



Tax Requirements for New York Medical Marijuana Registered Organizations

This memorandum provides information regarding the excise tax on medical marijuana and other tax obligations of registered organizations selling medical marijuana in New York State.

In July 2014, Governor Andrew M. Cuomo and the New York State Legislature enacted Chapter 90 of the Laws of 2014, the *Compassionate Care Act*, to provide for a comprehensive, safe, and effective medical marijuana program. The program is administered by the New York State Department of Health (DOH), which has approved five registered organizations to produce and dispense medical marijuana to certified patients and designated caregivers from 20 locations in New York State beginning in January 2016. For more information, visit the [medical marijuana program page](http://www.health.ny.gov) on the DOH website (www.health.ny.gov).

As explained below, Chapter 90 amended the Tax Law to add Article 20-B, *Excise Tax on Medical Marijuana*.¹ Every registered organization must electronically file a monthly medical marijuana excise tax return. The first return is due February 22, 2016.

Excise tax on medical marijuana

Article 20-B imposes an excise tax of seven percent (7%) on the gross receipts from the sale of medical marijuana by a registered organization to certified patients and designated caregivers. The tax is imposed on the registered organization, which must pay it to the Tax Department. The tax may not be added as a separate charge or line item on a sales slip, invoice, receipt or other statement or memorandum of the price given to the retail customer.

Gross receipt means the amount charged by a registered organization for the sale or furnishing of medical marijuana to a certified patient or designated caregiver, **without any deduction** for:

- cost of materials, labor, or services;
- other costs, interest, or discount paid; or
- any other expenses.

Filing returns and paying the tax

Registered organizations must use the Tax Department's Medical Marijuana Web File application to file their monthly excise tax returns. Returns must be filed and the tax paid no later than the 20th day of the month following the month in which the medical marijuana was sold or furnished. A return must be filed even if the organization had no sales during the month. Your registered organization must have an *Online Services* business account on the Tax Department

¹ Although the legislation creating Article 20-B spells the word *marihuana* using the letter *h*, Tax Department documents use the more recognized spelling of *marijuana* using the letter *j*.

website at www.tax.ny.gov in order to file tax returns and remit excise tax. See [Online Services](#) for more information.

The gross receipts reported on your registered organization's excise tax return each month must be broken down by county where the medical marijuana was manufactured and the county where it was dispensed. These gross receipts should match the amounts the organization reported to DOH for that month. If the amounts do not match, contact DOH to report any discrepancy before filing the return.

Once your registered organization has Web Filed its return, you must print and complete Form MT-220-V, *Payment Voucher for Medical Marijuana Excise Tax Return*, and mail it with your payment to the address provided on the form. Make sure the envelope with Form MT-220-V and your payment is postmarked by the due date of the return to avoid penalty and interest.

Recordkeeping

In addition to any recordkeeping requirements in the Public Health Law or regulations, registered organizations must maintain a record of gross receipts subject to tax for each transaction. These records must identify:

- the date of the transaction,
- the county where the medical marijuana was manufactured,
- the county where the medical marijuana was dispensed, and
- the amount charged for the medical marijuana.

Registered organizations must keep all records for a minimum of three years from the due date of the return to which those records relate, or the date the return is filed, if later. They must make the records available to the Tax Department upon request.

Sales and use tax

The sale of medical marijuana is exempt from sales tax. Sales of related products purchased to administer medical marijuana are also exempt. See [Publication 822, Taxable Status of Medical Equipment and Supplies, Prosthetic Devices, and Related Items](#), for more information.

While registered organizations will not be making any taxable sales, they must register as a vendor in order to issue and accept certain sales tax exemption certificates, including Form ST-120, *Resale Certificate*, and Form ST-121, *Exempt Use Certificate*. For more information, see Tax Bulletins [How to Register for New York State Sales Tax \(TB-ST-360\)](#) and [Exemption Certificates for Sales Tax \(TB-ST-240\)](#). As a registered vendor, the organization will be required to Web File periodic sales and use tax returns.

A registered organization may also be able to use certain exemption forms related to farming. These include:

- Form ST-125, *Farmer's and Commercial Horse Boarding Operator's Exemption Certificate*, and

- Form FT-1004, *Certificate for Purchases of Non-Highway Diesel Motor Fuel or Residual Petroleum Product for Farmers and Commercial Horse Boarding Operations*.

See Tax Bulletin [Exemptions for Farmers and Commercial Horse Boarding Operators \(TB-ST-244\)](#), for more information.

Unemployment insurance, wage reporting, and withholding tax

A registered organization that hires employees and pays wages must:

- make unemployment insurance contributions,
- report employee wage information, and
- withhold and remit employees' New York State, New York City, and Yonkers personal income tax, as applicable.

For additional information on your obligations as an employer in New York State, see [withholding tax forms](#) and [withholding guidance \(publications\)](#).

Other taxes

In addition to the taxes discussed, registered organizations may be subject to other state and federal tax requirements. For more information on New York State taxes, see [Publication 20](#), *New York State Tax Guide for New Businesses*.

Note: A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.