

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 42.31.1101 pertaining to) PROPOSED AMENDMENT
department processing and)
remittance of local-option marijuana)
excise tax collections to localities)

TO: All Concerned Persons

1. On May 9, 2022, at 1:00 p.m., the Department of Revenue will hold a public hearing in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed amendment of the above-stated rule. The conference room is most readily accessed by entering through the east doors of the building.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, please advise the department of the nature of the accommodation needed, no later than 5 p.m. on April 22, 2022. Please contact Todd Olson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or todd.olson@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

42.31.1101 LOCAL-OPTION MARIJUANA EXCISE TAX; NOTIFICATION REQUIREMENTS OF A LOCALITY; AFFECTED DISPENSARY REPORTING AND TAX PAYMENT REQUIREMENTS (1) remains the same.

(2) A locality is required to notify the department of the adoption of a local-option marijuana excise tax at least 90 days prior to its effective date.

~~(a) If the locality complies with this requirement, then an affected dispensary's reporting and payment requirement begins with the filing date associated with the end of the calendar quarter in which the tax became effective. As an example, if a locality's local-option marijuana excise tax is effective November 1, 2022, and the locality notified the department at least 90 days prior, then an affected dispensary's first reporting and payment obligation date is December 31, 2022.~~ A locality shall provide the department with a copy of the ballot initiative placed before the electorate which should, at a minimum, include the following:

- (i) the applicable tax rate;
- (ii) the marijuana products subject to the tax; and
- (iii) the effective date for the tax.

(b) When fulfilling the notice requirement in (2)(a), a locality may transmit the ballot initiative information to the department by mail, generally accepted delivery service, or by email correspondence. The contact information for the department's

Miscellaneous Tax Unit, which processes local-option marijuana excise tax payments and remittance, can be found at the department's website at mtrevenue.gov.

(3) If the locality complies with the requirement in (2), then an affected dispensary's reporting and payment requirement begins with the filing date associated with the end of the calendar quarter in which the tax became effective. As an example, if a locality's local-option marijuana excise tax is effective November 1, 2022, and the locality notified the department at least 90 days prior, then an affected dispensary's first reporting and payment obligation date is December 31, 2022.

(b) (4) If a locality fails to comply with this the requirement in (2), then an affected dispensary's reporting and payment requirement begins with the filing date associated with the end of the subsequent calendar quarter in which the tax became effective. As an example, if a locality's local-option marijuana excise tax is effective November 1, 2022, but the locality did not notify the department at least 90 days prior, then an affected dispensary's first reporting and payment obligation is March 30, 2023.

(3) (5) How, or whether, a locality fulfills the notice requirement in (2) does not change an affected dispensary's obligation to collect a local-option marijuana excise tax from all purchasers as of the effective date of the tax.

(4) remains the same but is renumbered (6).

(7) The department will remit the local-option marijuana excise tax payments received to the county treasurer in accordance with the following schedule. If the date for remittance falls upon a Saturday, Sunday, or legal holiday, the department will remit the taxes on the next business day.

(a) on or before June 15 of each year for the calendar quarter ending March 31 of the current year;

(b) on or before September 15 of each year for the calendar quarter ending June 30 of the current year;

(c) on or before December 15 of each year for the calendar quarter ending September 30 of the current year; and

(d) on or before March 15 of each year for the calendar quarter ending December 31 of the previous year.

(5) through (12) remain the same but are renumbered (8) through (15).

AUTH: 15-1-201, 16-12-312, MCA

IMP: 15-64-104, 15-64-105, 15-64-106, 16-12-309, 16-12-310, 16-12-311, 16-12-312, 16-12-317, MCA

REASONABLE NECESSITY: The department proposes to amend ARM 42.31.1101 to clarify the information a locality should provide the department, upon the passage of a local-option marijuana excise tax ballot initiative, to ensure the department's accurate and timely tax collection remittance. The department also proposes to amend the rule to provide these localities with the timeline for the department's remittance of local-option marijuana excise taxes to the county treasurer after dispensaries submit local-option marijuana excise tax payments to the department - currently due within 15 days of the end of a calendar quarter. After

analyzing its internal processes, available resources, and the length of time remitting other tax types, the department proposes a timeframe of 60 days from the close of the quarterly reporting period.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Todd Olson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail todd.olson@mt.gov and must be received no later than 5:00 p.m., May 16, 2022.

5. Todd Olson, Department of Revenue, Director's Office, has been designated to preside over and conduct the hearing.

6. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in number 4 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

7. An electronic copy of this notice is available on the department's web site at www.mtrevenue.gov, or through the Secretary of State's web site at sosmt.gov/ARM/register.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Todd Olson
Todd Olson
Rule Reviewer

/s/ Brendan Beatty
Brendan Beatty
Director of Revenue

Certified to the Secretary of State April 5, 2022.