

Cannabis Regulation and Tax Act  
Summary of Implications on the Illinois Department of Revenue

The Cannabis Regulation and Tax Act provides for the legalization of adult use cannabis in the State of Illinois and implements the framework for regulating, licensing, and taxing cannabis. The overview of the legislation provided below is based on the enrolled versions of House Bill 1438 and Senate Bill 2023 of the 101<sup>st</sup> General Assembly and focuses on the tax administration and enforcement requirements the legislation places on the Department of Revenue (IDOR). The major aspects are summarized into the following categories:

- Cannabis Cultivation Privilege Tax
- Cannabis Purchaser Excise Tax
- Municipal Cannabis Retailers' Occupation Tax
- County Cannabis Retailers' Occupation Tax
- Allocation of State Revenue

### Cannabis Cultivation Privilege Tax

- Effective 9/1/19<sup>i</sup>
- Tax imposed upon the privilege of cultivating cannabis at the rate of 7% of the gross receipts from the first sale of cannabis by a cultivator
  - Both cultivation centers and craft growers are considered "cultivators" under this Article
- Electronic registration is required. Taxpayers must be licensed under the Cannabis Regulation and Tax Act prior to registering with IDOR.
- Tax return due on the 20<sup>th</sup> day of each month for the preceding calendar month.
- Electronic filing and payment are required. Electronic payment waiver provisions are included to accommodate any unbanked businesses.
- Includes provision allowing IDOR to combine the return for the tax under this Article with the return for the tax under the Compassionate Use of Medical Cannabis Pilot Program Act.
- Allows for a cost of collection discount of 1.75%, not to exceed \$1,000 per return period.
- Establishes quarter-monthly "estimated" payment requirements similar to those for Sales Tax.
- All moneys received by the Department under this Article shall be deposited into the Cannabis Regulation Fund.

### Cannabis Purchaser Excise Tax

- Effective 1/1/20
- Tax imposed upon purchases for the privilege of using cannabis at the following rates:
  - Cannabis with THC level at or below 35% - 10% of purchase price
  - Cannabis-infused products – 20% of purchase price
  - Cannabis with THC level above 35% - 25% of purchase price
- This tax is not imposed on cannabis subject to tax under the Compassionate Use of Medical Cannabis Pilot Program Act, but is in addition to all other occupation, privilege, or excise taxes imposed by the State of Illinois or by any municipal corporation or political subdivision thereof.
- Electronic registration is required. Taxpayers must be licensed under the Cannabis Regulation and Tax Act prior to registering with IDOR.
- Tax return due on the 20<sup>th</sup> day of each month for the preceding calendar month.
- Electronic filing and payment are required. Electronic payment waiver provisions are included to accommodate any unbanked businesses.

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- Allows for a cost of collection discount of 1.75%, not to exceed \$1,000 per return period.
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- Establishes enforcement and penalty provisions similar to those found in the Other Tobacco Products Tax Act of 1995.
  - Includes civil and criminal penalties for recordkeeping violations, fraud, and tax evasion.
  - Provides IDOR with additional license revocation powers.
  - Provides authority for search and seizure for retailers in violation of the Act.

## County Cannabis Retailers’ Occupation Tax

- Effective 1/1/20
- Imposed by ordinance in 0.25% increments
- Tax may not exceed:
  - 3.75% of the gross receipts from sales of cannabis (other than cannabis purchased under the Compassionate Use of Medical Cannabis Pilot Program) made in unincorporated areas of the county
  - 3% of the gross receipts from sales of cannabis (other than cannabis purchased under the Compassionate Use of Medical Cannabis Pilot Program) made in a municipality located in the county
- Administered and enforced by IDOR
- All taxes and penalties collected under this Law are deposited into the Local Cannabis Consumer Excise Tax Trust Fund.
- Disbursements of money occurs on a monthly basis to each county (from the second preceding month), less a 1.5% administrative fee which is deposited into the Tax Compliance and Administration Fund
- Ordinances imposing or discontinuing a rate shall be adopted and a certified copy thereof filed with the Department on or before the first day of June, whereupon the Department shall proceed to administer and enforce the rate as of the first day of September next following the adoption and filing.

## Municipal Cannabis Retailers’ Occupation Tax

- Effective 1/1/20
- Imposed by ordinance in ¼% increments
- Tax may not exceed 3% of the gross receipts from sales of cannabis (other than cannabis purchased under the Compassionate Use of Medical Cannabis Pilot Program).
- Administered and enforced by IDOR
- All taxes and penalties collected under this Law are deposited into the Cannabis Regulation Fund.
- Disbursements of money occurs on a monthly basis to each municipality (from the second preceding month), less a 1.5% administrative fee which is deposited into the Tax Compliance and Administration Fund. <sup>ii</sup>
- Ordinances imposing or discontinuing a rate shall be adopted and a certified copy thereof filed with the Department on or before the first day of June, whereupon the Department shall

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proceed to administer and enforce the rate as of the first day of September next following the adoption and filing.

## Allocation of State Revenue

- Establishes the Cannabis Regulation Fund in the State treasury
- All moneys collected under the Cannabis Regulation and Tax Act (with minor exceptions, such as charges for background checks by Illinois State Police) are deposited into the Cannabis Regulation Fund, consisting of taxes, license fees, other fees, and any other amounts required to be deposited or transferred into the Fund.
- On or before the 25<sup>th</sup> day of each calendar month, IDOR prepares and certifies to the State Comptroller transfers and allocations of stated sums of money from the Fund to other named funds in the State treasury, the amounts paid into the Fund during the second preceding month (less refunds). The transfers shall be certified as follows:
  1. Subject to appropriation, the amounts that shall remain in the Fund to pay for the direct and indirect costs associated with implementation, administration, and enforcement of the Cannabis Regulation and Tax Act.
  2. Of the remaining amount left in the Fund after the allocations provided in (1), the Department shall certify the transfer into the Cannabis Expungement Fund 1/12 of the fiscal year amount appropriated from the Cannabis Expungement Fund for payment of costs incurred by State courts, the Attorney General, State's Attorneys, civil legal aid, and the Department of State Police to facilitate petitions for expungement of Minor Cannabis Offenses pursuant to the Cannabis Regulation and Tax Act, as adjusted by any supplemental appropriation, plus cumulative deficiencies in such transfers for prior months.
  3. After 1 and 2:
    - a. 2% to the Drug Treatment Fund
    - b. 8% to the Local Government Distributive Fund for use to fund crime prevention programs, training, and interdiction efforts
    - c. 25% to the Criminal Justice Information Projects Fund (to be used by the Restore, Reinvest, and Renew Program)
    - d. 20% to the Department of Human Services Community Services Fund to be used to address substance abuse and prevention and mental health concerns.
    - e. 10% to the Budget Stabilization Fund
    - f. 35%, or any remaining balance, to the General Revenue Fund
- Requires the Department of Revenue to certify the transfer of \$5 million from the Compassionate Use of Medical Cannabis Fund to the Cannabis Regulation Fund on July 1, 2019.

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<sup>i</sup> Per subsection (h) on page 169 of the enrolled bill, sales of cannabis and cannabis-infused products begin on 12/1/19, so the first Cannabis Cultivation Privilege Tax return will not be due until January 21, 2020 (adjusted from 1/20/20 due to the Martin Luther King Day holiday).

<sup>ii</sup> As currently written (page 542 of the enrolled bill), the disbursements to the municipalities are made from the Local Cannabis Consumer Excise Tax Trust Fund, while the deposits of moneys collected are made into the

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Cannabis Regulation fund. Unless a trailer bill is introduced to correct this, there will be no municipal money in the Local Cannabis Consumer Excise Tax Trust Fund from which to make the monthly disbursements.