Marijuana Legalization & Taxes

Approaches to Cannabis Taxation

NCSL Executive Committee
Task Force on State and Local Taxation
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How High Are Recreational Marijuana Taxes in Your State?

State Recreational Marijuana Excise Tax Rates, January 2019

Note: Michigan legalized recreational marijuana in 2018 by ballot initiative, but has until Dec. 6, 2019, to implement a legal market. Maine legalized recreational marijuana in November 2016 by ballot initiative, but the state is still working to create a legal market. District of Columbia voters approved legalization and purchase of marijuana in 2014, but federal law prohibits any action to implement it. In 2018, the New Hampshire legislature voted to legalize the possession and growing of marijuana, but did not permit sales. Alabama, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Nebraska, Oklahoma, Rhode Island, Tennessee, and Wisconsin impose a controlled substance tax on the purchase of illegal products.

Source: Bloomberg Tax; state statutes
# Approaches to Cannabis Taxation

## Current Taxes

<table>
<thead>
<tr>
<th>State</th>
<th>Per Unit Tax</th>
<th>Excise Tax</th>
<th>Product Sales Tax</th>
<th>Product Local Tax</th>
<th>General Sales Tax</th>
<th>Local Sales Tax</th>
<th>Total Tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alaska</td>
<td>$50/oz flowers; $25/oz buds; $1/oz trim; $1 per clone</td>
<td>up to 5%</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>~67%</td>
</tr>
<tr>
<td>California</td>
<td>$9.25/oz flowers; $2.75/oz leaves</td>
<td>15%</td>
<td>up to 9.75%</td>
<td></td>
<td>7.25%</td>
<td>avg. 1.3%</td>
<td>~45%</td>
</tr>
<tr>
<td>Colorado</td>
<td></td>
<td>15%</td>
<td>15%</td>
<td>5.5%</td>
<td>2.9%</td>
<td>avg. 4.7%</td>
<td>~43%</td>
</tr>
<tr>
<td>Massachusetts</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>10.75%</td>
<td></td>
<td>~20%</td>
</tr>
<tr>
<td>Nevada</td>
<td>15%</td>
<td>10%</td>
<td></td>
<td></td>
<td>4.6%</td>
<td>avg. 1.3%</td>
<td>~33%</td>
</tr>
<tr>
<td>Oregon</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>17%</td>
<td></td>
<td>17%</td>
</tr>
<tr>
<td>Washington</td>
<td>37%</td>
<td></td>
<td></td>
<td></td>
<td>6.5%</td>
<td>avg. 2.7%</td>
<td>~46%</td>
</tr>
<tr>
<td>Maine (proposed)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>10%</td>
</tr>
<tr>
<td>Vermont (proposed)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>16%</td>
</tr>
</tbody>
</table>
MARIJUANA LEGALIZATION & TAXES

STRUCTURING MARIJUANA TAXES

- **Who Collects?** Grower vs. Processor vs. Retailer.
- **How Imposed?** Per Item vs. Per THC content vs. Percentage of Price
- **How High?** Raising Revenue vs. Discouraging Black Market
APPARENTES TO CANNABIS TAXATION
STRUCTURING MARIJUANA TAXES

GASOLINE PRICE INCLUDES
48.55¢ Per Gallon Tax
30.15¢ NC Tax*
18.4¢ Federal Tax

*State Tax Rates change semi-annually. Rate Based on Jan. 1, 2006 figures.
Brought to you by NC Petroleum Marketers Association Fueling North Carolina's Future.

<table>
<thead>
<tr>
<th>Tax &amp; Fees</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 Federal Subscriber Line Charge</td>
<td>$6.00</td>
</tr>
<tr>
<td>4 Federal Universal Service Fee</td>
<td>.58</td>
</tr>
<tr>
<td>5 Local Number Portability Charge</td>
<td>.23</td>
</tr>
<tr>
<td>6 911 State/County Charges</td>
<td>.42</td>
</tr>
<tr>
<td>7 New Hampshire State &amp; Local Tax</td>
<td>1.70</td>
</tr>
<tr>
<td>8 Federal Excise Tax</td>
<td>1.08</td>
</tr>
<tr>
<td><strong>Total Tax &amp; Fees</strong></td>
<td><strong>$10.01</strong></td>
</tr>
</tbody>
</table>

CITY OF CHICAGO
DEPARTMENT OF FINANCE
FOUNTAIN SOFT DRINK TAX - 7590
APPROACHES TO CANNABIS TAXATION

STRUCTURING MARIJUANA TAXES
APPROACHES TO CANNABIS TAXATION

STRUCTURING MARIJUANA TAXES

Colorado taxes at retail sale (15% wholesale and 15% retail).

Washington started by taxing all three levels (25% at each level) but in 2015 changed to just tax at retail level. (Vertical integration of some sellers led to inequity.)

Alaska taxes at processor level, with set tax rates on flowers, buds, trim, and clones.
APPROACHES TO CANNABIS TAXATION

STRUCTURING MARIJUANA TAXES

- How Imposed? Per Item vs. Per THC content vs. Percentage of Price
- Per Item difficult due to variety of forms.
- Per THC content difficult because it would require frequent testing, and results can vary somewhat.
APPROACHES TO CANNABIS TAXATION
STRUCTURING MARIJUANA TAXES

- How High? Raising Revenue vs. Discouraging Black Market

- Colorado (2017 study):
  - Legal market supplied 340.7 metric tons
  - Actual sales 301.7 metric tons (32.6t in inventory)
  - Consumption estimated at 208.7 metric tons
  - Update from 2014, when supply captured only 65% of resident and tourist consumption
Falling prices in both markets have several implications for consumers, producers, and governments. For consumers, lower prices mean more affordable marijuana, which will likely increase overall demand and total sales, but may also increase addiction and dependency rates. In most cases, producers and retailers operate with narrowing profit margins as prices fall, putting pressure on the less-efficient and often smaller businesses. Since sales tax revenues are based on retail prices, per unit tax revenues will fall as prices fall. However, public revenues will likely continue to rise if sales volumes are increasing overall. As market growth slows and prices fall, tax revenues will eventually plateau.
APPROACHES TO CANNABIS TAXATION

STRUCTURING MARIJUANA TAXES

• **How High?** Raising Revenue vs. Discouraging Black Market

• Washington – originally separate 25% taxes at cultivator, processor, and retailer levels. Replaced by 37% retail tax, in part due to 280E restrictions, administrative ease.

• Alaska – industry says high tax rate makes it difficult to compete against black market. Revenue beating projections.
• Tax revenue estimates for each state based on extrapolated results from Colorado & Washington
• Nationwide between $5.3b to $8.8b
• Federal law remains restraint, with Section 280E, federal prosecution, and banking restrictions
APPROACHES TO CANNABIS TAXATION
LESSONS FOR OTHER STATES

- Tax rate should not be so high as to prevent elimination of the black market.
- Taxes on final retail sales have proven the most workable form of taxation.
- Be conscious of the medical marijuana market.
- Be cautious with revenue estimates.
- Resolve health, agricultural, zoning, local enforcement, and criminal penalty issues.
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