

CHAPTER 11 Medical Marijuana Tax

Sec. 14-11-1 Definitions.

- (a) The following definitions shall apply to the words and phrases used in this Chapter:
- (1) *Medical marijuana* shall mean marijuana intended for medical use by persons suffering from a debilitating medical condition under the authority of Article 18, Section 14 of the Colorado Constitution, including any preparation containing marijuana for such use or purpose.
 - (2) *Medical marijuana paraphernalia* means all equipment, products and materials of any kind which are used, intended for use or designed for the administration of medical marijuana.
 - (3) *Medical marijuana tax* shall mean the tax imposed by this Chapter.
 - (4) *Person* shall mean a natural person, partnership, sole proprietorship, association, corporation, limited liability company, estate, receiver, trustee, assignee, lessee or any individual acting in a representative capacity or any other combination of individuals by whatever name known.
 - (5) *Taxpayer* shall mean any person obligated to collect or remit medical marijuana tax or to account to the Director of Finance for medical marijuana taxes collected or to be collected under the provisions of this Chapter.
- (b) All other words and phrases used in this Chapter shall have the meaning set out in the City Charter, in Chapter 1 of Title I or Chapter 4 of this Title.

(Ord. 8208 §1, 11-2-10)

Sec. 14-11-2. Intent.

The People of Pueblo hereby declare that, on and after the effective date of this Chapter, every person who purchases medical marijuana or medical marijuana paraphernalia exercises a taxable privilege, and that every person who sells medical marijuana and medical marijuana paraphernalia is exercising a privilege for which the obligation to collect the medical marijuana tax should apply. The medical marijuana tax established by this Chapter is an excise tax.

Sec. 14-11-3. Levy of Tax.

There is hereby levied upon every person who purchases medical marijuana or medical marijuana paraphernalia a tax at the rate of four and three-tenths percent (4.3%) of the price paid or charged for same and such person shall be liable to the person providing the medical marijuana or medical marijuana paraphernalia for the payment of such tax. This tax shall be in addition to any other tax imposed by law, including but not limited to City sales tax.

Sec. 14-11-4. Collection and remittance liability.

Every person receiving consideration for providing medical marijuana or medical marijuana paraphernalia in this City shall collect the medical marijuana tax from the person paying for the medical marijuana or medical marijuana paraphernalia at the time it is paid. Said tax shall be deemed to be held in trust by the person required to collect it for the use and benefit of the City, until it is remitted to the Director of Finance as herein provided.

Sec. 14-11-5. Reports and remittance.

- (a) The Director of Finance may require any person subject to this Chapter to maintain and furnish such returns, statements and records as the Director deems necessary to a determination of the medical marijuana tax liability of such person from the best information reasonably available to him or her.
- (b) Every person required to collect medical marijuana tax hereunder shall remit the full amount of such tax to the City within five (5) calendar days after the date such tax was collected, provided that the Director of Finance may authorize persons collecting medical marijuana tax on a regularly continuing or recurring basis to file monthly reports and remittances, which shall be due on the twentieth day of the month following each month in which medical marijuana taxes were collected.
- (c) Persons collecting medical marijuana tax may either add the tax to the medical marijuana charge as a separate and distinct item or may add the medical marijuana tax to the sales tax without separately identifying it as medical marijuana tax, but no person shall represent directly or indirectly that the tax will be assumed, absorbed or refunded, and addition of the medical marijuana tax to the sales tax shall not relieve any person collecting tax from liability for payment of the full amount of the tax levied hereunder.

(Ord. 8208 §1, 11-2-10)

Sec. 14-11-6. Penalty and interest for failure to collect or remit tax.

- (a) A taxpayer who fails to collect or remit any medical marijuana tax shall be personally liable to the City for the amount of the tax and all interest and additions imposed under this Chapter.
- (b) A taxpayer who fails to pay the full amount of the medical marijuana tax when due shall be assessed interest on the amount of deficiency from the date due to the date paid at a rate equal to the current annual adjusted rate of interest determined under Section 39-21-110.5, C.R.S., as amended.
- (c) If any part of the deficiency is due to negligence or intentional disregard of authorized rules and regulations, but without intent to defraud, there shall be added ten percent (10%) of the amount of the deficiency and interest shall be assessed on the total amount of the deficiency at a rate equal to one and one-half (1½) times the rate specified in Subsection (b) above. If any part of the deficiency is due to fraud with intent to evade the tax, fifty percent (50%) of the amount of the deficiency and interest shall be assessed on the total amount of the deficiency at a rate equal to twice the rate specified in Subsection (b) above. Interest and additions assessed under this Subsection (c) shall be paid by the taxpayer within ten (10) days after notice and demand.
- (d) The Director of Finance is hereby authorized to waive, for good cause shown, all or any part of the additions assessed, or any interest in excess of the current annual adjusted rate of interest determined under Section 39-21-110.5, C.R.S., as amended.

(Ord. 8208 §1, 11-2-10)

Sec. 14-11-7. Licenses to be obtained.

Every person required to collect or remit medical marijuana tax hereunder shall obtain a sales and use tax license from the Director of Finance. The issuance of a sales and use tax license does not authorize, and shall not be construed to authorize, the sale of medical marijuana by any person. Each application for said sales and use tax license shall be accompanied by a cash deposit or bond in such amount and in such form as is determined by the Director of Finance to be sufficient to secure compliance with all provisions of this Chapter. Said license shall be issued and shall be valid until revoked.

Sec. 14-11-8. Rules and regulations.

The Director of Finance is hereby authorized to adopt rules and regulations not inconsistent with the provisions of this Chapter, regarding the payment, collection and remittance of the medical marijuana tax. A copy of all such rules and regulations shall be available for public inspection in the office of the Director of Finance. Failure or refusal to comply with any such rules or regulations shall constitute a violation of this Chapter.

Sec. 14-11-9. Provisions incorporated by reference.

Except where the context otherwise requires, all definitions and provisions contained in Chapter 4 of this Title are incorporated into this Chapter 11 by reference as if fully set forth herein, except that any reference therein to sales or use tax shall be deemed to refer to medical marijuana tax. All procedural and enforcement powers and remedies conferred in said Chapter 4 on the Director or on the City shall also apply to and be available for the enforcement of the provisions of this Chapter, and all rights and remedies granted to taxpayers thereunder shall also apply to and be available for persons subject to this Chapter, provided that, in case of conflict between this Chapter and said Chapter 4, the provisions of this Chapter shall control.

Sec. 14-11-10. Judicial review.

Any person aggrieved by a final determination of the Director of Finance under this Chapter may obtain judicial review under the same terms and conditions set out in Section 14-4-33 of this Title.

Sec. 14-11-11. Criminal penalties for violation.

It shall be a Class 1 municipal offense for any person to violate any provision of this Chapter. Any criminal penalty for violation of any provision of this Chapter shall be in addition to any civil penalty provided herein.

Sec. 14-11-12. Severability.

If any section, subsection, paragraph, clause or other provision of this Chapter for any reason is invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph or clause or other provision shall not affect any of the remaining provisions of this Chapter.

Editor's Note: Ord. No. 8208 was passed and approved by the people of the City at an election held 11-2-10 and became effective 11-2-10.