

## MARIJUANA TAXATION

(July 2023) Arkansans defeated a marijuana legalization measure last November after approving an initiated medical marijuana amendment in 2016. The 2022 proposal would have established a lower tax rate than the 2016 amendment. (1)

A Tax Foundation report states, "Recreational marijuana taxation is one of the hottest policy issues in the U.S." (2) APF has fielded many questions on the issue.

### "A Wide Variety of Tax Designs"

Founded in 1937 by business leaders, the Tax Foundation is a 501(c)(3) non-profit based in Washington, D.C. The recent Tax Foundation report notes:

Marijuana markets operate under a unique legal framework. Federally, marijuana is classified as a Schedule I substance under the Controlled Substances Act, making the drug illegal to consume, grow, or dispense. Individual states that have legalized consumption and distribution don't actively enforce the federal restrictions. This turns each state market into a silo. Marijuana products cannot cross state borders, so the entire process (from seed to smoke) must occur within state borders. This unusual situation, along with the novelty of legalization, has resulted in a wide variety of tax designs."

Adam Hoffer, the report's author, writes, "The multitude of approaches makes an apples-to-apples comparison of rates difficult." Hoffer has a Ph.D. in Economics from West Virginia University.

### States Rely on Excise + Sales Tax Designs

An *excise tax* is a tax on specific goods or services at time of purchase. The Tax Foundation reports 19 states have excise taxes on legal marijuana, a design prohibited in Arkansas' failed 2022 measure. Other states also impose sales taxes. If passed, Arkansas' tax design could have been among the nation's lowest.

The Tax Foundation report lists 19 states that have legalized recreational marijuana and impose excise taxes.

Alaska	Excise taxes on mature and immature flowers; trim; clones
Arizona	16% excise tax
California	15% excise tax plus cultivation and fresh plant material
Colorado	15% excise tax (wholesale, average market) and retail price
Connecticut	Excise taxes per milligram for THC in various products
Illinois	7% excise tax (wholesale) and higher taxes on other products
Maine	10% excise tax and taxes on flower, trim, seedling, and seed
Massachusetts	10.75% excise tax (retail)
Michigan	10% excise tax (retail)
Missouri	6% excise tax (retail)

Montana	20% excise tax (retail)
Nevada	15% excise tax (wholesale), 10% (retail)
New Jersey	Excise taxes vary per ounce
New Mexico	12% excise tax (retail)
New York	13% excise tax (retail)and taxes on other products
Oregon	17% excise tax (retail)
Rhode Island	10% excise tax (retail)
Vermont	14% excise tax (retail)
Washington	37% excise tax (retail)

Hoffer said most states levy an excise tax. "The excise tax is levied in addition to any existing state sales tax rate and local governments sometimes have the option of stacking a further tax on top of the state sales and excise taxes," he said. (3)

Last year's failed Issue 4 (Marijuana Legalization Initiative) would have prohibited "excise or privilege taxes on retail sales of cannabis for adult use." Instead, it would have taxed marijuana by "allowing a state supplemental sales tax of up to 10% on retail cannabis sales for adult use." (4)

Other states also impose privilege or sales taxes as part of an excise plus sales tax design, as shown in the following chart.

Excise plus sales tax designs are further illustrated by quoting various state tax authorities on the sales tax portion.

**California:** "Your retail sales of cannabis, cannabis products, and any other tangible personal property (items) in California are generally subject to sales and use tax (tax) unless the law provides a specific exemption. The statewide sales and use tax rate is 7.25 percent." (5)

**Connecticut:** "There will be three (3) taxes on retail sale of cannabis: the state's usual 6.35 percent sales tax, a 3 percent sales tax dedicated to the city or town where the sale occurs, and a tax based on THC content ..." (6)

**Illinois:** "In addition to the statewide cannabis-specific taxes listed above, state and local sales taxes apply to cannabis." (7) Illinois has a 6.25% sales tax.

**Michigan:** "... in addition to a 6% sales tax." (8)

**Nevada:** "Cannabis will be taxed in the following way: 15% excise tax on the first wholesale sale; and Sales tax; and 10% retail excise tax." (9)

## Conclusion

Marijuana taxation is a topical policy issue. A recent Tax Foundation report notes "a wide variety of tax designs." Most rely on excise plus sales tax designs.

-- Greg Kaza

## Sources

- (1) DFA communication to APF. "Two state taxes apply when a patient makes a purchase at a dispensary. The regular state sales tax of 6.5% applies along with a 4.0% privilege tax (legislature renewed the privilege tax for another two years in the past session). Overall, patients are paying 10.5% in state taxes on each purchase."
- (2) Adam Hoffer. "Does Your State Tax Recreational Marijuana?" The Tax Foundation, April 18, 2023.  
<https://taxfoundation.org/state-recreational-marijuana-taxes-2023>
- (3) Adam Hoffer communication to Arkansas Policy Foundation (APF)
- (4) Ballotpedia, "Arkansas Medical Marijuana Amendment, Issue 6 (2016)."
- (5) <https://www.cdtfa.ca.gov/industry/cannabis.htm#Facts>
- (6) [https://portal.ct.gov/cannabis/Knowledge-Base/Articles/Cannabis-taxes?language=en\\_US](https://portal.ct.gov/cannabis/Knowledge-Base/Articles/Cannabis-taxes?language=en_US)
- (7) <https://tax.illinois.gov/research/taxinformation/other/cannabis-taxes.html>
- (8) <https://www.michigan.gov/taxes/business-taxes/mret/about>
- (9) [https://tax.nv.gov/FAQs/Retail\\_Marijuana/](https://tax.nv.gov/FAQs/Retail_Marijuana/)

**Nothing in this memo shall be construed to support or oppose any legislation.**