

Compliance Alert - Cannabis

Dispensaries Charging the Incorrect Tax Rates on Cannabis Sales



January 2020

Compliance Problem

The Illinois Department of Revenue (IDOR) is aware that some cannabis dispensaries are incorrectly calculating the taxes due on cannabis sales, resulting in an overcollection of taxes. IDOR has identified the following issues when calculating taxes due on cannabis sales:

- 1. Dispensaries are failing to charge or are charging the incorrect retailers' occupation tax rate on cannabis sales and non-cannabis sales.** Dispensaries should be charging the proper retailers' occupation tax based on the location where sales are being made for both cannabis and non-cannabis sales.
- 2. Dispensaries are charging municipal or county cannabis retailers' occupation taxes.** Municipal and county cannabis retailers' occupation taxes, if applicable, do not go into effect until July 1, 2020, at the earliest.
- 3. Dispensaries are charging both adult-use rates and medical rates on a single sale.** Medical and adult-use cannabis are taxed differently. Medical cannabis sales should be taxed at the medical cannabis tax rate only and should not include excise taxes. Adult-use cannabis sales should not include the medical cannabis tax rate. A sale of a single cannabis product should never be charged a combination of both rates.

Background

Public Act (P.A.) 101-0027 (as further amended by P.A. 101-0363 and P.A. 101-0593) 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).

Dispensaries began selling adult-use cannabis to purchasers on January 1, 2020.

Solution

- Dispensaries must charge the proper retailers' occupation tax rate on sales of cannabis based on the location where the sales occur. Dispensaries must charge the proper retailers' occupation tax for sales of non-cannabis items when applicable. Sales of non-cannabis items are subject to retailers' occupation tax as defined in [86 Ill. Admin. Code Part 130](#). Dispensaries may use the Tax Rate Finder located at mytax.illinois.gov to look up location specific retailers' occupation tax rates or contact the Local Tax Allocation Division at (217) 785-6518.
- Dispensaries must not charge local cannabis retailers' occupation taxes until they go into effect. **Municipal and county cannabis retailers' occupation taxes** do not go into effect until July 1, 2020, at the earliest. If a proper ordinance is adopted and filed with IDOR on or before April 1, 2020, then IDOR will administer and enforce the tax beginning on July 1, 2020. Ordinances filed on or after April 2, 2020, but on or before October 1, 2020, will be implemented by IDOR on January 1, 2021. IDOR will notify retailers prior to any additional rates or rate changes taking effect. Use the Tax Rate Finder located at mytax.illinois.gov to look up location specific tax rates. For more information, refer to [Informational Bulletin FY 2020-16](#), Municipalities and Counties may impose a local Cannabis Retailers' Occupation Tax beginning July 1, 2020.
- Dispensaries must charge either the adult-use rates or the medical rate on the sale of a single cannabis product. The sale of a single cannabis product should never be charged a combination of both rates. Medical cannabis sales should be taxed at the medical cannabis tax rate only and should not include purchaser excise taxes. Adult-use cannabis sales should be taxed using both the cannabis purchaser excise tax rate and the adult-use cannabis retailers' occupation tax rate. Adult-use cannabis sales should not be taxed at the medical cannabis rate. Dispensaries may use the Tax Rate Finder located at mytax.illinois.gov to look up location specific retailers' occupation tax rates or the [Excise Tax Rate Page](#) for the cannabis purchaser excise tax rates.

Solution (cont.)

- If you have collected more cannabis taxes than required, either by using the incorrect rate or by charging **municipal and county cannabis retailers' occupation taxes** in error, and you do not refund the excess tax to your customers, you must report the excess taxes collected on the appropriate "Excess tax collected" line of your Form CD-1, Cannabis Dispensary Tax Return. Refer to the [Form CD-1 instructions](#) when completing your return for more information.
- Dispensaries should refer to [Informational Bulletin FY 2020-12](#), Reporting and paying tax on cannabis sales, and [Informational Bulletin FY 2020-16](#), Municipalities and Counties may impose a local Cannabis Retailers' Occupation Tax beginning July 1, 2020, or visit the [Cannabis Tax Information page](#) on IDOR's website for more information on cannabis taxes.

Questions

If you have questions regarding this compliance alert, please contact the Local Tax Allocation Division at (217) 785-6518.