

Getting a Revenue High

Best Practices, Lessons Learned in the Taxation of Legal Weed

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Colorado's Experience

- ▶ Governor Established multiple working groups to study issues and make recommendations
- ▶ The DoR accepted every speaking opportunity at community and industry groups
- ▶ DoR researches the industry and promulgates regulations requiring certain internal controls
- ▶ November 2013 citizens vote to allow public sales January 1, 2014
- ▶ DoR in cooperation with our vendor created and implemented the Marijuana Tax system within the very limited amount of time available
- ▶ January 1, 2014 Legal Sales of Recreational Marijuana begin
- ❖ Best Practice: Err on the side of over-communication, involve stakeholders early and often, and approach issues with a problem solving bent

My Experience

- ▶ Formerly Colorado's Senior Director of Taxation for over 30 years
- ▶ Served on the Governor's Working Group on legal and banking issues
- ▶ Chaired the regulation hearings for all marijuana tax issues
- ▶ Testified at numerous legislative hearings regarding marijuana taxation
- ▶ Appeared before press and industry groups

A History of Regulation in Colorado

Colorado becomes one of the first states to outlaw use and possession of Marijuana as concern grows in western states because of marijuana's association with migrants.



1919

Congress passes "The Marihuana Tax Act" that criminalizes marijuana use, distribution or possession at the federal level.



1937

Marijuana advocates prepare a citizen initiative to legalize medical marijuana.



1997

Colorado Supreme Court rules S.o.S. Buckley erred in not certifying the results. Amendment 20 is subsequently voted upon and medical marijuana is legalized in Colorado.



2000

Colorado Department of Public Health and Environment (CDPHE) institutes a rule limiting caregivers to 5 patients maximum.



2004



1929

Penalties increase after it is reported that a young girl is murdered by her marijuana smoking stepfather, who also happened to be Hispanic.



1975

Colorado becomes one of 10 states to decriminalize marijuana, based upon a 1972 federal commission report called the National Commission on Marijuana and Drug Abuse or the Shafer commission. This made possession of less than one ounce a petty offense with a \$100 fine.



1998

Coloradoans vote on Amendment 19 which should legalize Medical Marijuana, but Secretary of State Vickki Buckley refuses to certify the results saying the proponents had not collected the required number of petition signatures.



2001

Colorado creates a Medical Marijuana Patient Registry, only 500 people receive and register their medical certificates the first year.

A History of Regulation in Colorado

Amendment 44 which would legalize marijuana statewide fails with 58% voting against the amendment.



2006

New Justice Department policy instructs federal prosecutors to not charge people who use medical marijuana if they are in compliance with state laws.



2009

Governor Hickenlooper signs several bills designed to allow for the sale and regulation of recreational marijuana, based on recommendations from the Governor's working groups.



2013

While Amendment 64 legalized the sale of marijuana cautious lawmakers again go to voters asking them to approve taxes on marijuana Proposition AA passes easily.



2013

2004



Denver residents open the Colorado Compassion Club, presumably the state's first marijuana dispensary.

2007



Chief Denver District Court Judge Larry Naves suspends the CDPHE 5 patient limit now care givers can take on as many patients as they want.

2012



Amendment 64 is passed with 55% in favor. This amendment legalizes the sale of recreational marijuana.

2013



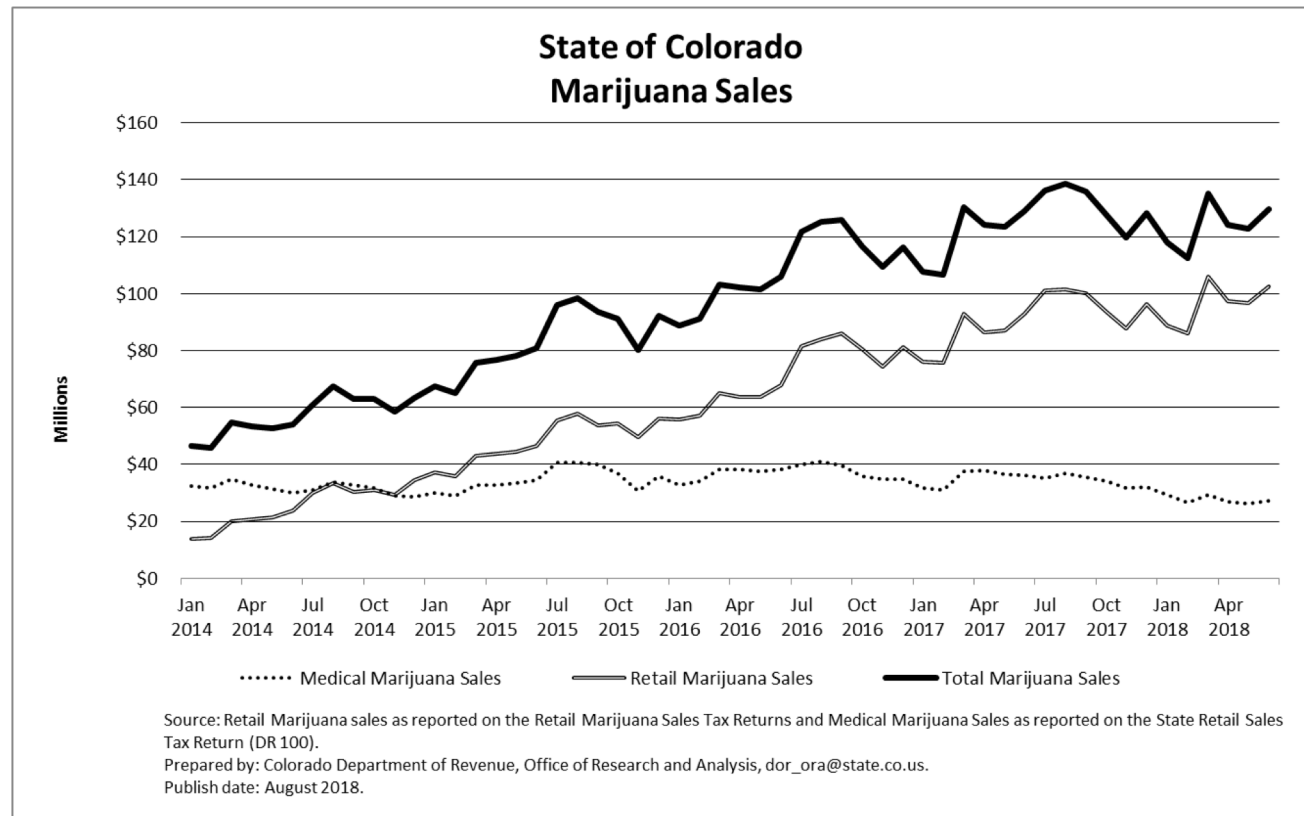
Colorado Department of Revenue adopts final regulations governing the sale of recreational marijuana.

2014



The first legal sales of recreational marijuana take place in Colorado on January 1, 2014.

The Revenue High



Marijuana Sales by Year and To Date

Calendar Year	Total Marijuana Sales	Total to Date
2014	\$683,523,739	\$683,523,739
2015	\$995,591,255	\$1,679,114,994
2016	\$1,307,203,473	\$2,986,318,467
2017	\$1,507,702,219	\$4,494,020,686
2018 (Jan - Jun)	\$742,387,820	\$5,236,408,506

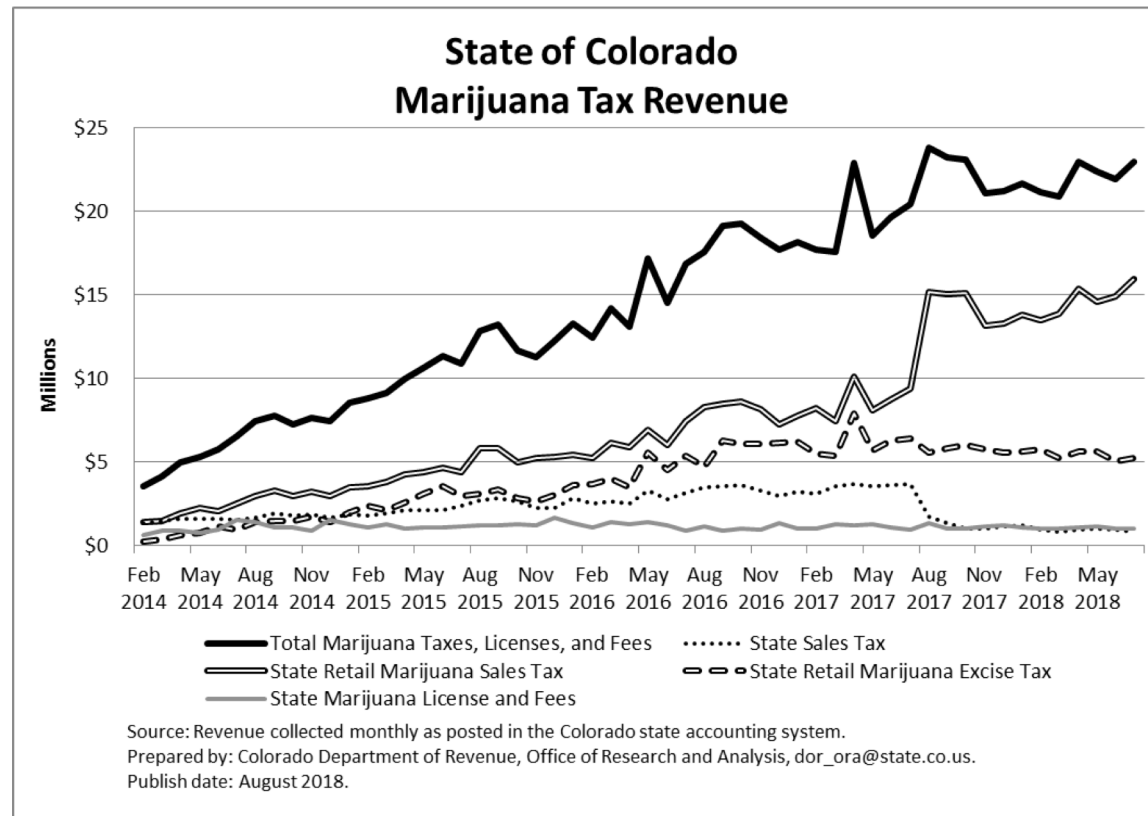
Colorado's Marijuana Taxation Approach

- ▶ 2.9% state sales tax on medical marijuana and retail marijuana
 - ▶ Retail marijuana is exempt from the state sales tax starting July 1, 2017
 - ▶ The first report reflecting this exemption is August 2017
- ▶ State retail marijuana sales tax
 - ▶ 10% rate from January 1, 2014 - June 30, 2017; 15% rate starting July 1, 2017
 - ▶ The first report reflecting the 15% rate is August 2017
- ▶ 15% state retail marijuana excise tax
- ▶ Marijuana application and license fees

Colorado Marijuana Revenue July 2018

	July 2018 Remitted	Fiscal Year-to-Date FY2017-18 ²	Calendar Year-to-Date CY2018 ³
TAXES			
State Sales Tax Transfer to Marijuana Tax Cash Fund (2.9% rate) (2+3)	\$792,289	\$792,289	\$6,667,036
Medical Marijuana	\$751,516	\$751,516	\$5,560,054
Retail Marijuana ⁴	\$40,774	\$40,774	\$1,106,982
State Retail Marijuana Sales Tax (15% rate ⁵) (5+6+10)	\$15,968,272	\$15,968,272	\$101,943,982
Local Government Distribution (10% of Total)	\$1,594,915	\$1,594,915	\$10,200,169
Total Retained by the State (90% of Total) (7+8+9)	\$14,350,988	\$14,350,988	\$91,667,601
Marijuana Tax Cash Fund Transfer	\$10,311,185	\$10,311,185	\$65,863,172
Public School Fund ⁶	\$0	\$0	\$11,800,667
General Fund ⁶	\$4,039,803	\$4,039,803	\$14,003,762
Collections Not Yet Allocated ⁷	\$22,369	\$22,369	\$76,212
State Retail Marijuana Excise Tax (15% rate) (12+13+14)	\$5,215,347	\$5,215,347	\$38,061,453
Public School Capital Construction Assistance Fund Transfer ⁸	\$5,290,259	\$5,290,259	\$10,309,275
Public School Fund ⁸	\$0	\$0	\$27,752,967
Collections Not Yet Allocated ⁷	(\$74,913)	(\$74,913)	(\$788)
Total Marijuana Tax Transfers and Distributions ⁹ (1+4+11)	\$21,975,908	\$21,975,908	\$146,672,471
LICENSES AND FEES			
License and Application Fees Transfer to Marijuana License Cash Fund (17+18+19+20+21)	\$987,870	\$987,870	\$7,222,969
Medical Marijuana	\$411,691	\$411,691	\$2,376,217
Retail Marijuana	\$281,537	\$281,537	\$2,445,939
Individual	\$295,448	\$295,448	\$2,477,835
Others	\$850	\$850	\$3,950
Collections Not Yet Allocated ⁷	(\$1,655)	(\$1,655)	(\$80,972)
TAXES, LICENSES, AND FEES TOTALS			
Total Marijuana Tax and License Cash Fund Transfers ⁹ (1+7+16)	\$12,091,344	\$12,091,344	\$79,753,176
Total All Marijuana Taxes, Licenses, and Fees ⁹ (15+16)	\$22,963,778	\$22,963,778	\$153,895,440

Colorado Marijuana Tax Revenues



Marijuana Tax, License and Fee Revenue by calendar year

Calendar Year	Total Revenue
2014	\$67,594,323
2015	\$130,411,173
2016	\$193,604,810
2017	\$247,368,473
2018 (Jan - Jul)	\$153,895,440

License Types for Medical and Recreational Marijuana

- ▶ Cultivations
- ▶ Infused Product Manufacturers
- ▶ Testing Facilities
- ▶ Transporters
- ▶ Operators
- ▶ Centers/Stores

Medical Marijuana Business License Numbers as of September

- ▶ 486 Centers
- ▶ 716 Cultivations
- ▶ 245 Infused Product Manufacturers
- ▶ 11 Testing Facilities
- ▶ 4 Operators
- ▶ 10 Transporters

Individual Licenses as of September 4, 2018

- ▶ 1,668 Associated Key (Owners)
- ▶ 12,751 Key Occupational
- ▶ 26,375 Support Occupational

Retail/Recreational Marijuana Business License Numbers as of September 4, 2018

- ▶ 541 Stores
- ▶ 740 Cultivations
- ▶ 284 Product Manufacturers
- ▶ 11 Testing Facilities
- ▶ 8 Operators
- ▶ 13 Transporters

Sales Tax

- ▶ Medical Marijuana is subject to the 2.9% standard state sales tax and any local jurisdiction sales tax, and in some instances, special district sales taxes as well
- ▶ Recreational Marijuana was subject to the 2.9% standard states sales tax but in July 2017 the legislature exempted it from the standard state sales tax and instead subjected it to the special 15% Marijuana sales tax. In addition, it is subject to local and in some instances special district sales taxes.
- ▶ All non-marijuana based products, lighters, ashtrays, and T-shirts, etc. are subject to the standard state and local sales taxes.
- ❖ What went well? The involvement of industry representatives in the process of user testing the new system and in visiting the CoDoR in person to file their first few returns so we could walk them through the process.

Excise Tax

- ▶ Based upon an Average Market Rate when vertically integrated or Actual Cost on Arm's Length Transactions.
- ▶ Rate is 15%
- ▶ Tax is imposed when transferred from a cultivation to a retail store or when transferred to a Product Manufacturer, not when immature plants are transferred from one cultivation to another because the plant is not yet harvestable thus it is not yet at full value.
- ❖ Lesson Learned: Use AMR only when absolutely necessary and only for as short of a timeframe as is possible.

Average Market Rate by Excise Tax Category July 1 to September 30, 2018

Type	Cost
Retail Bud Rate	\$846 per pound
Retail Trim Rate	\$404 per pound
Retail Immature Plant Rate	\$1 per plant
Wet Whole Plant Rate	\$150 per pound
Seed Rate	\$5 per seed
Trim Allocated for Extraction Rate	\$300 per pound
Bud Allocated for Extraction Rate	\$230 per pound

Uses of Revenue from Marijuana Taxation

- ▶ For Fiscal Year (FY) 2015-16, the first \$40M of the Retail Marijuana Excise Tax revenue was distributed to the Public School Capital Construction Assistance Fund administered by the Colorado Department of Education's Building Excellent Schools Today (BEST) program. Excise tax collections in excess of \$40M, \$2.5M for FY 2015-16, were transferred to the Public School Fund.
- ▶ For FY 2016-17, the first \$40M of the Retail Marijuana Excise Tax revenue was distributed to the Public School Capital Construction Assistance Fund administered by the Colorado Department of Education's Building Excellent Schools Today (BEST) program. Excise tax collections in excess of \$40M, \$31.6M for FY 2016-17, were transferred to the Public School Fund.
- ▶ In addition the revenue generated from marijuana sales is used to fund regulation and oversight of the industry.

Conclusion

- ▶ In closing, let me say that there is much more data that needs to be gathered and analyzed before we can determine the full effects of legalization. However, it should be noted that there has been a thriving underground market in marijuana for decades. It is simply too early to conclude from a sociological perspective the effects of legalization.
- ▶ I realize that I am not an objective observer; however, I believe that Colorado's implementation of Legal recreational marijuana sales was as seamless and transparent as possible and that we faithfully discharged our duty to the people of the state
- ▶ Some may argue the ethics or morality of legalization, that is not my purpose or intent. Rather I am here to tell you that we did one heck of a good job with very limited lead time and with the eyes of the entire world upon us.
- ❖ Lesson Learned: Be willing to accept new information from multiple valid sources and look for ways to solve problems in a mutually satisfactory fashion. Operate in good faith and in a transparent way.