

# Marijuana Tax Program Update

Senate Committee on Finance and Revenue  
April 4, 2017

# Legalized Marijuana— Taxation

Early start—10-1-2015 through 12-31-2016

- No tax on sales 10-1-2015 to 1-3-2016
- 25% state tax rate as of 1-4-2016, no local tax
- Collected at the point of sale.
- Sold through OMMP Dispensaries
- Businesses can retain 2% to offset administration costs

# Legalized Marijuana— Taxation

## Recreational Retail stores—Fall 2016 forward

- 17% state tax rate, up to 3% local tax
- Seed-to-sale tracking system
  - Cannabis Tracking System (CTS)
- Tax collected at Point of Sale
- Sold through Licensed Retail locations only
- OMMP card holders can purchase tax-free in retail stores

# Legalized Marijuana— Early Start Tax

SB 1511 authorized the sale of additional taxable product.

- Edibles, non-psychoactive topicals, and receptacles (vape pens, etc.).
- Sales began June 2, 2016.

DOR added additional products to Early Start Tax return.

Plan to analyze make-up of sales by product.

# Legalized Marijuana— Taxation

	Early Start tax (OMMP)	Retail tax
Filing frequency	Quarterly tax return	Quarterly tax return
Payment frequency	Monthly deposits	Monthly deposits
Filing method	Paper only	Online only, with some exceptions
Applicability dates	January 4, 2016 to December 31, 2016	October 2016
Participants	OMMP Dispensaries	Retailers licensed by OLCC

# Legalized Marijuana— Banking

- **Controlled Substances Act**
  - Marijuana classified as Schedule I
    - No currently accepted medical value in United States
    - Highly potential for abuse
    - Lack of accepted safety for use under medical supervision
- **Banking Issues**
  - Inability to gain bank accounts or bank funds
  - High volume of cash

# Legalized Marijuana— Banking

## From Financial Institutions:

- DEA needs to remove MJ from the Controlled Substances Act before most will bank MJ-related businesses, OR
- Enact federal law to specifically authorize financial institutions to bank MJ-related businesses.

## DEA issued memo on August 11, 2016

- Maintains Schedule I status
- Increased the number of federally authorized marijuana growers to assist in research of the effects and uses of marijuana.

# Legalized Marijuana— Banking

- Due to high levels of uncertainty about banking and electronic payments, estimate 40-80 percent of payments being in cash.
  - WA and CO report ~40-45%
  - OR experience is ~60%
- Other states have more financial institutions willing to take the risk to bank these customers than Oregon does currently.



# Legalized Marijuana— Banking

## Factors to consider

- Location where deposits made
- Security (taxpayer and employee)
- Appointments for TPs to make deposits
- Dollar limits on deposits
- Frequency of payments
- Staffing coverage for internal controls

# Legalized Marijuana— Banking

## Factors to consider

- Federal rulemaking takes a LONG time
- Have a long-term plan to deal with volume of cash
- Cash is received from these businesses for other tax programs as well, not just tax on marijuana
- Peripheral businesses also affected by cash issue

# Legalized Marijuana— Early Start Tax

February receipts = \$2.48 million through February 29.

March receipts = \$4.36 million through March 31.

April receipts = \$3.74 million through April 29.

May receipts = \$4.34 million through May 31.

June receipts = \$5.74 million through June 30.

Financial statement

FY 2015-2016 = \$20,652,983 through June 30, 2016

# Legalized Marijuana— Early Start Tax

July receipts = \$5.53 million through July 29.

August receipts = \$7.35 million through August 31.

September receipts = \$6.68 million through September 30.

October receipts = \$7.83 million through October 31.

November receipts = \$6.46 million through November 30.

December receipts = \$5.65 million through December 31.

# Legalized Marijuana— Retail Tax

January receipts = \$5.26 million through January 31.

February receipts = \$4.51 million through February 28.

FY 2016-2017 = \$49,271,708 through February 28, 2017.

FY 2015-2016 = \$20,652,983 through June 30, 2016.

**Program Total Receipts: \$69,924,691**

# Legalized Marijuana— Early Start & Retail Tax

## Enforcement efforts

- Deposits due monthly; returns due quarterly.
- Filing enforcement begun.
  - Failure-to-file assessments - 1<sup>st</sup> 2<sup>nd</sup> and 3<sup>rd</sup> quarters.
  - Demand-to-file notices sent - 4<sup>th</sup> quarter will be sent late February early March.
- Fourth quarter returns due for both Early Start and Licensed Retailers by January 31, 2017.

# Marijuana Tax Program

## Outreach efforts

- Agents visiting shops in person that aren't returning phone calls.
- Direct calls to businesses that have errors on tax returns.
- Lots of information on taxes in Marijuana Business Readiness Guidebook.
- OLCC providing tax literature to potential licensees.
- Information phone line available, calls returned quickly.
- DOR had presence with OLCC and Agriculture at 2017 Cannabis Collaborative Conference to field questions.

# Marijuana Tax Program

## Outreach efforts

- Using listservs/email lists
  - OHA list to send informational letters to medical marijuana dispensaries, including explicit tax return reminder.
  - OLCC listserv to alert businesses about the Early Start -> Retail Tax transition.
  - DOR listserv to send updates on rulemaking, transition.



# Marijuana Tax Program

## Return Processing

- Early start returns filed using paper means.
  - Old fashioned pen and ink.
  - Dispensaries only.
- Licensed Retailers will be required to file returns electronically (Revenue Online).
  - Substantially better process—reduces DOR workload.
  - More user friendly—Licensed Retailers can self-serve.
  - Now available for 4<sup>th</sup> quarter returns.

# Marijuana Tax Program

## Administration of Local Marijuana Tax

- ORS 305.620 amended to allow DOR to administer local tax.
- Worked with stakeholders on Intergovernmental Agreement.
  - Return processing, collection, audit, etc. all considerations.
  - Template IGA completed in conjunction with League of Oregon Cities, and out to municipalities for consideration/signature.
  - Signed nearly 70 IGAs with local governments.

# Marijuana Tax Program

## Statutory Distribution Schedule

- 40% to Common School Fund.
- 20% to Mental Health Alcoholism and Drug Services Account.
- 15% to the Oregon State Police.
- 5% to Oregon Health Authority for “alcohol and drug abuse prevention”.
- 20% to local governments.

# Marijuana Tax Program

## Statutory Distribution Schedule

- 20% is the “locality distribution”
  - Pre-July 1, 2017:
    - 10% to cities and 10% to counties, based on population.
  - Post-July 1, 2017:
    - 5% to cities and 5% to counties, based on count of grower, wholesaler, and processor licenses “issued in previous year”.
    - 5% to cities and 5% to counties, based on count of retailer licenses “issued in previous year”.

# Marijuana Tax Program

## Administrative Rulemaking

- Permanent rules—Effective July 1, 2016.
  - Marijuana Tax Due dates.
  - Marijuana Tax Registration of Marijuana Retailers.
  - Model Recordkeeping and Retention Regulation.
  - Filing Extension for Marijuana Tax Return.
  - Liability for Unpaid Marijuana Tax.
  - 100 Percent Penalty for Failure-to-file Marijuana Tax Returns.
  - Refund of Excess Marijuana Tax for Consumers.
  - Cash payment locations/policies.

# Marijuana Tax Program

## Administrative Rulemaking

- Permanent—Effective October 1, 2016.
  - Receipt requirements (replacing the temporary rule with a permanent rule).
  - Marijuana Retailer Requirements for Validating Medical Marijuana Cards.
  - Modification to Model Recordkeeping and Retention rule to include requirements on reporting medical marijuana tax exemption
- Temporary—Effective January 1, 2017.
  - Rule to implement changes to ORS 305.620 for administration of local taxes.

Questions about:	Here's who knows:	Contact us:
<ul style="list-style-type: none"> <li>Revenue Distribution</li> <li>Temporary and permanent taxes</li> <li>Tax payments and tax returns</li> </ul>	Department of Revenue	Marijuana Tax Program <a href="http://www.oregon.gov/dor/marijuana">www.oregon.gov/dor/marijuana</a>  503-947-2597 <a href="mailto:Marijuanatax.dor@oregon.gov">Marijuanatax.dor@oregon.gov</a>
<ul style="list-style-type: none"> <li>Dispensaries</li> <li>Recreational sales by dispensaries</li> </ul>	Oregon Health Authority	Medical Marijuana Dispensary Program Toll-free: 1-855-244-9580 (Mon - Fri, 11am to 4pm) <a href="mailto:medmj.dispensaries@state.or.us">medmj.dispensaries@state.or.us</a>
<ul style="list-style-type: none"> <li>Medical Marijuana (generally)</li> </ul>	Oregon Health Authority	Oregon Medical Marijuana Program 971-673-1234 (Mon - Fri, Noon to 4pm)
<ul style="list-style-type: none"> <li>Retail Licensing &amp; Sales</li> <li>Starting a MJ Business</li> </ul>	OLCC	Recreational Marijuana Licensing 503-872-6366 or toll-free at 1-800-452-6522 <a href="mailto:marijuana@oregon.gov">marijuana@oregon.gov</a>
General Information	<a href="http://www.whatslegaloregon.com">www.whatslegaloregon.com</a>	

# Questions?

If you have additional questions after today please contact:

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