

Retail Marijuana Excise Tax Calculation Changes and AMR Frequency Fact Sheet

Due to recent statutory requirements resulting from Senate Bill 17-192, and beginning on August 9, 2017, there will be changes to the definition of the Average Market Rate (AMR), regarding how the excise tax on retail marijuana is calculated and how frequently the AMR is recalculated.

- AMR will be determined and published by the Department of Revenue on a quarterly basis.
 - 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 no longer a taxable event, with regard to the state excise tax.
 - The AMR beginning on July 1, 2017 will be in effect until 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 (January, April, July, October).
- Sales or transfers between "Affiliated Retail Marijuana Business Licensees" will still be subject to the 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."
- Sales or transfers between "Unaffiliated Retail Marijuana Business Licensees," will be subject to the excise tax rate of 15% of the Contract Price.
 - Beginning August 9, 2017, all sales or transfers in this category should be calculated based on the Contract Price.
 - Sales or transfers between licensed cultivation facilities are no longer a taxable event, with regard to the state excise tax.
 - 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."
 - To accommodate the tax and reporting requirement for transactions sold to unaffiliated marijuana business licensees, the Retail Marijuana Excise Tax Return in Revenue Online (form DR 1616) will be revised effective with the August 2017 filing period. The Department will send a message between August 22 and August 31 which describes the changes to the return and reporting requirements.
- FYI Excise 23 will be updated on DOR's website by August 8, 2017.