

Montana Code Annotated 2021

TITLE 15. TAXATION

CHAPTER 64. TAXATION OF DRUGS AND DRUG LICENSING

Part 1. General Provisions

Definitions

15-64-101. Definitions. As used in this part, the following definitions apply:

- (1) "Adult-use dispensary" has the meaning provided in **16-12-102**.
- (2) "Department" means the department of revenue provided for in **2-15-1301**.
- (3) "Dispensary" means an adult-use dispensary or a medical marijuana dispensary.
- (4) "Licensee" means a licensee operating an adult-use dispensary or a medical marijuana dispensary.
- (5) "Marijuana" has the meaning provided in **16-12-102**.
- (6) "Marijuana product" has the meaning provided in **16-12-102**.
- (7) "Medical marijuana dispensary" has the meaning provided in **16-12-102**.
- (8) "Person" means an individual, firm, partnership, corporation, association, company, committee, other group of persons, or other business entity, however formed.
- (9) "Purchaser" means a person to whom a sale of marijuana or a marijuana product is made.
- (10) "Retail price" means the established price for which an adult-use dispensary or medical marijuana dispensary sells marijuana or a marijuana product to a purchaser before any discount or reduction.
- (11) "Sale" or "sell" means any transfer of marijuana or marijuana products for consideration, exchange, barter, gift, offer for sale, or distribution in any manner or by any means.

History: En. Sec. 18, Ch. 408, L. 2017; amd. Sec. 29, Ch. 576, L. 2021.

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Part 1. General Provisions

Tax On Marijuana Sales

15-64-102. Tax on marijuana sales. (1) For a medical marijuana dispensary, there is a 4% tax on the retail price of marijuana, marijuana products, and live marijuana plants for use by individuals with debilitating medical conditions.

(2) For an adult use-dispensary, there is a 20% tax on the retail price of marijuana, marijuana products, and live marijuana plants.

(3) The taxes set forth in subsections (1) and (2) are imposed on the purchaser and must be collected at the time of the sale and paid by the seller to the department for deposit in the marijuana state special revenue account provided for in 16-12-111.

(4) A dispensary licensed under Title 16, chapter 12, shall submit a quarterly report to the department listing the total dollar amount of sales. The report must be:

- (a) made on forms prescribed by the department; and
- (b) submitted within 15 days of the end of each calendar quarter.

(5) At the time the report is filed, the dispensary shall submit a payment equal to the percentage provided in subsection (1) or (2) of the total dollar amount of sales.

(6) The department shall deposit the taxes paid under this section in the state special revenue account provided for in 16-12-111 within the state special revenue fund established in 17-2-102.

(7) The tax imposed by this part and related interest and penalties are a personal debt of the person required to file a return from the time that the liability arises, regardless of when the time for payment of the liability occurs.

(8) For the purpose of determining liability for the filing of statements and the payment of taxes, penalties, and interest owed under 15-64-103 through 15-64-106:

(a) the officer of a corporation whose responsibility it is to truthfully account for and pay to the state taxes provided for in 15-64-103 through 15-64-106 and who fails to pay the taxes is liable to the state for the taxes and the penalty and interest due on the amounts;

(b) each officer of the corporation, to the extent that the officer has access to the requisite records, is individually liable along with the corporation for filing statements and for unpaid taxes, penalties, and interest upon a determination that the officer:

- (i) possessed the responsibility to file statements and pay taxes on behalf of the corporation; and
- (ii) possessed the responsibility on behalf of the corporation for directing the filing of statements or the payment of other corporate obligations and exercised that responsibility, resulting in the corporation's failure to file statements required by this part or pay taxes due as required by this part;

- (c) each partner of a partnership is jointly and severally liable, along with the partnership, for any statements, taxes, penalties, and interest due while a partner;
- (d) each member of a limited liability company that is treated as a partnership or as a corporation for income tax purposes is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a member;
- (e) the member of a single-member limited liability company that is disregarded for income tax purposes is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a member; and
- (f) each manager of a manager-managed limited liability company is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a manager.
- (9) In determining which corporate officer is liable, the department is not limited to considering the elements set forth in subsection (8)(a) to establish individual liability and may consider any other available information.
- (10) In the case of a bankruptcy, the liability of the individual remains unaffected by the discharge of penalty and interest against the corporation. The individual remains liable for any statements and the amount of taxes, penalties, and interest unpaid by the entity.
- (11) The tax levied pursuant to this section is separate from and in addition to any general state and local sales and use taxes that apply to retail sales, which must continue to be collected and distributed as provided by law.
- (12) The tax levied under this section must be used as designated in **16-12-111**.

History: En. Sec. 19, Ch. 408, L. 2017; amd. Sec. 1, Ch. 292, L. 2019; amd. Sec. 30, Ch. 576, L. 2021.

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Part 1. General Provisions

Returns -- Payment -- Recordkeeping -- Authority Of Department

15-64-103. Returns -- payment -- recordkeeping -- authority of department. (1) Each dispensary licensed under Title 16, chapter 12, shall file a return, on a form provided by the department, and pay the tax due as provided in **15-64-102**.

(2) Each return must be authenticated by the person filing the return or by the person's agent authorized in writing to file the return.

(3) (a) A person required to pay to the department the taxes imposed by this part shall keep for 5 years:

(i) all receipts issued; and

(ii) an accurate record of all sales of marijuana and marijuana products, the date of sale, and the quantity, kind, and retail price of each product sold.

(b) For the purpose of determining compliance with the provisions of this part, the department is authorized to examine or cause to be examined any books, papers, records, or memoranda relevant to making a determination of the amount of tax due, whether the books, papers, records, or memoranda are the property of or in the possession of the person filing the return or another person. In determining compliance, the department may use statistical sampling and other sampling techniques consistent with generally accepted auditing standards. The department may also:

(i) require the attendance of a person having knowledge or information relevant to a return;

(ii) compel the production of books, papers, records, or memoranda by the person required to attend;

(iii) implement the provisions of **15-1-703** if the department determines that the collection of the tax is or may be jeopardized because of delay;

(iv) take testimony on matters material to the determination; and

(v) administer oaths or affirmations.

(4) Pursuant to rules established by the department, returns may be computer-generated and electronically filed.

History: En. Sec. 20, Ch. 408, L. 2017; amd. Sec. 31, Ch. 576, L. 2021.

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TITLE 16. ALCOHOL, TOBACCO, AND MARIJUANA

CHAPTER 12. MARIJUANA REGULATION AND TAXATION

Part 1. General Provisions

Marijuana State Special Revenue Account -- Operating Reserve -- Transfer Of Excess Funds

16-12-111. Marijuana state special revenue account -- operating reserve -- transfer of excess funds.

(1) There is a dedicated marijuana state special revenue account within the state special revenue fund established in **17-2-102**, to be administered by the department.

(2) The account consists of:

- (a) money deposited into the account pursuant to this chapter;
- (b) the taxes collected pursuant to Title 15, chapter 64, part 1;
- (c) license and registered cardholder fees deposited into the account pursuant to this chapter;
- (d) taxes deposited into the account pursuant to **16-12-310**; and
- (e) civil penalties collected under this chapter.

(3) Except as provided in subsection (4), money in the account must be used by the department for the purpose of administering the provisions of this chapter.

(4) At the end of each fiscal year, the department shall transfer funds in excess of a 3-month operating reserve necessary to fund operating costs at the beginning of the next fiscal year in the following order:

(a) an amount not to exceed \$6 million must be transferred to the healing and ending addiction through recovery and treatment (HEART) account established in **16-12-122**;

(b) the net balance remaining after distribution to the HEART account must be distributed as follows:

(i) 20% to the credit of the department of fish, wildlife, and parks to be used solely as funding for wildlife habitat in the same manner as funding generated under **87-1-242(3)** and used pursuant to **87-1-209**;

(ii) 4% to the state park account established in **23-1-105(1)**;

(iii) 4% to the trails and recreational facilities account established in **23-2-108**;

(iv) 4% to the nongame wildlife account established in **87-5-121**;


(v) 3% or \$200,000, whichever is less, to the veterans and surviving spouses state special revenue account provided for in **10-2-108**;

(vi) for the biennium beginning July 1, 2021, \$300,000 to the department of justice to administer grant funding to local and state law enforcement agencies for the purpose of purchasing and training drug detection canines and canine handlers, including canines owned by local law enforcement agencies to replace canines who were trained to detect marijuana;

(vii) \$150,000 to the board of crime control to fund crisis intervention team training as provided in 44-7-110; and

(viii) the remainder to the general fund. (*Subsection (4)(b)(vi) terminates June 30, 2025--sec. 117(2), Ch. 576, L. 2021.*)

History: En. Sec. 35, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 46, Ch. 576, L. 2021.

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TITLE 16. ALCOHOL, TOBACCO, AND MARIJUANA

CHAPTER 12. MARIJUANA REGULATION AND TAXATION

Part 1. General Provisions

Healing And Ending Addiction Through Recovery And Treatment Account

16-12-122. *(Effective January 1, 2022)* **Healing and ending addiction through recovery and treatment account.** (1) There is a healing and ending addiction through recovery and treatment account in the state special revenue fund. The account consists of money transferred to the account pursuant to **16-12-111**.

- (2) Revenue in the account must be used to provide statewide programs for:
 - (a) substance use disorder prevention;
 - (b) mental health promotion; and
 - (c) crisis, treatment, and recovery services for substance use and mental health disorders.
- (3) The programs must be designed to:
 - (a) increase the number of individuals choosing treatment over incarceration;
 - (b) improve access to, utilization of, and engagement and retention in prevention, treatment, and recovery support services;
 - (c) expand the availability of community-based services that reflect best practices or are evidence-based;
 - (d) leverage additional federal funds when available for the healthy Montana kids plan provided for in Title 53, chapter 4, part 11, and the medicaid program provided for in Title 53, chapter 6, for the purposes of this section;
 - (e) provide funding for programs and services that are described in subsections (2)(a) through (2)(c) and provided on an Indian reservation located in this state; or
 - (f) provide funding for grants and services to tribes for use in accordance with this section.
- (4) (a) An amount not to exceed \$500,000, including eligible federal matching sources when applicable, must be used to provide funding for grants and services to tribes for tobacco prevention and cessation, substance use disorder prevention, mental health promotion, and substance use disorder and mental health crisis, treatment, and recovery services.
 - (b) The department of public health and human services shall manage the programs funded by the special revenue account and shall adopt rules to implement the programs.
- (5) The legislature shall appropriate money from the state special revenue account provided for in this section for the programs referred to in this section.
- (6) Programs funded under this section must be funded through contracted services with service providers.

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TITLE 10. MILITARY AFFAIRS AND DISASTER AND EMERGENCY SERVICES

CHAPTER 2. VETERANS

Part 1. Board of Veterans' Affairs

Veterans And Surviving Spouses State Special Revenue Account

10-2-108. *(Effective January 1, 2022)* **Veterans and surviving spouses state special revenue account.**
(1) There is a veterans and surviving spouses account in the state special revenue fund to be administered by the veterans' affairs division of the department of military affairs. The account consists of revenue deposited pursuant to **16-12-111**.

(2) The account must be used to provide services and assistance for all Montana veterans and surviving spouses and dependents.

History: En. Sec. 93, Ch. 576, L. 2021.