## COLORADO DEPARTMENT OF REVENUE DIVISION OF TAXATION

## November 8<sup>th</sup>, 2013 1:00 P.M.

## Rulemaking workshop for Taxation of Retail Marijuana, Article 28.8 of Title 39

Facilitator: John Vecchiarelli, Director of Taxation, Colorado Department of Revenue

- I. Call to order
- II. Roll call of participants
- III. Introductory remarks
  - a. Timing
    - i. Ten minute breaks will be taken at 2:20 and at 3:50. Business will begin again promptly at 2:30 and 4.
    - ii. Further business will be conducted, if necessary at the November [7<sup>th</sup>?] workshop.
  - b. Method of conducting business
    - i. The last hour of the meeting will be reserved for public comment anyone wishing to make a public comment will be allowed 2 minutes to make their comments after being recognized by the chair.
    - ii. Prior to the public comment period, discussion is limited to the members of the working group.
    - iii. The chair will recognize speakers as they ask to be recognized by raising their hand.
  - c. Business to be conducted
    - The overall objectives of the rules are to minimize administrative costs to both the department and businesses while maximizing compliance. Rules should not be designed to facilitate evasion or to inhibit the activities being taxed.
    - ii. The chair will not entertain any discussion of the propriety of the method of taxation or the rates of taxation these discussions are only appropriate in a political context, not a rulemaking context.
    - iii. The chair will not entertain any political grandstanding comments should be made with an aim to develop the most efficient and effective rules.

- IV. Definitions
- V. Sales tax
  - a. Interplay between 2.9% rate and 10% rate
    - i. Other products sold by establishment
    - ii. Medical marijuana separate license
  - b. Edibles
    - i. Not food
    - ii. 10% rate on full purchase price of product, regardless of marijuana content
- VI. Excise tax
  - a. Procedures
  - b. Excise tax must be paid on all marijuana products sold after January 1<sup>st</sup>
  - c. On what products is excise tax due?
    - i. Bud
    - ii. Trim
    - iii. Concentrate?
    - iv. Clones?
    - v. Sugarleaf?
  - d. At what point is excise tax due
    - i. How to calculate tax for grow operations that also do some concentration?
    - ii. How to handle waste? Is disposal a "transfer"?
  - e. Average Market Rate ("AMR")
    - i. Different AMRs for bud and trim.....sugarleaf?
    - ii. Different AMRs for arms' length transactions vs. integrated operations transactions?
    - iii. Application of AMR to mixed transactions
      - 1. Use higher AMR for mixed transactions?
      - 2. What about when a facility does not separate the plant in production?
      - 3. Require separate transactions for sales of each type of product? (Bud and trim)?
    - iv. Calculation of AMR on ongoing basis
  - f. Evidence of payment of tax
    - i. How can retailer be assured that excise tax was paid on product?
    - ii. What are consequences of untaxed product being owned by retailer or MIP?
      - 1. Is it contraband subject to seizure?
      - 2. Can retailer or MIP pay excise tax?
    - iii. How can department best require evidence of payment of tax?
  - g. How to handle payment of excise tax for transfers of product from medical marijuana facilities to retail marijuana facilities?