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Bulletin

Constance Beard, Director

Compassionate Use of Medical Cannabis Pilot Program Extended

This bulletin is written to inform you of recent changes; it does not replace statutes, rules and regulations, or court decisions.

To: All medical cannabis cultivation centers filing Form MC-1, Medical Cannabis Cultivation Privilege Tax Return, and all medical cannabis dispensing organizations filing Form ST-1, Sales and Use Tax and E911 Surcharge Return

For information or forms
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tax.illinois.gov

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1 800 732-8866 or
217 782-3336

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Effective immediately, PA 99-519 amends the Compassionate Use of Medical Cannabis Pilot Program Act, 410 ILCS 130/1, *et seq.*, in part to extend the Act to July 1, 2020.

What effect does PA 99-519 have on the Medical Cannabis Cultivation Privilege Tax, as well as the tax due on sales of medical cannabis to individual customers?

PA 99-519 extends Sections 190 through 215 of the Compassionate Use of Medical Cannabis Pilot Program Act, also known as the Medical Cannabis Cultivation Privilege Tax Law. Cultivation centers must continue to file Form MC-1, Medical Cannabis Cultivation Privilege Tax Return, to report the privilege tax due on cultivated medical cannabis sold to dispensing organizations, and dispensing organizations must continue to file Form ST-1, Sales and Use Tax and E911 Surcharge Return, to report sales tax due on sales of medical cannabis and medical cannabis infused products to customers.

Did PA 99-519 change the tax rate for either the Medical Cannabis Cultivation Privilege Tax or the tax due on sales of medical cannabis to individual customers?

No. The tax imposed on the privilege of cultivating medical cannabis is 7% of the sales price per ounce charged by the cultivation center. The tax on sales of medical cannabis at retail by dispensing organizations to individual customers is wholly separate from and collected at an entirely different rate than the privilege tax imposed on cultivation centers. The tax on sales of medical cannabis and medical cannabis infused products to individual customers should continue to be collected by dispensing organizations at the low rate imposed generally on sales of food, drugs, and medical appliances.

Does a medical cannabis cultivation center or a medical cannabis dispensary have any tax liability on samples given to customers free of charge?

Yes. Medical cannabis cultivation centers and medical cannabis dispensaries owe use tax when offering free samples of medical cannabis. With regard to free samples, gifts, and giveaways, the Illinois Department of Revenue's use tax regulations provide that the recipient of the free sample is not the taxable user. Rather, the donor who purchases the property and gives it away makes a taxable use of the property when making the gift. See 86 Ill. Adm. Code 150.305(c). A medical cannabis dispensary, therefore, incurs use tax based on the cost price to the dispensary of any free sample of medical cannabis given by the dispensary to a qualifying patient. The Illinois Department of Revenue's regulations for the Medical Cannabis Cultivation Privilege Tax Law further provide that, while there is no Medical Cannabis Cultivation Privilege Tax due on free samples of medical cannabis given to a dispensing organization by a cultivation center, the cultivation center will incur use tax liability on the cost price of the free samples of medical cannabis given to the dispensing organization. See 86 Ill. Adm. Code 429.110(d)(4).

Note that the Compassionate Use of Medical Cannabis Pilot Program Act allows medical cannabis cultivation centers only to sell to dispensing organizations.

What is the Illinois use tax rate that applies to medical cannabis?

The 1.00 percent use tax rate generally applicable to qualifying food, drugs, and medical appliances also applies to use tax owed on free samples of medical cannabis given away by medical cannabis cultivation centers and medical cannabis dispensaries.