

**Illinois Department of Revenue
Regulations**

Title 86 Part 429 Section 429.110 Nature and Rate of Tax

**TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE**

**PART 429
MEDICAL CANNABIS CULTIVATION PRIVILEGE TAX LAW**

Section 429.110 Nature and Rate of Tax

- a) *Beginning January 1, 2014, a tax is imposed upon the privilege of cultivating medical cannabis at a rate of 7% of the sales price per ounce. The tax is paid by a cultivation center and is not the responsibility of a dispensing organization, qualifying patient or designated caregiver [410 ILCS 130/200(a)].*
- b) *The tax imposed under the Law shall be in addition to all other occupation or privilege taxes imposed by the State of Illinois or by any municipal corporation or political subdivision thereof [410 ILCS 130/200(b)].*
- c) The cultivation center may seek reimbursement of the tax. The charge for reimbursement may not be identified on the invoice as a tax.
- d) Tax Base
 - 1) The tax is calculated based on the sales price of the number of ounces or partial ounces of usable medical cannabis sold by a cultivation center. For example, a cultivation center sells 500 ounces of medical cannabis to a dispensing organization for \$100,000. The tax is 7% of \$100,000, or \$7,000.
 - 2) The sales price is determined without any deduction on account of the cost of the property sold, the cost of materials used, labor or service cost or any other expense whatsoever. See 86 Ill. Adm. Code 130.415 for rules regarding the treatment of transportation and delivery charges. For example, a cultivation center sells 500 ounces of medical cannabis to a dispensing organization for \$100,000 plus a delivery charge of \$250 and a fuel surcharge of \$50. The cultivation center delivers the medical cannabis to the dispensing organization. The cultivation center and the dispensing organization do not agree upon the delivery charges separately from the sales price of the medical cannabis that is sold. As a result, the cost of the delivery service is part of the "sales price" of the medical cannabis. The sales price for purposes of determining the tax is \$100,300.
 - 3) The tax is computed on the sales price of the medical cannabis sold after the application of any applicable discounts. For example, a cultivation center sells 500 ounces of medical cannabis to a dispensing organization for \$200 an ounce.

The cultivation center provides a nondiscriminatory 10% discount for sales over 300 ounces. The total price with the discount is \$90,000. The tax is computed on the sales price of \$90,000.

- 4) There is no tax on free samples of medical cannabis given to a dispensing organization by a cultivation center. However, 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 150.305(c).)
- 5) The tax on a package of medical cannabis infused product shall be based on the weight in ounces of usable cannabis as shown on the label required by 8 Ill. Adm. Code 1000.420(e). For purposes of computing the tax imposed by the Law on medical cannabis infused products, the sales price is the cultivation center's average sales price per gram of high grade cannabis flowers. The sales price shall be determined monthly at the beginning of the month and does not change during the month.
 - A) EXAMPLE 1: On January 1, the cultivation center offers for sale to dispensing organizations 5 strains of high quality cannabis flowers at \$7, \$8, \$9, \$10 and \$11 per gram. The average sales price is \$9 per gram for January. The label on a package of medical cannabis infused product offered for sale to a dispensing organization states the package contains 1.25 grams of useable cannabis. The tax on the package is $1.25 \times \$9 \times .07$, or \$0.79.
 - B) EXAMPLE 2: On January 9, the cultivation center offers for sale a 6th strain of high quality cannabis flower for \$15 per gram, in addition to 5 strains of high quality cannabis flowers offered on January 1 at \$7, \$8, \$9, \$10 and \$11 per gram. The average price per gram for January remains \$9 and does not change due to the addition of the 6th strain of cannabis offered for sale during the month of January. If the cultivation center offers the same 6 strains of high quality cannabis flower on February 1, for purposes of computing the tax for medical cannabis infused products during the month of February, the cultivation center's average wholesale price per gram of high grade or quality cannabis flowers is \$10.
- 6) The tax on medical cannabis concentrate or extract is calculated based on the sales price of the quantity (in ounces or partial ounces) of concentrate or extract sold by a cultivation center to a dispensing organization. The quantity for purposes of the tax is the actual weight of the concentrate or extract contained in the package. For example, a cultivation center sells a package containing 1 gram of hash oil to a dispensing organization for \$14. The tax on the package of hash oil is 7% of \$14, or \$0.98. Concentrates and extracts include, but are not limited to, hash oil, wax, shatter, caviar, kief, budder, bubble hash and hash.
- e) A cultivation center may not either directly or indirectly discriminate in price between different dispensing organizations that are purchasing a like grade, strain, brand, and quality of cannabis or cannabis-infused product. Nothing in this Part prevents cultivation centers from pricing medical cannabis differently based on differences in the cost of manufacture, the quantities sold, such as volume discounts, or the way the products are delivered.

- f) The Law does not exempt any sales of medical cannabis cultivated by a cultivation center. All sales of medical cannabis are taxable.

(Source: Amended at 40 Ill. Reg. 9222, effective June 24, 2016)