



October 11, 2022

## **MEDICAL MARIJUANA—LICENSE FEES AND TAXATION COMPARISON**

According to the National Conference of State Legislatures (NCSL), Kansas is one of three states<sup>1</sup> without public access to medical marijuana; recreational marijuana; or low-THC, high-cannabidiol (high-CBD) products.<sup>2</sup> The NCSL website designates 37 states as allowing the medical use of cannabis products and 19 states as regulating cannabis for adult non-medical use. NCSL designates another 10 states as allowing the use of high-CBD products. This memorandum examines the laws of states with either medical marijuana or adult-use regulatory systems, specifically in the context of licensing fees and taxation.

### **Licensing Fees**

#### ***Cultivator***

Cultivator licensing fees in states with medical marijuana and recreational marijuana regulatory systems generally fall into two categories, with either a flat fee charged for a license or a variable fee based on either the square footage of the plant canopy (grow area) or the number of plants cultivated.

- Flat fee<sup>3</sup>
  - 22 states: (Arizona, Arkansas, Connecticut, Delaware, Florida, Hawaii, Illinois, Louisiana, Maine, Maryland, Mississippi, Missouri, Nevada, New Hampshire, New Jersey, New York, North Dakota, Pennsylvania, Utah, Virginia, Washington, West Virginia)
- Variable fee
  - Fee based on plant canopy size:
    - 8 states: (Alaska, Georgia, Massachusetts, Montana, Ohio, Oklahoma, Oregon, Rhode Island)

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1 The states of Idaho, Kansas, and Nebraska are listed as not allowing access to such products.

2 <https://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx>. *Note:* THC is the primary psychoactive compound in marijuana.

3 Some states with flat fees do not separately license cultivators, as dispensaries are allowed to grow and dispense their own product. Alabama is not listed in this memorandum because rules have not been finalized for license fees.

- Fee based on the number of plants cultivated:
  - 3 states: (Colorado, Michigan, New Mexico)
- Fees based either on canopy or plants:
  - 2 states: (California<sup>4</sup> and Vermont)
- Fee based on the cost of the inspection (Minnesota)

### ***Dispensary***

Dispensary licensing fees vary widely, from \$2,000 to \$500,000. In addition, eight states require an annual fee to be paid per employee, or for certain persons involved in the company, to facilitate background checks of those persons.

California currently sets licensing fees based on the gross revenue of the business. Oklahoma will implement a tiered system in 2023.

### ***Associated Businesses***

Many states license and regulate businesses that provide services to cultivators and dispensaries such as:

- Infusion companies;
- Laboratories;
- Manufacturers;
- Processors; and
- Transporters.

Fees for such licenses generally range between \$1,000 and \$60,000 per license. License fees for distributors, laboratories, and manufacturers in California are based on the amount of gross revenue of the business. Beginning June 1, 2023, Oklahoma will also implement a tiered structure for processor license fees.

### ***State Taxes on Medical Marijuana***

Nine states charge taxes on production and distribution, or at the dispensary level (separate from sales or excise taxes due from consumer transactions): Alaska, Arkansas, Colorado, Maine, Nevada, New Mexico, Pennsylvania, Rhode Island, and West Virginia.

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<sup>4</sup> California has several cultivation license classifications based on the type of lighting (outdoor, indoor, or mixed), further classified by the number of plants grown, or size of the grow area.

## **Consumer Taxes**

Twenty states charge either sales tax or excise taxes to consumers for medical marijuana purchases at dispensaries.

<b>State</b>	<b>Tax Rate</b>
Arizona	6.6% excise tax; local taxes
Arkansas	6.5% sales tax; 4.0% privilege tax; local taxes
California	15.0% excise tax; local taxes
Colorado	2.9% excise tax; local taxes
Connecticut	6.5% sales tax
Florida	6.0% sales tax
Hawaii	4.0-4.5% sales tax
Illinois	1.0% sales tax
Iowa	6.0% sales tax; local taxes
Maine	5.5% sales tax; edibles taxed at 8.0%
Michigan	6.0% sales tax
Missouri	4.0% excise tax
Montana	4.0% excise tax
Nevada	4.6% sales tax
New York	7.0% excise tax
North Dakota	5.0% sales tax
Ohio	6.5-7.25% sales tax
Oklahoma	7.0% excise tax; 4.5% sales tax; local taxes
Rhode Island	7.0% sales tax
Virginia	5.3% sales tax

### ***No Sales Tax on Medical Marijuana***

Fourteen states do not charge sales or excises taxes on consumer purchases of medical marijuana: Alaska (localities may charge tax); Delaware, Louisiana, Maryland, Massachusetts, Minnesota, New Hampshire, New Jersey, Oregon, Pennsylvania, South Dakota, Utah, Vermont, and Washington.