



## Retail Marijuana Excise Tax Calculation Changes and AMR Frequency Fact Sheet

Due to statutory requirements resulting from [Senate Bill 17-192](#) and emergency Rule 1 CCR 201-18 sections [39-28.8-101](#) and [39-28.8-302](#), beginning on **August 9, 2017**, there are changes to the definition of the Average Market Rate (AMR), regarding how the excise tax on retail marijuana is calculated, how frequently the AMR is recalculated and the addition of a new AMR category and rate.

- AMR will be determined and published by the Colorado Department of Revenue (CDOR) on a quarterly basis in the “Excise Tax” section of the Marijuana Taxes | File webpage at [Colorado.gov/Tax/marijuana-taxes-file](http://Colorado.gov/Tax/marijuana-taxes-file).
  - AMR will be defined as “the average price...of all unprocessed retail marijuana that is sold or transferred from retail marijuana cultivation facilities in the state to retail marijuana product manufacturing facilities or retail marijuana stores, less taxes paid on the sales or transfers.”
  - Sales or transfers between licensed cultivation facilities are now *exempt* from state excise tax.
  - The AMR beginning on **July 1, 2017**, will be in effect through **September 30, 2017**.
    - The first AMR recalculation under the new statutory requirements will be effective on October 1, 2017, and at the beginning of each subsequent quarter on January 1, April 1, July 1, and October 1 each year.
  - Beginning **August 9, 2017**, a new AMR category was added for sales of “Contaminated Retail Marijuana Product Allocated for Extraction” by a retail marijuana cultivation to a retail marijuana infused product manufacturer. Contaminated Retail Marijuana Product Allocated for Extraction should be entered on line 4 of the Retail Marijuana Excise (RME) Tax Return in Revenue Online. Contaminated retail marijuana product that is sold or transferred prior to August 9 is required to be reported on the RME Return in the product category of its source (i.e. Bud or Trim).
    - **Contaminated Retail Marijuana Product Allocated for Extraction** means any Bud or Trim that failed microbial testing and is transferred to a retail marijuana product manufacturing facility.
    - The excise tax for Contaminated Retail Marijuana Product Allocated for Extraction is computed on the total weight of all Contaminated Product Allocated for Extraction, while the excise tax for any retail marijuana product that is not contaminated is calculated by category (i.e., Bud, Trim, Immature Plant, Wet Whole Plant, or Seed).
- Sales or transfers between “Affiliated Retail Marijuana Business Licensees” will still be subject to the state excise tax rate of 15% of the AMR.
  - Per statute, **Affiliated Marijuana Business Licensees** is defined as “marijuana business licensees that are owned or controlled by the same or related interests, where ‘related interests’ includes individuals who are related by blood or marriage or entities that are directly or indirectly controlled by an entity or individual or related individuals.”
- Beginning **August 9, 2017**, sales or transfers between “Unaffiliated Retail Marijuana Business Licensees” will be subject to the state excise tax rate of 15% of the Contract Price.

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- **Unaffiliated Retail Marijuana Business Licensees** shall mean marijuana business licensees that are not owned or controlled by the same or related interests.
- The **Contract Price** is defined as “the invoice price charged by a retail marijuana cultivation facility to each licensed purchaser for each sale or transfer of unprocessed retail marijuana, exclusive of any tax that is included in the written invoice price, and exclusive of any discount or other reduction.”
  - EXCEPTION: Sales to unaffiliated retail marijuana businesses for which there is *no contract price at the time of sale* will still use the AMR to calculate the excise tax owed.
- To accommodate the tax and reporting requirement for transactions sold to unaffiliated marijuana business licensees, the Retail Marijuana Excise Tax Return in Revenue Online was revised beginning with the August 2017 filing period.
- To learn more, please refer to publication [FYI Excise 23: Excise Tax on Retail Marijuana](#) available on CDOR's website, [Colorado.gov/Tax](http://Colorado.gov/Tax).