

**i** *informational**Bulletin*

David Harris, Director

Reporting and paying tax on cannabis sales

To: All cannabis cultivators, craft growers, and dispensaries

This bulletin is written to inform you of recent changes; it does not replace statutes, rules and regulations, or court decisions.

For information or forms
Visit our website at:
tax.illinois.gov

Register and file your return online
at:
mytax.illinois.gov

For cultivator or craft grower
questions, call us at:
217 782-6045
or email us at:
Rev.ATP-MFR@Illinois.gov

For dispensary questions, call us at:
217 782-5906

For registration questions, call us at:
217 785-3707

Public Act (P.A.) 101-0027 (as further amended by P.A. 101-0363 and S.B. 1557 enrolled) created the Cannabis Regulation and Tax Act. The Act provides for the controlled legalization of Adult Use Cannabis and sets forth rules and provisions for the taxation of adult use cannabis in the state of Illinois (410 ILCS 705/60-1 et seq., 410 ILCS 705/65-1 et seq., 55 ILCS 5/5-1006.8, and 65 ILCS 5/8-11-23).

In addition, important changes have been made to the tax filing requirements for medical cannabis cultivators and dispensaries in the state of Illinois. Medical cannabis sales are authorized by the Compassionate Use of Medical Cannabis Program Act (410 ILCS 130/1, *et seq.*).

This bulletin will explain the major aspects of each tax associated with cannabis sales and how your cannabis business will register with, report sales to, and pay tax to the Illinois Department of Revenue (IDOR).

Note: Cannabis cultivators and craft growers are required to be licensed by the Illinois Department of Agriculture and dispensaries are required to be licensed by the Illinois Department of Financial and Professional Regulation before they can register with the IDOR.

What taxes are due on sales of cannabis in the state of Illinois?

- The **Cannabis Cultivation Privilege Tax** is a tax imposed upon the privilege of cultivating cannabis at the rate of 7% of the gross receipts from the first sale of adult use cannabis by a cultivator or craft grower (410 ILCS 705/60-1 *et seq.*).
- The **Medical Cannabis Cultivation Privilege Tax** is a tax imposed upon the privilege of cultivating medical cannabis at the rate of 7% of the sales price per ounce. (410 ILCS 130/200).

- The **Cannabis Purchaser Excise Tax** is a tax imposed on purchasers for the privilege of using cannabis, cannabis concentrate, and cannabis-infused products. Cannabis dispensaries must collect and remit excise tax on all retail sales of adult use cannabis (410 ILCS 705/65-1 *et seq.*). The tax is imposed at the following rates:
 - 10% of taxable receipts from the sale of adult use cannabis, other than cannabis-infused products, sold with 35% THC or less,
 - 25% of taxable receipts from the sale of adult use cannabis, other than cannabis-infused products, sold with greater than 35% THC, and
 - 20% of taxable receipts from the sale of adult use cannabis-infused products.
- **Sales Tax:** Both medical cannabis and adult use cannabis are subject to Retailers' Occupation Tax.

Medical cannabis: Medical cannabis is subject to state and local retailers' occupation taxes at the same rate as other qualifying drugs, *i.e.*, 1% state rate and is generally exempt from locally imposed retailers' occupation taxes (except for Regional Transportation Authority and Metro-East Transit District retailers' occupation taxes).

Adult use cannabis: Adult use cannabis is subject to the 6.25% State Retailers' Occupation Tax as well as local retailers' occupation taxes in the same manner as other general merchandise. In addition, P.A. 101-0027 (as further amended by P.A. 101-0363 and S.B. 1557 enrolled) authorizes counties and municipalities to impose, by ordinance, a local retailers' occupation tax on all persons engaged in the business of selling adult use cannabis at retail in the municipality or county on the gross receipts from sales of adult use cannabis (medical cannabis is excluded from these local cannabis-specific taxes). The rate imposed under

 - the **Municipal Cannabis Retailers' Occupation Tax** may not exceed 3%, and
 - the **County Cannabis Retailers' Occupation Tax** may not exceed:
 - (i) 3.75% in unincorporated areas of the county, and
 - (ii) 3% in a municipality located in the county.

What is the difference between “adult use” cannabis and “medical” cannabis for purposes of computing the taxes?

“Adult use” cannabis is cannabis intended for recreational adult use without a prescription.

“Medical” cannabis is cannabis intended for medicinal use to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

Adult use or medical cannabis may be

- dried in its physical form to smoke; or
- in another physical form after extraction from the cannabis plant, such as hash, ice wax, bubble hash, oil, wax, budder, pie crust, taffy, shatter, nectar, caviar, and kief, regardless of how it is packaged or intended to be used; or
- infused or combined with another product.

What is THC?

THC, or tetrahydrocannabinol, is the active chemical in cannabis that produces its psychological effects. With the exception of cannabis-infused products, Cannabis Purchaser Excise Tax rates are determined by the percent of THC in the product.

How do I calculate the Cannabis Cultivation Privilege Tax due on cannabis?

Cannabis Cultivation Privilege Tax is due on gross receipts from the first sale of adult use cannabis sold by a cultivation center. To compute the tax, total all receipts for adult use cannabis sold, subtract any allowed deductions, and multiply by the 7% tax rate.

How do I calculate the Medical Cannabis Cultivation Privilege Tax due on cannabis?

Medical Cannabis Cultivation Privilege Tax is due on the selling price per ounce of medical cannabis sold by a cultivation center. To compute the tax, total all receipts from ounces of medical cannabis sold, subtract any allowed deductions, and multiply by the 7% tax rate.

How do I calculate the Cannabis Purchaser Excise Tax?

Cannabis Purchaser Excise Tax is due on cannabis purchased by an adult user. Medical cannabis is not subject to the Cannabis Purchaser Excise Tax. Dispensaries are responsible for collecting and remitting the Cannabis Purchaser Excise Tax.

To compute the Cannabis Purchaser Excise Tax, total all receipts from adult use cannabis sold, subtract any allowed deductions, and multiply by the applicable rate.

How do I calculate the Sales and Use Tax due on cannabis?

Sales and Use Tax is due on cannabis sold by a dispensary to its customers. To compute the Sales and Use Tax due on cannabis, total all receipts from cannabis sold, subtract any allowed deductions, and multiply by the applicable rate. Medical cannabis receipts and adult use cannabis receipts must be calculated separately.

Rates vary upon site location. When you file electronically using MyTax Illinois at mytax.illinois.gov, the rates will be populated for you according to your registration location. You can also use the Tax Rate Finder on our website at tax.illinois.gov to look up location specific tax rates.

What do I include when calculating my “total receipts”?

When totalling your receipts for the purpose of calculating taxes, include the following from your reporting period:

- the “selling price” (for cultivators or craft growers) or the customer’s “purchase price” (for dispensaries) of all cannabis sold;
- taxes or reimbursement of taxes collected; and
- any charge payment or time sale payment received.

“Selling price” means the consideration for a sale of cannabis, valued in money, whether received in money or otherwise (including cash, credits, property, and services), and shall be determined without any deduction on account of the cost of the property sold, the cost of materials used, labor or service cost, or any other expense whatsoever. It does not include separately stated charges identified on the invoice by cultivators to reimburse themselves for their tax liability.

“Purchase price” means the consideration paid for a purchase of cannabis, valued in money, whether received in money or otherwise (including cash, credits, property, and services), and shall be determined without any deduction on account of the cost of materials used, labor or service costs, or any other expense whatsoever. It does not include consideration paid for:

- any charge for a payment that is not honored by a financial institution;
- any finance or credit charge, penalty or charge for delayed payment, or discount for prompt payment; and
- any amounts added to a purchaser’s bill because of charges made for the Cannabis Purchaser Excise Tax, the Municipal Cannabis Retailers’ Occupation Tax, the County Cannabis Retailers’ Occupation Tax, the Retailers’ Occupation Tax, the Use Tax, the Service Occupation Tax, the Service Use Tax, or any locally imposed occupation or use tax.

What products are considered cannabis-infused products for purposes of computing the taxes?

Cannabis-infused products are products containing cannabis, whether medicinal or not, including

- food and beverage products prepared for consumption;
- cooking oils;
- tinctures or tonics, such as sprays or drops;
- topicals, such as ointments, balms, oils, lotions, gels, or patches;
- bath salts or oils; and
- aromatherapy sprays or essences.

Note: CBD products, such as CBD oils, derived from industrial hemp that contain 0.3% or less of THC are not subject to the medical or adult use Cannabis Cultivation Privilege Taxes, the Cannabis Purchaser Excise Tax, or the cannabis-specific local retailers’ occupation taxes.

How do I register to file a cannabis return?

Register with Illinois Department of Revenue (IDOR) electronically using MyTax Illinois, available at mytax.illinois.gov.

To register your business with Illinois, click on “Registration,” and then “Register a New Business” to complete Form REG-1, Illinois Business Registration Application. After you receive an email that the application has been processed, allow one business day before signing up for a MyTax Illinois account. To create a MyTax Illinois account, return to MyTax Illinois, click the “Sign up Now” button, and then submit the requested information.

Corporations, S-Corps, Partnerships, or LLC organization types with active MyTax Illinois accounts can register for new tax types, or licenses, by simply logging into their MyTax Illinois account and clicking on “Register for New Tax Accounts” to complete the registration.

Sole Proprietorships can register electronically by selecting “Registration” in the upper right corner of the MyTax Illinois home page and then selecting “Register a New Business.” Contact IDOR’s Central Registration

Division at **217 785-3707** for information or assistance with registering your business.

Additionally, you may need to complete Schedule REG-1-MC, Medical Cannabis Cultivation Center and Dispensing Organization Information, Schedule REG-1-L, Illinois Business Site Location Information, and Schedule REG-1-R, Responsible Party Information.

What forms should I use to file the tax due on cannabis sales?

Adult use cannabis cultivators or craft growers must use Form CC-1, Adult Use Cannabis Cultivation Privilege Tax Return, to report sales of adult use cannabis products. Adult use cultivators with multiple cultivation sites must also complete Schedule CC-2, Multiple Site Form for Adult Use Cannabis Cultivators, to report the taxable receipts from each cultivation site.

Cannabis Organization	Taxes that are due on sales of cannabis	Form/Schedules to File
Adult Use Cultivators**	Cannabis Cultivation Privilege Tax	CC-1 CC-2*
Craft Grower	Cannabis Cultivation Privilege Tax	CC-1 CC-2*
Medical Cultivators**	Medical Cannabis Cultivation Privilege Tax	MC-1 MC-2*
Adult Use Dispensaries	Sales and Use Tax and Cannabis Purchaser Excise Tax	CD-1 CD-2* CD-3* ST-1***
Medical Dispensaries	Sales and Use Tax	CD-1 CD-2* ST-1***
* Multiple site businesses only		
** Cultivators with sales of both medical and adult use cannabis must file Form MC-1, Form CC-1, and any corresponding schedules that apply.		
*** Dispensaries are required to file Form ST-1 (and ST-2*, Sales and Use Tax Multiple Site Form, if applicable) to report their total receipts of cannabis and non-cannabis products sold. Receipts from cannabis sales should be taken as a deduction on Schedule A of Form ST-1.		

Cannabis cultivators selling medical cannabis must file Form MC-1, Medical Cannabis Cultivation Privilege Tax Return, to report sales of medical cannabis. Cultivators with multiple cultivation sites must also complete Schedule MC-2, Medical Cannabis Sales, to report sales from each cultivation site.

Note: Cultivators with sales of both medical and adult use cannabis must file Form MC-1, Form CC-1, and any corresponding schedules that apply.

Cannabis dispensaries must file form CD-1, Cannabis Dispensary Tax Return, to report sales of medical and adult use cannabis. Multiple site dispensaries must also file Schedule CD-2, Sales and Use Tax Multiple Site Form for Cannabis Dispensaries, to calculate the Sales and Use Tax due on sales of adult use and medical cannabis from each dispensing site. Multiple site dispensaries must also file Schedule CD-3, Cannabis Purchaser Excise Tax Multiple Site Form for Cannabis Dispensaries, to report sales of adult use cannabis subject to Cannabis Purchaser Excise Tax from each dispensing site.

Note: In addition to reporting receipts from cannabis sales on Form CD-1, dispensaries are also required to report their total receipts of cannabis and non-cannabis products sold on Form ST-1, Sales and Use Tax and E911 Surcharge Return. Receipts from cannabis sales should be taken as a deduction on Schedule A of Form ST-1.

When must I file my return?

You must file your cannabis return, along with any payment you owe, on or before the 20th day of the month following the end of the reporting period.

Note: If the due date falls on a weekend or holiday, your return and payment are due the next business day.

Can I file my return and pay the tax due electronically?

Illinois law requires Forms CC-1, CD-1, and MC-1, and their corresponding schedules, to be filed electronically and the tax to be paid electronically. You must use MyTax Illinois at mytax.illinois.gov to file your Form CC-1, CD-1, MC-1 and any corresponding schedules and pay any tax due. To request a waiver of the electronic payment mandate, complete Form IL-900-EW, Electronic Waiver Request, which is available from IDOR by request at **217 782-7897**, **1 800 732-8866**, **217 782-3336**, or **217 782-6045**. If granted and unless renewed, this waiver shall not exceed two years.

Am I entitled to a discount?

If you file your return and pay the amount due by the due date, you are entitled to a discount. The discount is 1.75% (0.0175) of the tax due. The discount cannot exceed \$1,000.00 per return period (410 ILCS 705/60-20 and 410 ILCS 705/65-30).

What payments are required?

All cultivators, craft growers, and dispensaries will be required to make quarter-monthly (accelerated) payments as of January 1, 2020. Quarter-monthly (accelerated) payments are due on or before the 7th, 15th, 22nd, and the last day of each month that a tax liability has occurred. Each quarter-monthly (accelerated) payment shall be the lower of either 22.5% of the actual liability for the month or 25% of the liability for the same month of the preceding year.

EXAMPLE: A cannabis dispensary has a liability for the current month of \$20,000. Last year for the same month, the taxpayer's liability was \$30,000. The dispensary is required to pay the lower of either 22.5% of the actual liability for the month or 25% of the liability for the same month of the preceding year. In this case, 22.5% of this month's liability is \$4,500 ($\$20,000 \times 0.225 = \$4,500$), while 25% of last year's liability is \$7,500 ($\$30,000 \times 0.25 = \$7,500$). The dispensary is required to make a quarter-monthly (accelerated) payment of \$4,500, the lower of the two amounts.

If there is no liability in the same month of the preceding year, no quarter-monthly (accelerated) payment will be due. IDOR will notify the taxpayer when quarter-monthly (accelerated) payments are required.

EXAMPLE: A cannabis cultivator has a liability for the current month of \$20,000. Last year for the same month, the taxpayer's liability was \$0.00. The cultivator is required to pay the lower of either 22.5% of the actual liability for the month or 25% of the liability for the same month of the preceding year. In this case, 22.5% of this month's liability is \$4,500 ($\$20,000 \times 0.225 = \$4,500$), while 25% of last year's liability is \$0 ($\$0.00 \times 0.25 = \0.00). The cultivator is not required to make a quarter-monthly (accelerated) payment because the lower amount is \$0.00.

If any quarter-monthly (accelerated) payment is not paid on time or in the amount required, then the taxpayer shall be liable for penalties and interest on the difference between the minimum amount due as a payment and the amount of the quarter-monthly (accelerated) payment actually and timely paid.

In addition, if your quarter-monthly (accelerated) payments do not equal the actual liability, the balance due is required by the due date of the return. Failure to pay on time may result in penalties and interest on the amount due.

How do I make a payment?

Payments must be made electronically through one of the following options:

- Make your payment online at tax.illinois.gov. Electronic payments can be made through **MyTax Illinois**. For your initial payment through **MyTax Illinois**, you must set up your account and follow the instructions provided.
- Submit your payment through ACH credit (payments authorized through your financial institution). If you wish to set up or make changes to this option, you must first contact IDOR's Electronic Funds Transfer Division at **217 782-6257** for additional information.

Note: Businesses that **cannot** pay electronically are required to request a waiver of the electronic payment mandate. Complete Form IL-900-EW, Electronic Waiver Request, which is available from IDOR by request at **217 782-7897**, **1 800 732-8866**, or **217 782-3336**. If granted and unless renewed, this waiver shall not exceed two years.

What if I fail to file or pay the amount I owe?

You owe a late-filing penalty if you do not file a processable return by the due date, a late-payment penalty if you do not pay the amount you owe by the payment's due date, a bad check penalty if your remittance is not honored by your financial institution, and a cost of collection fee if you do not pay the amount you owe within 30 days of the date printed on a bill. Interest is calculated on tax from the day the payment was due through the date you pay the liability. We will bill you for penalty and interest. For more information, see Publication 103, Penalty and Interest for Illinois Taxes, which is available on our website at tax.illinois.gov.

In addition, you will not be entitled to any discounts for returns filed late or amounts paid late. See 35 ILCS 120/3, 410 ILCS 705/60-20, and 410 ILCS 705/65-30 for more information.

What changes were made for medical cannabis sales?

Medical cannabis cultivators are still required to file Form MC-1, Medical Cannabis Cultivation Privilege Tax Return. However, Form MC-1 (and Schedule MC-2, if applicable) are now required to be filed electronically and the tax is required to be paid electronically. In addition, multiple site cultivators are now required to report sales from each cultivation site rather than reporting sales made to each dispensary on Schedule MC-2, Medical Cannabis Sales. Furthermore, Schedule MC-3, Medical Cannabis Deductions, is now obsolete and deductions will be reported on Form MC-1. Form MC-1 and Schedule MC-2 have been updated to reflect those changes.

Medical cannabis dispensaries must report and pay Retailers' Occupation Tax on their gross receipts from sales of medical cannabis in Step 1 on Form CD-1, Cannabis Dispensary Tax Return. Dispensaries that sell only medical cannabis will skip Step 2 (Cannabis Purchaser Excise Tax) when completing their Form CD-1.

In addition to reporting receipts from medical cannabis sales on Form CD-1, medical cannabis dispensaries are also required to report their total receipts of cannabis and non-cannabis products sold on Form ST-1, Sales and Use Tax and E911 Surcharge Return. Receipts from medical cannabis sales should be taken as a deduction on Schedule A of Form ST-1.

All medical cannabis cultivators and dispensaries are required to make quarter-monthly payments as of January 1, 2020. See the "What payments are required?" section for more information. In addition, the discount for medical cannabis cultivators cannot exceed \$1,000 per return period.

What type of books and records am I required to keep?

Every cultivator and craft grower shall keep books and records of all sales of cannabis, together with invoices, bills of lading, sales records, copies of bills of sale, monthly inventories, inventories prepared as of December 31 of each year, and other pertinent papers and documents. Books and records must be retained for inspection by IDOR. Cultivators that fail to keep books and records or fail to produce books and records for inspection may be subject to penalties including a penalty of \$1,000 for the first offense and \$3,000 for each subsequent offense (35 ILCS 120/7).

Every cannabis dispensary must keep complete and accurate records of cannabis held, purchased, sold, or otherwise disposed of, and must keep all invoices, bills of lading, sales records, and copies of bills of sale, returns, and other pertinent papers and documents relating to the purchase, sale, or disposition of cannabis. Such records need not be maintained on the licensed premises but must be maintained in the state of Illinois. However, all original invoices or copies thereof covering purchases of cannabis must be retained on the licensed premises for a period of 90 days after such purchase, unless IDOR has granted a waiver in response to a written request in cases where records are kept at a central business location within the state of Illinois (410 ILCS 705/65-36).

Books and records that are required to be kept shall, at all times during the usual business hours of the day, be subject to inspection by IDOR or its duly authorized agents and employees. Cannabis dispensaries that fail to keep books and records or fail to produce books and records for inspection may have their license suspended or revoked (410 ILCS 705/45-20) and may be subject to a Class 4 felony and penalties including a penalty of \$1,000 for the first offense and \$3,000 for each subsequent offense (410 ILCS 705/65-38).

Where can I go for help?

The Illinois Department of Revenue's website at tax.illinois.gov is the best resource for up-to-date tax information.

- For tax or filing questions in reference to cannabis cultivators or craft growers, email your questions to Rev.ATP-MFR@Illinois.gov or call the Alcohol, Tobacco, and Fuel Division at **217 782-6045**.
- For tax or filing questions in reference to cannabis dispensaries, call the Sales Tax Division at **217 782-5906**.
- For registration questions, call **217 785-3707**.