What is in the Law
Taxation and Revenue

Overview

On March 31, 2021, New York State legalized adult-use cannabis (also known as marijuana, or recreational marijuana) by passing the Marijuana Regulation & Taxation Act (MRTA). The legislation creates a new Office of Cannabis Management (OCM) governed by a Cannabis Control Board to oversee and implement the law (collectively referred to as "the OCM"). The OCM will regulate cannabis, issue licenses and develop regulations outlining how and when businesses can participate in the new industry. The information below outlines the taxation and revenue provisions as set out in the MRTA.

The MRTA establishes three taxes on adult-use cannabis. First, there is a wholesale excise tax imposed on the sale of cannabis products by a distributor to a retail dispensary at (9) percent of the cannabis products' price. This tax is applied differently for microbusiness or a Registered Organization with Dispensing (ROD) that are vertically integrated licenses. The (9) percent excise tax is imposed on (75) percent of the final retail price offered to the cannabis consumer. Second, there is a retail excise tax imposed on the sale of cannabis products by a retail dispensary to a cannabis consumer at (9) percent of the cannabis products' price. Third, there is a local excise tax imposed on the sale of cannabis products by a retail dispensary to a cannabis consumer at four (4) percent of the products' price. This tax is distributed to local governments based on where the retail dispensary is located. Twenty-five (25) percent of the tax revenue goes to the county and seventy-five (75) percent goes to the cities, town, or villages within the county as a proportion of cannabis sales. If a town and a village within the town both allow adult-use sales, the revenue shall be distributed based upon a distribution agreement between the town and village. If no such agreement exists, then the revenue distribution between the town and village shall be divided evenly. For more information about adult-use cannabis taxation and tax registration, please visit the New York State Department of Taxation and Finance's website at: https://www.tax.ny.gov/bus/auc/

All licensees required to collect adult-use cannabis tax under the MRTA are required to register with the Department of Taxation and Finance. The fee for such registration will be six-hundred dollars ($600). Sales of adult-use cannabis are not subject to the state and local sales tax.

The MRTA also authorizes an illicit cannabis tax penalty to be imposed on any person knowingly in possession of cannabis for which a tax should have been paid but was not. Penalties are based on the amount and type of cannabis product and are increased for a second or subsequent violation within 3 years.

Adult-Use Tax Revenue Distribution

All adult-use cannabis taxes are deposited in the New York State Cannabis Revenue Fund. First, the Cannabis Revenue Fund will cover the costs of administering cannabis programs and implementing the MRTA, including the OCM's operating costs, increasing Drug Recognition Expert (DRE) training, and implementing incubators and workforce development for social and economic equity applicants.

After upfront costs, the remaining tax revenue is distributed into three separate funds:

- **40% to the State Lottery Fund for education purposes.** The revenue from the fund must be additional spending on education and not supplant existing revenue sources.
- **40% to the Community Grants Reinvestment Fund.** The grants in this fund will be awarded by the State Cannabis Advisory Board to qualified community-based non-profit organizations and local governments to support several different community revitalization efforts, including, but not limited to:
  - Job placement and skills services
  - Adult education
  - Mental health treatment
  - Substance use disorder treatment
  - Housing
  - Financial literacy
  - Community banking
  - Nutrition services
  - Services to address adverse childhood experiences
  - Legal services to address barriers to reentry
  - Linkages to medical care, women's health services and other community-based supportive services
  - Afterschool and childcare services, system navigation services
  - To further support the social and economic equity program, furthering participation of equity applicants in the cannabis industry

  The OCM will issue an annual report detailing how the revenues from the Community Grants Reinvestment Fund were spent the previous year.
- **20% to the Drug Treatment and Public Education Fund.** The moneys in the fund will be expended by the Office of Addiction Services and Supports (OASAS) and disbursed, in consultation with the Department of Health, the Office of Mental Health, the Office of Cannabis Management and the Commissioner of Education for the following purposes:
  - To develop and implement a youth-focused public health education and prevention campaign, including school-based prevention, early intervention, and health care services and programs to reduce the risk of cannabis and other substance use by school-aged children.
  - To develop and implement a statewide public health campaign focused on the health effects of cannabis and legal use, including an ongoing education and prevention campaign that educates the general public, including parents, consumers and retailers, on the legal use of cannabis, the importance of preventing youth access, the importance of safe storage and preventing secondhand cannabis smoke exposure, information for pregnant or breastfeeding women, and the overconsumption of edible cannabis products.

- To provide substance use disorder treatment programs for youth and adults, with an emphasis on programs that are culturally and gender competent, trauma-informed, evidence-based and provide a continuum of care that includes screening and assessment (substance use disorder as well as mental health), early intervention, active treatment, family involvement, case management, overdose prevention, prevention of communicable diseases related to substance use, relapse management for substance use and other co-occurring behavioral health disorders, vocational services, literacy services, parenting classes, family therapy and counseling services, medication-assisted treatments, psychiatric medication and psychotherapy.
- To evaluate the programs being funded to determine their effectiveness. The Commissioner of OASAS must issue an annual report detailing how the revenues from the Drug Treatment and Public Education Fund were spent the previous year.

Medical Cannabis Taxation and Revenue

Under the MRTA, medical cannabis will continue to be subject to a three and fifteen-hundredths (3.15) percent excise tax. The medical cannabis tax imposed shall be paid by the registered organization and will not be added as a separate charge or line item on any sales slip, invoice, receipt or other statement of the price given to the retail customer.

The medical cannabis tax revenue is dedicated to the Medical Cannabis Trust Fund as follows:

- 50% of the monies shall be transferred to the counties in New York state in which the medical cannabis was manufactured and allocated in proportion to the gross sales originating from medical cannabis manufactured in each such county.

- 50% of the moneys shall be transferred to the counties in New York state in which the medical cannabis was dispensed and allocated in proportion to the gross sales occurring in each such county.

Contact Us

Please visit our website or contact us using the e-mail and phone number below for more information.

Website: www.cannabis.ny.gov

Call: 1-888-OCM-5151

Email: info@ocm.ny.gov