



Administering Taxes for a Cash Based Industry

Colorado Department of Revenue
NCSL Legislative Summit
Denver, CO
July 31, 2022

Dive into the challenges Colorado has faced and overcome while implementing and administering a marijuana tax program for an industry that is still largely cash-based.

The Federal Status

- Considered “Schedule I” under the Controlled Substances Act, with “*no currently accepted medical use and a high potential for abuse.*”
- Banks working with cannabis businesses may be subject to criminal penalties (money laundering & other federal crimes). This limits options for marijuana business that can lead to a high volume of cash transactions/operations.



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Implementing a Tax Program for a Cash-Based Industry

Myth busting:

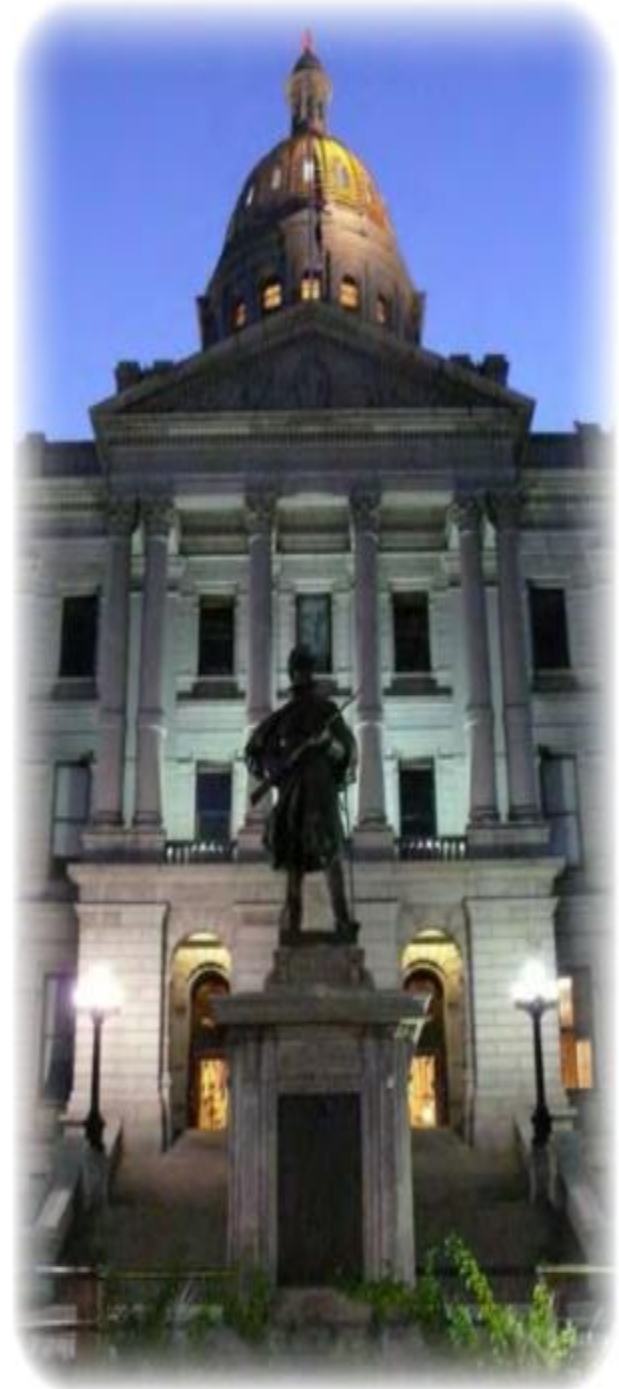
- MJ businesses pay their taxes the same way as other taxpayers.
 - Check, e-check, credit cards, and EFT.
- Higher prevalence of cash payments
 - less than 100 businesses pay by cash each month.
 - about 3% of amount collected.



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History: Path to Legalization

- Nov. 7, 2000, CO voters passed Amendment 20 (54%)
 - Allowed for possession of medical marijuana and permitted patients and caregivers to:
 - Possess up to 2 ounces of marijuana
 - Grow six marijuana plants for medical purposes
- 2010, the CO Legislature passed HB-1284:
 - Legalized Medical Cultivations (grow facilities), Product Manufacturers (edibles), and Centers (stores/dispensaries)
 - Created the Medical Marijuana Enforcement Division
- By 2012 Colorado had:
 - Over 200 licensed dispensaries
 - Over 100,000 registered patients



History: Path to Legalization and Taxation

- November 6, 2012, Colorado voters passed Amendment 64 (55%)
 - Legalized marijuana for recreational use
 - Made it a constitutional right for individuals 21 years or older to:
 - Possess up to 1 ounce of marijuana
 - Grow up to six marijuana plants
 - Licenses:
 - Retail marijuana stores
 - Retail marijuana infused product manufacturers (edible makers)
 - Retail marijuana cultivations (grow facilities)
 - Marijuana testing facilities
- November 5, 2013, Colorado voters passed Proposition AA (65%)
 - Which allowed for the:
 - Excise tax on recreational marijuana
 - Special sales tax on retail marijuana.
- January 2014, First retail marijuana businesses were licensed and open for business

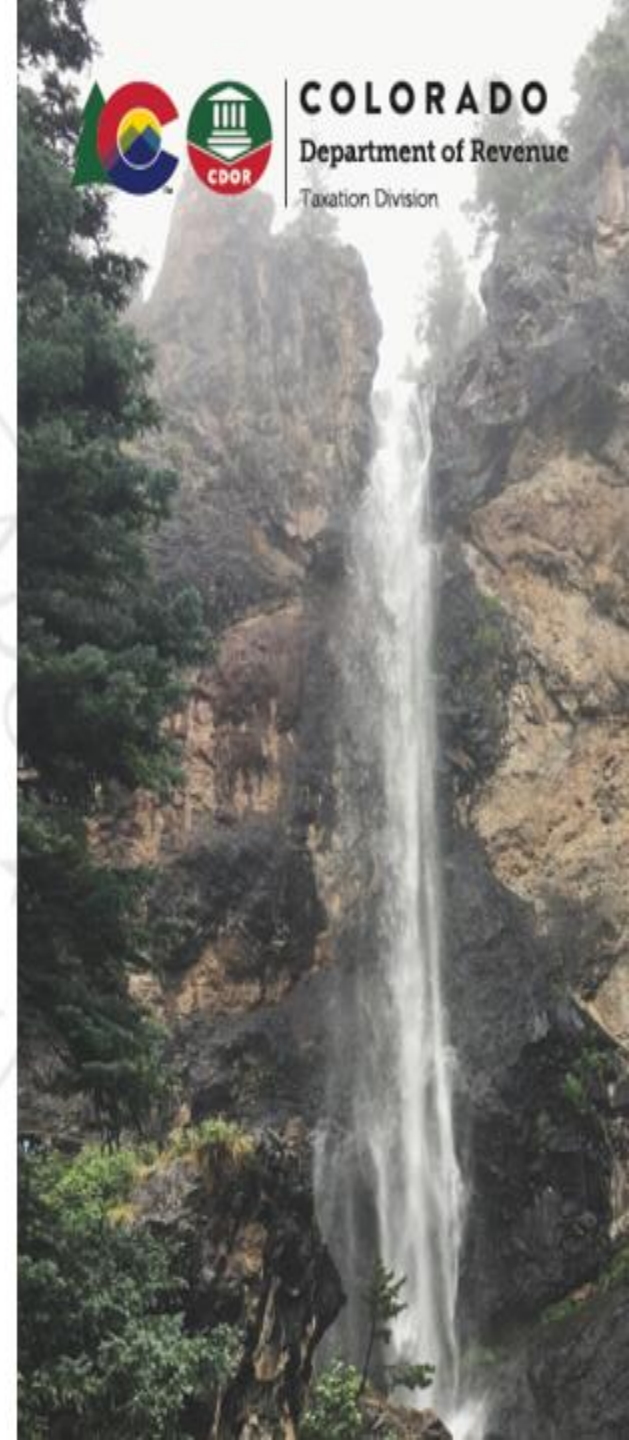


MED Licensee Data



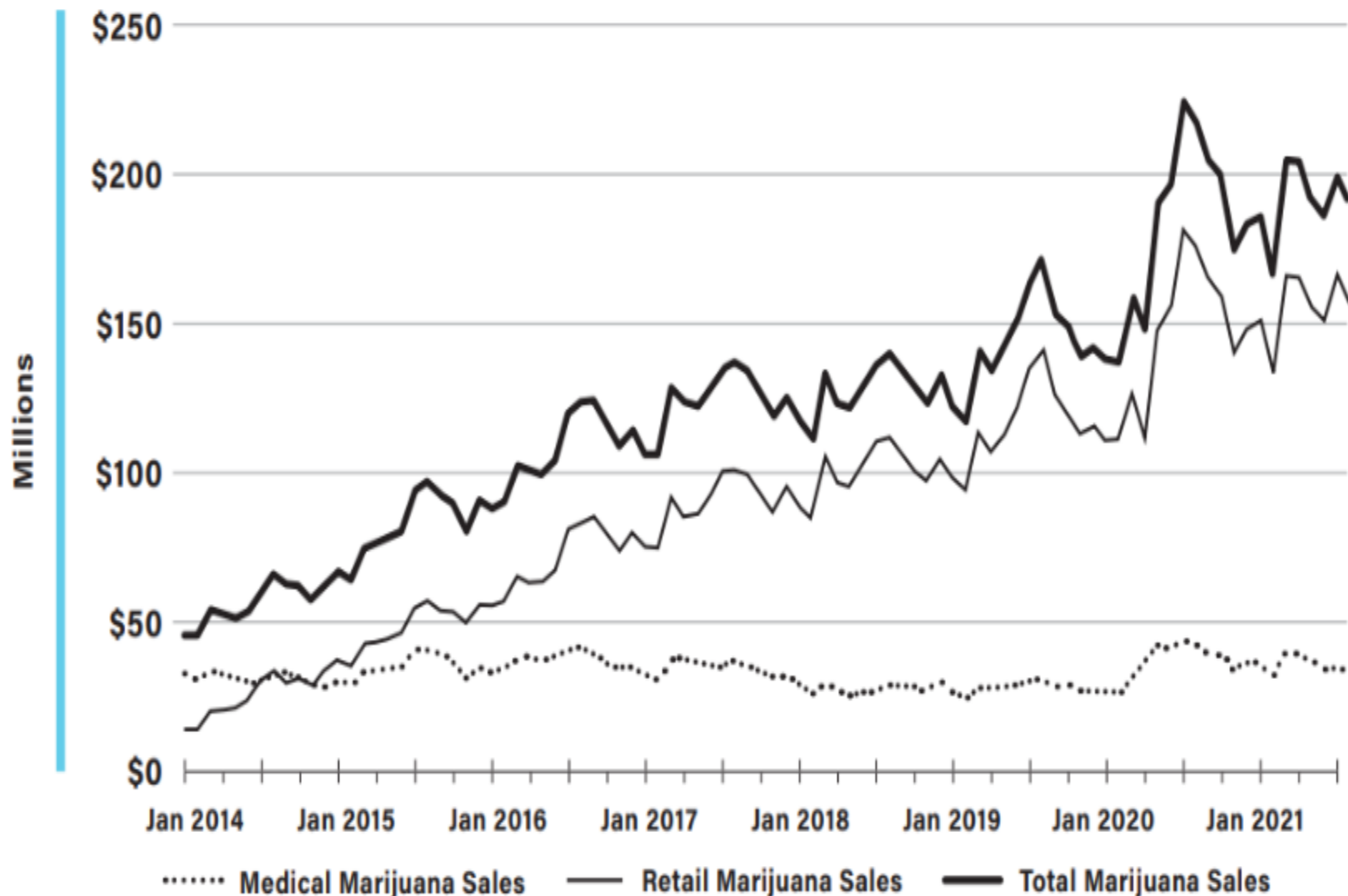
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License Type	Medical	Retail
Cultivation	471	809
Delivery	15	51
Hospitality	0	8
Operators	8	15
Product Manufacturers	226	299
Research & Development Cultivations	1	0
Store	410	658
Testing Facilities	10	10
Transporters	12	36
Individual Licenses		
Business Owners (Natural Person)	1950	
Employees	41455	
Owner Entity	261	



SALES AND REVENUE NUMBERS

Marijuana Sales



SOURCE: ORA

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MARIJUANA TAX AND FEE REVENUE ¹

Fiscal Years 2017 to 2021

Taxes

State Sales Tax (2.9% rate) - Marijuana Tax Cash Fund	2017	2018 ²	2019 ²	2020 ²	2021 ²
Medical Marijuana	\$12,422,012	\$10,605,146	\$9,379,282	\$10,718,922	\$13,026,503
Retail Marijuana ²	\$28,147,430	\$5,213,270	\$1,040,721	\$1,328,125	\$1,558,831
Total ³	\$40,569,441	\$15,818,416	\$10,420,002	\$12,047,048	\$14,585,334



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MARIJUANA TAX AND FEE REVENUE ¹

Fiscal Years 2017 to 2021

Taxes

State Retail Marijuana Sales Tax (10% rate ⁴ or 15% rate ^{5,6})	2017 ⁴	2018 ⁵	2019 ⁶	2020 ⁶	2021 ⁶
Local Government Distribution (15% of total ⁴ or 10% of total ^{5,6})	\$14,744,561	\$17,235,464	\$19,324,469	\$22,612,898	\$29,003,357
Total Retained by the State (85% of total ⁴ or 90% of total ^{5,6})	\$83,552,899	\$149,968,558	\$173,909,856	\$203,532,257	\$261,018,591
Marijuana Tax Cash Fund ^{5,6}	\$83,552,899	\$110,004,599	\$124,954,232	\$146,237,927	\$187,541,858
Public School Fund ^{5,6}	NA	\$30,000,000	\$20,088,462	\$25,624,711	\$32,862,241
General Fund ^{5,6}	NA	\$9,963,959	\$28,867,163	\$31,669,619	\$40,614,493
Collections Not Yet Allocated ⁷	\$127,793	(\$17,191)	\$75,073	\$66,120	\$223,797
Total ³	\$98,425,253	\$167,186,831	\$193,309,398	\$226,211,275	\$290,245,745

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MARIJUANA TAX AND FEE REVENUE ¹

Fiscal Years 2017 to 2021

Taxes

State Retail Marijuana Excise Tax (15% rate)	2017 ⁸	2018 ⁸	2019 ⁹	2020 ¹⁰	2021 ¹¹
Public School Capital Construction Assistance Fund Transfer for the Building Excellent Schools Today (BEST) grant program ^{8,9,10}	\$40,000,000	\$40,000,000	\$52,648,440	\$80,819,436	\$40,000,000
Public School Fund ^{8,9,10}	\$31,558,384	\$27,752,967	\$5,849,826	\$0	\$80,346,651
Collections Not Yet Allocated ⁷	(\$135,277)	\$207,244	(\$50,917)	\$247,617	(\$8,372)
Total ³	\$71,423,107	\$67,960,211	\$58,447,349	\$81,067,053	\$120,338,278
Total Marijuana Taxes ²	\$210,417,802	\$250,965,457	\$262,176,749	\$319,325,375	\$425,169,357



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MARIJUANA TAX AND FEE REVENUE ¹

Fiscal Years 2017 to 2021

Taxes

Fees	2017	2018	2019	2020	2021
Total License and Application Fees - Marijuana Tax Cash Fund	\$13,047,252	\$12,801,351	\$11,874,019	\$11,858,448	\$12,168,680
Total Marijuana Taxes and Fees ³	\$223,465,054	\$263,766,809	\$274,050,768	\$331,183,823	\$437,338,037



Can your Agencies Handle the Cash?

- Ensure there are funds earmarked for equipment, such as:
 - Upgraded bill counting machines
 - High speed/volume machines can hold hundreds of bills and count thousands of bills per minute.
 - The Colorado Department of Revenue has five walk in centers.
 - Does each location need a high capacity counting machines?



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Do you have Adequate Security?

- Additional security for each of those locations.
 - Security for private and public areas.
 - The Annex had a “cage” for employees.
 - What about security in the lobby area?
 - May include increased armed security and surveillance of cash handling and nearby areas.
 - What about field agent safety?
 - Some agencies have agents who are peace officers.



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Keeping Pace With Change

- HB19-1256 (39-21-119.5 (4) (e) & (f) C.R.S.) makes electronic payments mandatory
 - Implemented April 1, 2022
 - Penalty is the greater of \$50 or 5% of the tax owed
 - Department allows a for a hardship waiver
 - Waiver is for 1 year and can be renewed with no limits.



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The Road Ahead

- 37 states have regulated medical and/or adult use cannabis.
- If the federal government removed marijuana from schedule 1:
 - Would open up banking and the department may no longer allow the non- electronic payment waivers.
 - Reduced use of cash would reduce safety and security risks.
- With banking open, cannabis could remain illegal in states that don't want it.



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Hot Topics

- Federal Legalization Efforts and Policy Changes
 - Impact on in state businesses, especially tax rates
- Intoxicating Hemp (Delta 8, Delta 10, etc.)
- Excise Tax
- Decrease in marijuana sales





Contact Information

- DOR Marijuana Tax Website: tax.colorado.gov/marijuana-taxes
- My contact info:
- Link to [Colorado Cannabis website](#)
- [Guidance publications](#)
- [FAQs](#)
- [Filing videos](#)
- Link to [MED's website](#)