

## MEMORANDUM

**TO:** House Committees on General, Housing and Military Affairs and on Ways and Means, and the Senate Committees on Economic Development, Housing and General Affairs and on Finance

**FROM:** Kirby Keeton, Vermont Department of Taxes

**DATE:** January 17, 2017

**RE:** Study of Transfer of Malt Beverages Between Licensed Manufacturing Locations

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### Introduction

Sec. 13 of Act 144 of 2016 required the Department of Taxes to study the tax implications of transfers of malt beverages between licensed manufacturers of malt beverages that are under the same ownership.

We contacted the Department of Liquor Control and the Vermont Brewers Association before writing this report.

### Background

The Department of Taxes administers the malt and vinous beverage tax. The tax is imposed on: (1) sales from bottlers and wholesalers to retailers and (2) retail sales by manufacturers and rectifiers. When a manufacturer of alcoholic beverages sells to a distributor, the tax is imposed on the distributor. The malt and vinous beverage tax is due from the manufacturer for all other sales.

Malt and vinous beverage tax becomes due when a beverage is sold. If a business transfers beverages from one manufacturing facility to a retail store or restaurant under common ownership, tax is not due for that transfer. Instead, tax becomes due when the retail business conducts the sale because that transaction is considered a retail sale by a manufacturer.

After checking with the staff who directly administer this tax, we are not aware of any instance where tax was imposed on a transfer between manufacturing locations under common ownership.

### Questions for Study

*1. What legislative, regulatory, or administrative changes, if any, are necessary to enable the bulk transfer of malt beverages without the payment of taxes pursuant to 7 V.S.A. § 421 between licensed manufacturers of malt beverages that are under the same ownership?*

No changes are necessary. As described above, tax is not imposed on this type of transfer.

Act 144 added some clarifying language at 7 V.S.A. § 70 that assures that tax will not be imposed on a transfer between manufacturers. That section will sunset on July 1, 2017. The Department suggests that the language be allowed to sunset because it is not necessary to achieve the desired result.

*2. Whether permitting the bulk transfer of malt beverages without the payment of taxes pursuant to 7 V.S.A. § 421 between licensed manufacturers of malt beverages that are under the same ownership would adversely impact the State's tax revenues.*

Transfers between manufacturers under the same ownership are already allowable without the payment of malt and vinous beverage tax at the time of transfer. The tax becomes due when the manufacturer later conducts a retail sale of the beverage transferred. No revenue is lost because all beverages are eventually either sold to a distributor or sold at retail, and are therefore eventually subject to tax.