

**NOTE:** The information in this FYI pertains to sales made on or after July 1, 2017. For information about changes made effective July 1, 2017, please see Senate Bill 17-267.

Sales of retail marijuana (also known as recreational marijuana) and medical marijuana are subject to taxation in Colorado, although different tax types and different tax rates apply. **Medical marijuana** is tangible personal property and therefore subject to the regular state sales tax and any applicable state-administered local and special district sales taxes. **Retail marijuana** is exempt from the state’s regular sales tax and is, instead, subject to a special state retail marijuana sales tax. City, county, and special districts sales taxes may also apply to sales of retail marijuana. See

Department publication DR 1002 “Colorado Sales/Use Tax Rates” for information about the taxability of retail marijuana in specific state-administered cities, counties, and special districts.

The information in this FYI pertains only to state and state administered local sales taxes. The Department does not administer sales taxes for home rule cities. Please see Department publication DR 1002 “Colorado Sales/Use Tax Rates” for a list home rules cities.

The sales taxes on marijuana are separate from the excise tax imposed on retail marijuana. See FYI Excise 23 for information about marijuana excise tax.

### Sales Taxes on Medical and Retail Marijuana

Tax Type	Tax Rate	Medical Marijuana	Retail Marijuana	Tax Filing & Payment
Colorado retail marijuana sales tax	15%	EXEMPT	TAXABLE	Electronically at: <a href="http://Colorado.gov/RevenueOnline">Colorado.gov/RevenueOnline</a>
Regular Colorado sales tax	2.9%	TAXABLE*	EXEMPT	Form DR 0100 or electronically at <a href="http://Colorado.gov/RevenueOnline">Colorado.gov/RevenueOnline</a>
Special district sales taxes (such as RTD and SCFD)	Varies	TAXABLE	VARIABLES	Form DR 0100 or electronically at <a href="http://Colorado.gov/RevenueOnline">Colorado.gov/RevenueOnline</a>
State-administered city and county sales taxes	Varies	TAXABLE*	TAXABLE (unless exempted**)	Form DR 0100 or electronically at <a href="http://Colorado.gov/RevenueOnline">Colorado.gov/RevenueOnline</a>

\* Medical marijuana is subject to state and state-administered city and county sales taxes unless the purchaser’s medical marijuana registry identification card indicates the purchaser is tax-exempt.

\*\* See Department publication DR 1002 “Colorado Sales/Use Tax Rates” for a list of city and county tax exemptions.

### SALES TAX ON MEDICAL MARIJUANA

Sales of medical marijuana are subject to sales tax in the same manner as other sales of tangible personal property, except as provided below. “Medical marijuana” subject to taxation as described in this section is marijuana or marijuana products sold in accordance with the Colorado Medical Marijuana Code by a medical marijuana center licensed by the Marijuana Enforcement Division to a patient or authorized caregiver. Any medical marijuana center selling medical marijuana must collect from the purchaser the regular 2.9% state sales tax, as well as all applicable local and special district sales taxes imposed on sales of tangible personal property.

#### Exemption with registry card designation

A sale of medical marijuana is exempt from sales tax only if the purchaser’s medical marijuana registry identification card indicates the tax-exempt status of the purchaser. All other sales of medical marijuana are subject to sales tax.

Medical marijuana is neither a prescription drug nor a nonprescription drug. Therefore, sales of medical marijuana do not qualify for the sales tax exemption for prescription or nonprescription drugs.

#### Licensing, filing, and recordkeeping requirements

Every medical marijuana center must apply for a sales tax license and file sales tax returns with the Department. The sales tax licensing requirement is in addition to any licensing requirements administered by the Marijuana Enforcement Division of the Department.

### *Licensing requirements*

A medical marijuana center must obtain and maintain a valid sales tax license. If the owner of a medical marijuana center also owns and operates a retail marijuana store, the owner must obtain and maintain separate sales tax licenses for each, even if both the medical marijuana center and the retail marijuana store are at the same location. Application for sales tax license may be made with Form CR 0100AP "Colorado Sales Tax Withholding Account Application" or online at [apps.colorado.gov/apps/jboss/cbe/index.xhtml](https://apps.colorado.gov/apps/jboss/cbe/index.xhtml).

### *Filing requirements*

Every medical marijuana center must file a return by the 20<sup>th</sup> day of each month to report the sales made and the tax collected during the preceding month, unless the center has obtained permission from the Department to file less frequently (see FYI Sales 9 for information about sales tax filing frequency). A return must be filed for each month, even if the medical marijuana center made no sales and collected no tax during the month. Sales tax returns may be filed using Form DR 0100 or filed electronically at [Colorado.gov/RevenueOnline](https://Colorado.gov/RevenueOnline).

If a medical marijuana center does not file a required sales tax return by the applicable due date, penalty and interest will be due. See FYI General 11 for information about penalty and interest imposed for late filing.

### *Recordkeeping requirements*

Every medical marijuana center must maintain for a minimum of three years all books, accounts, and records necessary to determine the correct amount of tax and provide such books, accounts, and records to the Department upon request.

## **SALES TAX ON RETAIL MARIJUANA**

All sales of retail marijuana are subject to the 15% state retail marijuana sales tax and any applicable state-administered city or county sales taxes for which an exemption has not been expressly granted by city or county resolution or ordinance. Sales of retail marijuana are exempt from some, but not all special district sales taxes. Please see Department publication DR 1002 "Colorado Sales/Use Tax Rates" for a complete list of exemptions applicable to each state administered city, county, and special district sales tax.

Retail marijuana subject to the tax includes all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. The retail marijuana sales tax also applies to concentrated retail marijuana products and retail marijuana products that are comprised of retail marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

Sales of retail marijuana are not subject to the regular 2.9% state sales tax.

### **Exemptions**

The retail marijuana sales tax does not apply to sales of medical marijuana by a licensed medical marijuana center to a person holding a valid registry identification card.

Additionally, the 15% retail marijuana sales tax does not apply to sales of the following items, which are instead subject to the regular 2.9% state sales tax, unless exempt under some other provision of law:

- industrial hemp with a delta-9 tetrahydrocannabinol concentration that does not exceed three-tenths percent on a dry weight basis;
- fiber produced from the stalks of the cannabis plant;
- oil or cake made from the seeds of the cannabis plant; or
- sterilized seed that is incapable of germination.

### **Licensing, filing, and recordkeeping requirements**

Every retail marijuana store must apply for a sales tax license and file all required sales tax returns with the Department. These requirements are in addition to any licensing requirements administered by the Marijuana Enforcement Division of the Department.

### *Licensing requirements*

A retail marijuana store must obtain and maintain a valid sales tax license. If the owner of a retail marijuana store also owns and operates a medical marijuana center, the owner must obtain and maintain separate sales tax licenses for each, even if both the retail marijuana store and the medical marijuana center are at the same location. Application for sales tax license may be made with Form CR 0100AP "Colorado Sales Tax Withholding Account Application" or online at [apps.colorado.gov/apps/jboss/cbe/index.xhtml](https://apps.colorado.gov/apps/jboss/cbe/index.xhtml).

### *Filing requirements*

Every retail marijuana store must file two separate tax returns each month: a regular sales tax return and a retail marijuana sales tax return. The **regular sales tax return** may be filed using Form DR 0100 or filed electronically at [Colorado.gov/RevenueOnline](https://colorado.gov/RevenueOnline). The **retail marijuana sales tax return** must be filed electronically at [Colorado.gov/RevenueOnline](https://colorado.gov/RevenueOnline).

A retail marijuana store must file both returns by the 20<sup>th</sup> day of each month to report the sales made and the tax collected during the preceding month, unless the store has obtained permission from the Department to file less frequently (see FYI Sales 9 for information about sales tax filing frequency). A return must be filed for each month, even if the retail marijuana store made no sales and collected no tax during the month.

If a retail marijuana store does not file a required sales tax and retail marijuana sales tax returns by the applicable due date, penalty and interest will be due. See FYI General 11 for information about penalty and interest imposed for late filing.

### *Recordkeeping requirements*

Every retail marijuana store must maintain for a minimum of three years all books, accounts, and records necessary to determine the correct amount of tax and provide such books, accounts, and records to the Department upon request.

### **ADDITIONAL RESOURCES**

- Colorado statutes and regulations
  - § 39-28.8-101, C.R.S. (statutory definitions applicable to retail marijuana)
  - § 39-28.8-201, et seq., C.R.S. (retail marijuana sales taxes)
  - § 39-26-729, C.R.S. (exemption for retail marijuana from regular Colorado sales tax)
  - § 39-26-103, C.R.S. (sales tax licensing requirements)
  - § 39-26-104, C.R.S. (state sales tax imposed on tangible personal property, including medical marijuana)
  - § 39-26-105, C.R.S. (tax return filing requirements)
  - § 39-21-113(1), C.R.S. (general tax recordkeeping requirements)
  - Dept. Regs. 1 CCR 201-18, 39-28.8-101, 201, and 202 (retail marijuana sales taxes)
  - Colo. Const. Art. XVIII, Sections 14 and 16 (regarding medical and retail marijuana)
  - § 12-43.3-101, et seq., C.R.S. (Colorado Medical Marijuana Code)
  - § 12-43.4-101, et seq., C.R.S. (Colorado Retail Marijuana Code)
- Colorado forms, publications, and guidance
  - FYI Excise 23 - Excise Tax on Retail Marijuana
  - Colorado Sales Tax Withholding Account Application (CR 0100AP)
  - Colorado Retail Sales Tax Return (DR 0100)
  - [Colorado.gov/RevenueOnline](https://colorado.gov/RevenueOnline) for the electronic filing of returns
  - [Colorado.gov/Tax](https://colorado.gov/Tax) for additional information regarding marijuana taxes
- Other resources
  - Marijuana Enforcement Division: [colorado.gov/pacific/enforcement/marijuanaenforcement](https://colorado.gov/pacific/enforcement/marijuanaenforcement)
  - [Colorado Attorney General Opinion 09-06](#)

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FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue, nor does it replace, alter, or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having the authority to bind the Department, has not formally reviewed and/or approved these FYIs.