



ADMINISTRATIVE RULES OF MONTANA

42.31.1101 LOCAL-OPTION MARIJUANA EXCISE TAX; NOTIFICATION REQUIREMENTS OF A LOCALITY; AFFECTED DISPENSARY REPORTING AND TAX PAYMENT REQUIREMENTS

- (1) If a locality adopts a local-option marijuana excise tax pursuant to 16-12-309 through 16-12-317, MCA, the taxes are imposed on the purchaser, as defined in 15-64-101(5), MCA, and must be collected by an affected dispensary at the time of sale. For the purpose of this rule, an "affected dispensary" means a dispensary located within the jurisdiction of a locality with a local-option marijuana excise tax.
- (2) A locality is required to notify the department of the adoption of a local-option marijuana excise tax at least 90 days prior to its effective date.
 - (a) A locality shall provide the department with a copy of the ballot initiative placed before the electorate which should, at a minimum, include the following:
 - (i) the applicable tax rate;
 - (ii) the marijuana products subject to the tax; and
 - (iii) the effective date for the tax.
 - (b) When fulfilling the notice requirement in (2)(a), a locality may transmit the ballot initiative information to the department by mail, generally accepted delivery service, or by email correspondence. The contact information for the department's Miscellaneous Tax Unit, which processes local-option marijuana excise tax payments and remittance, can be found at the department's website at mtrevenue.gov.
- (3) If the locality complies with the requirement in (2), then an affected dispensary's reporting and payment requirement begins with the filing date associated with the end of the calendar quarter in which the tax became effective. As an example, if a locality's local-option marijuana excise tax is effective November 1, 2022, and the locality notified the department at least 90 days prior, then an affected dispensary's first reporting and payment obligation date is December 31, 2022.
- (4) If a locality fails to comply with the requirement in (2), then an affected dispensary's reporting and payment requirement begins with the filing date associated with the end of the subsequent calendar quarter in which the tax became effective. As an example, if a locality's local-option marijuana excise tax is effective November 1, 2022, but the locality did not notify the department at least 90 days prior, then an affected dispensary's first reporting and payment obligation is March 30, 2023.
- (5) How, or whether, a locality fulfills the notice requirement in (2) does not change an affected dispensary's obligation to collect a local-option marijuana excise tax from all purchasers as of the effective date of the tax.

- (6) When filing a quarterly report pursuant to 15-64-102(4), MCA, and submitting payment of quarterly taxes pursuant to 15-64-102(5), MCA, an affected dispensary must also specify the local-option marijuana excise tax rate the dispensary applied to its sales during the subject calendar quarter together with the total dollar amount of local-option taxes that were collected.
- (7) The department will remit the local-option marijuana excise tax payments received to the county treasurer in accordance with the following schedule. If the date for remittance falls upon a Saturday, Sunday, or legal holiday, the department will remit the taxes on the next business day.
 - (a) on or before June 15 of each year for the calendar quarter ending March 31 of the current year;
 - (b) on or before September 15 of each year for the calendar quarter ending June 30 of the current year;
 - (c) on or before December 15 of each year for the calendar quarter ending September 30 of the current year; and
 - (d) on or before March 15 of each year for the calendar quarter ending December 31 of the previous year.
- (8) A local-option marijuana excise tax 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.
- (9) For the purpose of determining liability for the filing of statements and the payment of taxes, penalties, and interest:
 - (a) the officer of a corporation whose responsibility it is to truthfully account for and pay to the state the local-option marijuana excise tax provided in 16-12-309 through -16-12-317, MCA, and this rule, who fails to pay the tax 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 reports 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 or pay taxes due required by statute and this rule;
 - (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.
- (10) In determining which corporate officer is liable, the department may consider any other available information and is not limited to this rule to establish individual liability.
- (11) 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.
- (12) The periods of limitations and procedures relating to deficiency assessments, estimating taxes, refunds, and collection of delinquent local-option marijuana excise taxes are the same as those provided in 15-64-104 through 15-64-106, and 15-64-110, MCA.
- (13) An affected dispensary which does not file a timely report or does not pay all local-option marijuana excise taxes when due, as required by statute and this rule, is subject to the penalty and interest provisions contained in 15-1-216, MCA.
- (14) In addition to any other remedy, the department may collect delinquent local-option marijuana excise taxes in accordance with the procedures set forth in ARM 42.2.520. An affected dispensary has the right to a review of the tax liability prior to any offset by the department.
- (15) If all or any part of the local-option marijuana excise taxes imposed by 16-12-309 through 16-12-317, MCA, are not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7, MCA.

Authorizing statute(s): 15-1-201, 16-12-312, MCA

Implementing statute(s): 15-64-104, 15-64-105, 15-64-106, 16-12-309, 16-12-310, 16-12-311, 16-12-312, 16-12-317, MCA

History: NEW, 2021 MAR p. 1964, Eff. 1/1/22; AMD, 2022 MAR p. 836, Eff. 5/28/22.