Dispensaries pay costs of any required laboratory testing. AAFM's central testing laboratory fees may apply if lab is made responsible for testing cannabis. 6 V.S.A. ch. 5. Act 65 of 2017, Sec. 10 requires a report by Oct. 15, 2017 by AAFM and DPS to Vermont Legislature, on testing marijuana-infused products, estimated costs, and recommendations for funding (such as fees). |

### 3. What fees are imposed on medical and recreational marijuana in other states?

This answer does not include every one of the 27 states and Washington D.C. that allow medical marijuana, but rather focuses on all eight states with recreational marijuana, which all allow medical marijuana, and a handful of other states that only allow medical marijuana.

The fees charged depend on the types of licenses, certificates, or registration cards required for different products, services, or roles provided. These fees depend on the structural choices about how to regulate the cultivation of the plant, its processing, handling, transportation, testing, and its sale. Most states give different government bodies regulatory authority over medical marijuana (typically the department of health) than over recreational marijuana (a wide range from departments of tax and revenue to departments of liquor and cannabis control). Even within the two broad categories of medical versus recreational marijuana, other government entities often regulate a particular step in the chain of cultivation and sale, such as the department of agriculture at the cultivation and testing stages, and the department of liquor control at the testing and enforcement stages. Only California is moving toward fully combining all marijuana regulation (medical and recreational) into one regulatory body: the newly created Bureau of Cannabis Control.

| State    | Fees on Medical Marijuana  | Fees on Recreational Marijuana   |
|----------|--|--|
| Alaska   | <p>7 AAC 34.080</p> <p>Registered patient ID card: \$25 initial; \$20 renewal.</p> <p>No “dispensaries” in Alaska. Only license for sale of marijuana are for “retail marijuana stores.” See fees for recreational marijuana. 3 AAC 306.100.</p>   | <p>Schedule of licensing fees (also application &amp; renewal fees). 3 AAC 306.100.</p> <ul style="list-style-type: none"> <li>- New marijuana establishment license or transfer \$1,000</li> <li>- License renewal application \$600</li> <li>- Late renewal \$1,000</li> <li>- Change in name, premises, operating plan, or new product \$250</li> <li>- Retail store license \$5,000</li> <li>- Limited cultivation \$1,000</li> <li>- Cultivation facility \$5,000</li> <li>- Concentrate manufacturing facility \$1,000</li> <li>- Product manufacturing facility \$5,000</li> <li>- Testing facility \$1,000</li> <li>- Handler permit card \$50</li> </ul> <p>Processing fees for late renewal after failure to pay taxes: \$200-\$10,000</p> |
| Arizona  | <p>\$150 (\$75 for SNAP participants) for qualifying patient initial or renewal registry ID card.</p> <p>\$200 for designated caregiver initial or a renewal registry ID card. Every new patient (up to 5) requires a new card.</p> <p>\$500 for dispensary agent initial or renewal registry ID card.</p> <p>\$5,000 for initial dispensary registration certificate.</p> <p>\$1,000 for renewal dispensary registration certificate.</p> <p>\$2,500 to change location of dispensary or cultivation facility.</p> <p>\$10 to amend, change, or replace a registry ID card. A.A.C. R9-17-102.</p> <p>Background check fingerprinting fees apply. A.R.S. §36-2819.</p> | <p>No recreational marijuana</p>   |
| Arkansas | <p>Patient &amp; Caregiver medical marijuana card initial and annual renewal fee \$50. Ark. Admin. Code 007.16.4-IV.</p>   | <p>No recreational marijuana</p>   |

| State      | Fees on Medical Marijuana  | Fees on Recreational Marijuana  |
|------------|--|---|
|            | <p>Caregiver criminal background check fees. <i>Id.</i></p> <p>Cultivation license application fee \$15,000 (\$7,500 refunded if application refused). Arkansas Medical Marijuana Commission Rules, Sec. IV.7.</p> <p>Cultivation facility license initial and annual renewal fee \$100,000. Requires bonding/surety. Arkansas Medical Marijuana Commission Rules, Sec. IV.7.</p>  |   |
| California | Bureau of Cannabis Control will release draft regulations on medicinal and adult-use cannabis, including licensing, in November 2017. Medicinal and Adult-Use Cannabis Regulation and Safety Act.  | Bureau of Cannabis Control will release draft regulations on medicinal and adult-use cannabis, including licensing, in November 2017. Medicinal and Adult-Use Cannabis Regulation and Safety Act.   |
| Colorado   | <p>Local fees only. C.R.S. §§ 12-43.3-301, 12-43.3-301.</p> <p>Application fee \$500. C.R.S. § 12-43.3-.</p> <p>Late renewal fee \$500 if less than 90 days past expiration. C.R.S. § 12-43.3-311.</p>   | <p>Both state and local fees. C.R.S. §§ 12-43.4-501; 12-43.3-301.</p> <p>Application fee: \$5,000. C.R.S. § 12-43.4-501.</p> <p>Annual renewal fees and late fees. C.R.S. § 12-43.4-310.</p>  |
| Maine      | <p>No fees for registered patients.</p> <p>Caregiver fees</p> <ul style="list-style-type: none"> <li>- Application and annual renewal fee for primary caregiver who cultivates for patients \$300 per qualifying patient. Pro-rated for new patients. If caregiver does not cultivate, then no fee is charged.</li> <li>- Alternative caregiver fee \$1,500 allowing unlimited changes to patient list.</li> <li>- Caregiver background check fee \$31.</li> <li>- processing fee for changes or replacements to ID cards \$10</li> </ul> <p>Registered dispensary fees</p> <ul style="list-style-type: none"> <li>- Certificate of registration application fee \$15,000</li> </ul> | <p>Draft legislation, Marijuana Legalization Act, Sec. A-3, 28-B MRSA §207.</p> <p>Cultivation facility license</p> <p>Tier I \$100 application fee</p> <ul style="list-style-type: none"> <li>- Other fees depending on cultivation designation: per-plant or flat fees for canopy-base cultivation</li> </ul> <p>Tier II \$500 application fee and not more than:</p> <ul style="list-style-type: none"> <li>- \$1,500 outdoor cultivation facility, or</li> <li>- \$3,000 for indoor or both indoor and outdoor cultivation facility</li> </ul> <p>Tier III \$500</p> <ul style="list-style-type: none"> <li>- \$5,000 outdoor cultivation facility, or</li> <li>- \$10,000 for indoor or both indoor and outdoor cultivation facility</li> </ul> <p>Tier IV \$500</p> <ul style="list-style-type: none"> <li>- \$15,000 outdoor cultivation facility, or</li> </ul> |

| State         | Fees on Medical Marijuana   | Fees on Recreational Marijuana   |
|---------------|---|--|
|               | <ul style="list-style-type: none"> <li>- for each principal officer, board member, and employee <ul style="list-style-type: none"> <li>o \$25 initial and annual renewal fee for each registry ID card</li> <li>o \$31 background check fee</li> </ul> </li> <li>- Change of physical or grow location fee \$5,000</li> <li>- processing fee for changes or replacements to ID cards \$10</li> <li>- Laboratory testing</li> </ul> 10-144 CMR Ch. 122, § 7  | <ul style="list-style-type: none"> <li>- \$30,000 for indoor or both indoor and outdoor cultivation facility;</li> <li>- Except any increase in plant canopy capacity = extra fees</li> </ul> Products manufacturing facilities, marijuana stores and marijuana social clubs license: <ul style="list-style-type: none"> <li>- application fee \$250</li> <li>- license fee up to \$2,500</li> </ul> Testing facilities <ul style="list-style-type: none"> <li>- license application fee \$250</li> <li>- license fee up to \$1,000.</li> </ul> Late application fees to be established. 28-B MRSA §209(5).<br><br>Criminal background check fees. 28-B MRSA §204.<br><br>Municipal regulation & licensing required. 28-B MRSA subch. 4. |
| Massachusetts | Patients. 105 CMR 725.015, 725.035. <ul style="list-style-type: none"> <li>- Registration \$50, annually (waiver for financial hardship)</li> <li>- ID card replacement \$10</li> <li>- Hardship cultivation \$100</li> </ul> Registered Marijuana Dispensaries. 105 CMR 725.030, 725.100. <ul style="list-style-type: none"> <li>- Dispensary agent annual registration fee \$500 (includes all board members, directors, employees, executives, managers, and volunteers)</li> <li>- Phase 1 application \$1,500</li> <li>- Phase 2 application \$30,000</li> <li>- Registration \$50,000, annually</li> <li>- Location change \$10,000</li> <li>- Name change \$100</li> <li>- Architectural review \$8.25 per \$1,000 of construction costs, with a minimum fee of \$1,500</li> </ul> | Cannabis Control Commission to determine application, license and renewal fees by regulation. H.3818, Sec. 26, to be codified at M.G.L. ch.94G §4.<br><br>Background check fees apply.   |
| Nevada        | No new applications currently accepted. Max fees set in statute. N.R.S. 453A.344.<br>Dispensary registration certificate <ul style="list-style-type: none"> <li>- Initial application \$30,000</li> <li>- Renewal \$5,000</li> </ul>  | \$5,000 application fee. N.R.S. 453D.230(1).<br><br>Nevada law sets out max fees. N.R.S. 453D.230(1). The NV Tax Dept. has   |

| State  | Fees on Medical Marijuana  | Fees on Recreational Marijuana   |
|--------|--|--|
|        | <p>Cultivation facility registration certificate</p> <ul style="list-style-type: none"> <li>- Initial application \$3,000</li> <li>- Renewal \$1,000</li> </ul> <p>Facility producing edible marijuana products or marijuana-infused products registration certificate</p> <ul style="list-style-type: none"> <li>- Initial application \$3,000</li> <li>- Renewal \$1,000</li> </ul> <p>Testing laboratory registration certificate</p> <ul style="list-style-type: none"> <li>- Initial application \$5,000</li> <li>- Renewal \$3,000</li> </ul> <p>Medical marijuana establishment agent registration card application and renewal \$75/person</p> <p>Additional fees:</p> <ul style="list-style-type: none"> <li>- one-time application fee \$5,000</li> <li>- actual application processing, including background checks.</li> </ul>                       | <p>proposed draft regulations that are under legislative review. The most recent version sets the fees as follows. Sec. 73</p> <p>License fee:</p> <ul style="list-style-type: none"> <li>- Retail Store \$20,000</li> <li>- Cultivation \$30,000</li> <li>- Production \$10,000</li> <li>- Testing Lab \$15,000</li> <li>- Distribution \$15,000</li> </ul> <p>Renewal fee</p> <ul style="list-style-type: none"> <li>- Dispensary \$5,000</li> <li>- Cultivation \$1,000</li> <li>- Production \$1,000</li> <li>- Laboratory \$3,000</li> </ul> <p>Criminal history record check fees</p> <p>Marijuana Agent Card Application fee \$75.</p> <p>Medical marijuana establishments may apply for recreational marijuana licenses.</p>   |
| Oregon | <p>Patient application fee \$200, except:</p> <ul style="list-style-type: none"> <li>- \$60 for SNAP participants</li> <li>- \$50 for OR Health plan benefits</li> <li>- \$20 SSI</li> <li>- \$20 US Armed Forces service.</li> </ul> <p>Replacement card fee \$100 (or \$20 if reduced application fee applies). OAR 333-008-0021.</p> <p>\$200 grow site registration fee under certain conditions. No grow site registration fee for patients growing for themselves at their own residence. OAR 333-008-0021.</p> <p>Dispensary initial and annual renewal fees:</p> <ul style="list-style-type: none"> <li>- \$500 application</li> <li>- \$3,500 registration. OAR 333-008-1030.</li> </ul> <p>Processing site initial and annual renewal fees:</p> <ul style="list-style-type: none"> <li>- \$500 application</li> <li>- \$3,500 registration.</li> </ul> | <p>\$250 non-refundable application fee.</p> <p>Annual license fees (prorated if initial license is issued for six months or less):</p> <ul style="list-style-type: none"> <li>- Producers: <ul style="list-style-type: none"> <li>o Micro Tier I \$1,000.</li> <li>o Micro Tier II \$2,000.</li> <li>o Tier I \$3,750.</li> <li>o Tier II \$5,750.</li> </ul> </li> <li>- Processors: \$4,750.</li> <li>- Wholesalers: \$4,750. <ul style="list-style-type: none"> <li>o Micro Wholesalers: \$1,000.</li> </ul> </li> <li>- Retailers: \$4,750.</li> <li>- Laboratories: \$4,750. <ul style="list-style-type: none"> <li>o Sampling Laboratory: \$2,250.</li> </ul> </li> <li>- 3-year research certificate fee \$4,750</li> </ul> <p>License or certificate renewal application fee \$250</p> <p>Marijuana worker permit fee \$100</p> <p>Other fees</p> |

| State      | Fees on Medical Marijuana   | Fees on Recreational Marijuana   |
|------------|---|--|
|            | Criminal background check fee \$35.<br>OAR 333-008-1630.  | <ul style="list-style-type: none"> <li>- Criminal background checks: \$50</li> <li>- Transfer of location of premises review: \$1,000 per license.</li> <li>- Packaging preapproval: \$100.</li> <li>- Labeling preapproval: \$100.</li> <li>- Change to previously approved package or label: \$25.</li> </ul> OAR 845-025-1060 (eff. 08/01/2017 expires 12/27/2017).   |
| Washington | <p>Medical cannabis. RCW ch. 69.51A. \$1 fee for each initial, replacement, and renewal recognition card for patients or designated provider</p> <p>Medical marijuana consultant certificate fees</p> <ul style="list-style-type: none"> <li>- Application for certificate \$95</li> <li>- Renewal of certificate \$90</li> <li>- Late renewal penalty \$50</li> <li>- Expired certificate reissuance \$50</li> <li>- Duplicate certificate \$10</li> <li>- Verification of credential \$15</li> </ul> WAC 246-72-010. <p>Before being authorized to sell medical marijuana, an applicant must already hold a recreational marijuana retailer license, and apply for a medical marijuana endorsement. WAC 314-55-080.</p> | <p>Recreational marijuana. RCW ch. 69.50. The following licenses require payment of 2 fees:</p> <ol style="list-style-type: none"> <li>1. application fee \$250, and</li> <li>2. annual fee for license issuance and renewal \$1,000-\$1,480</li> </ol> <p>Marijuana producer. WAC 314-55-075.<br/> Marijuana retailer. WAC 314-55-079.<br/> Marijuana processor license. WAC 314-55-077.<br/> Transportation license. WAC 314-55-310.<br/> Marijuana research license. RCWA 69.50.372(h)(7).</p> <p>Criminal history check fees apply to all license applicants.</p> <p>Ownership changes \$75. WAC 314-55-120.</p> |

#### 4. Comparison of recreational marijuana tax base in other states

The states that impose an ad valorem tax on the sales price of recreational marijuana use slightly different terms to define the tax base on marijuana/cannabis or marijuana/cannabis products. Every state includes edibles, concentrates, ointments, and tinctures in the tax base. Maine’s draft law calls it “adult use marijuana and adult use marijuana products;” and Colorado calls it “retail marijuana.” Oregon imposes its tax on the retail sale of “marijuana items,” then explicitly lists the items: marijuana leaves and flowers, immature marijuana plants, cannabinoid edibles, concentrates, and products “intended to be used by applying the cannabinoid product to the skin or hair” and any other cannabinoid products. O.R.S. § 475B.705. Washington imposes its tax on “marijuana concentrates, useable marijuana, and marijuana-infused products,” which are also all explicitly defined in statute.

The states like Alaska and California that impose weight-based taxes on marijuana distinguish between the tax on the buds and flowers (a higher tax) and the tax on the remainder of the plant, such as the leaves and stem. Alaska defines “bud and flower” as “the hairy, sticky, or crystal-covered parts of mature female marijuana plants generally harvested for their high potency content.”15 AAC 61.990(1).



## 5. Comparison of Vermont's liquor and tobacco taxes

|   | <b>Excise Tax Rate</b>   | <b>State Sales Tax</b>  | <b>Local Sales Tax</b>                       |
|---|--|---|--|
| <b>Spirits &amp; Fortified Wines (Liquor)</b>                   | 25% of gross receipts if over \$750,000.<br>7 V.S.A. § 422.  | 6% sales tax.<br>32 V.S.A. §§ 9701(23), 9741(10).                             | 1% local option tax.<br>24 V.S.A. § 138.     |
| <b>Cigarettes, little cigars, and roll-your-own tobacco</b>     | Stamp Tax at 154 mills (\$0.154):<br>1. per cigarette or little cigar (\$3.08 per pack of 20 cigarettes); and<br>2. for each 0.0325 ounces of roll-your-own tobacco. (\$4.74 per ounce)<br><br>32 V.S.A. § 7771(d).  | 6% sales tax.<br><br>32 V.S.A. §§ 9701(31), 9771(1); Vt. Reg., § 1.9701(7)-1. | 1% local option tax.<br><br>24 V.S.A. § 138. |
| <b>Other tobacco products, snuff, and new smokeless tobacco</b> | Tobacco products tax imposed at wholesale.<br><br><u>Snuff</u><br>\$2.57 per ounce<br><br><u>New smokeless tobacco</u><br>1. Greater of \$2.57 per ounce, or<br>2. \$3.08 per package, if sold in a package with less than 1.2 ounces.<br><br><u>Cigars</u><br>1. 92% of wholesale if \$2.17 or less.<br>2. \$2.00 per cigar if wholesale price is between \$2.18 and \$9.99.<br>3. \$4.00 per cigar if wholesale price is \$10.00 or more.<br><br><u>Other Tobacco Products</u><br>92% of wholesale price<br><br><u>Timely Payment Discount</u><br>If tax is paid within 10 days, distributor or dealer may deduct 2% from tax due.<br><br>32 V.S.A. § 7811 | 6% sales tax.<br><br>32 V.S.A. §§ 9701(31), 9771(1); Vt. Reg., § 1.9701(7)-1. | 1% local option tax.<br><br>24 V.S.A. § 138. |

[http://tax.vermont.gov/sites/tax/files/documents/Tobacco%20Rate%20Tables%20FS\\_2015.pdf](http://tax.vermont.gov/sites/tax/files/documents/Tobacco%20Rate%20Tables%20FS_2015.pdf)  
<http://tax.vermont.gov/business-and-corp/miscellaneous-taxes/cigarette-and-tobacco-tax/rates>



## **6. Legislative economist on importance of ski industry tourism to Vermont economy**

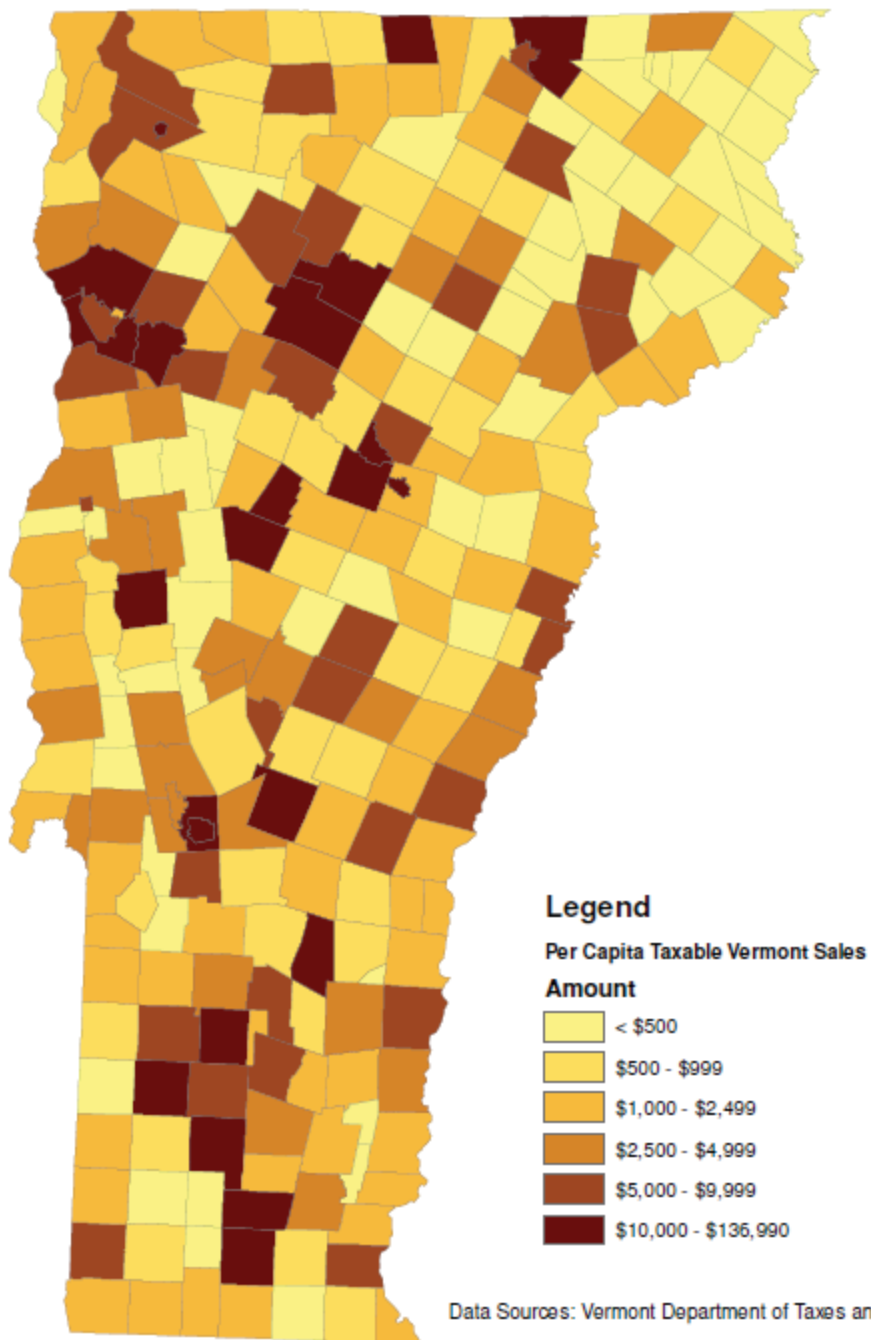
Tom Kavet, “The Cross-Border Issue: An Ongoing Analysis Affecting Multiple Taxes” (Jan. 20, 2017) p. 10, available at:

<http://legislature.vermont.gov/assets/Documents/2018/WorkGroups/House%20Ways%20and%20Means/Tax%20Study/W~Tom%20Kavet~The%20Cross-Border%20Issue~1-20-2017.pdf>

“Underscoring the importance of winter tourism, at a town level, the highest per capita retail sales (on a Vermont taxable sales basis) are in towns hosting or near large ski resorts [...]. [...] Among the top per capita retailing areas in the State are the large retailing centers in Williston (especially), Rutland Town, Berlin/Montpelier/Barre, South Burlington, Rutland Town and City and St. Albans Town and City. However, on a per capita basis, 11 of the top 25 retailing towns are associated with the ski resorts at Mt. Snow, Stratton, Bromley, Killington, Okemo, Sugarbush, Mad River Glen, Stowe and Jay Peak. State tourism research has shown that winter tourists tend to spend more than other seasonal tourists and it is validated in these data.”

## Per Capita Taxable Vermont Sales

2014 Constant Dollars, for the 10 Year Period from 2005 to 2014

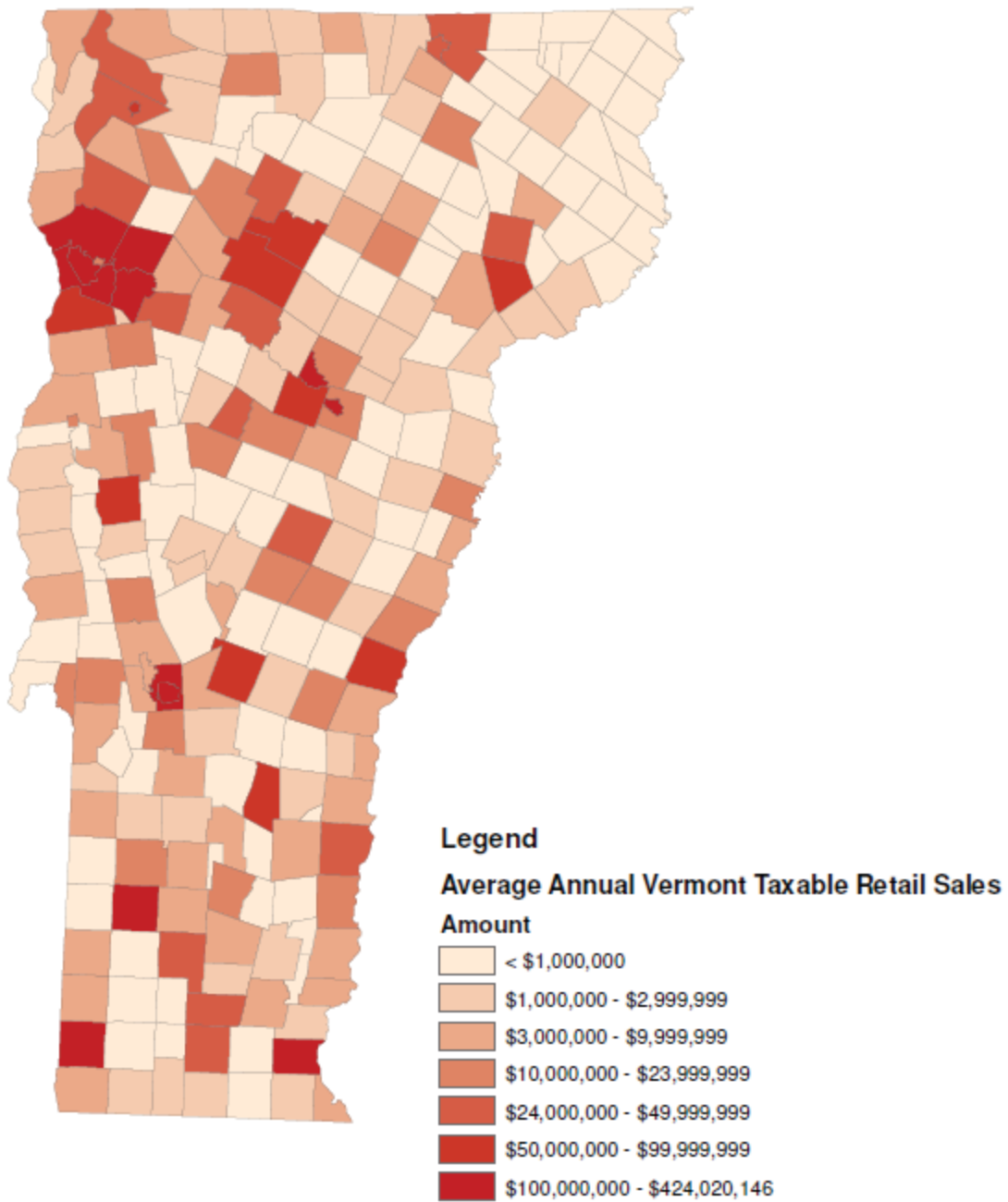


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## Average Annual Vermont Taxable Retail Sales

2005-2014, Constant 2014 Dollars



Data Source: Vermont Department of Taxes

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<http://legislature.vermont.gov/assets/Documents/2018/WorkGroups/House%20Ways%20and%20Means/Tax%20Study/W~Tom%20Kavet~The%20Cross-Border%20Issue~1-20-2017.pdf>