Lessons from Other States from Colorado & Washington

NCSL Western States
Fiscal Leaders Meeting
June 23, 2017

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TOP TOPIC INQUIRIES TO THE TAX FOUNDATION BY STATE LEGISLATORS

1. 
2. 
3. 
4. 
5. Corporate Tax Issues
TOP TOPIC INQUIRIES TO THE TAX FOUNDATION BY STATE LEGISLATORS

1. 
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4. Property Taxes 
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TOP TOPIC INQUIRIES TO THE TAX FOUNDATION BY
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1. 
2. 
3. State Tax Trends
4. Property Taxes
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TOP TOPIC INQUIRIES TO THE TAX FOUNDATION BY
STATE LEGISLATORS

1. 
2. Sales Taxes 
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TOP TOPIC INQUIRIES TO THE TAX FOUNDATION BY STATE LEGISLATORS

1. Marijuana Taxes
2. Sales Taxes
3. State Tax Trends
4. Property Taxes
5. Corporate Tax Issues
MARIJUANA LEGALIZATION & TAXES

OUTLINE

• Structuring marijuana taxes

• Tax projections and results in Colorado & Washington

• Lessons learned
  • Recreational vs. Medical
  • State vs. Local
  • Health
  • Zoning
  • Criminal Penalty
1906: Federal labeling law
1907-14: CA, ME, MA, NY pass laws restricting purchase of habit-forming drugs, some specifying cannabis
1914: Harrison Narcotics Tax Act: modest tax but hefty penalties for providing drugs to addicts (marijuana not included)
1915-29: WY, TX, IA, NV, OR, WA, AR, NE, LA, CO pass laws restricting legal marijuana purchases
1925: International Opium Convention bans international trade in hashish and derived products
1925: Uniform Law Commission develops Uniform State Narcotic Act; all states adopt in some form by mid-1930s
1930: Federal Bureau of Narcotics set up; cannabis a priority
1937: Marihuana Tax Act imposes punitive tax on cannabis
MARIJUANA LEGALIZATION & TAXES

TAX HISTORY

• 1970: Congress passes Controlled Substances Act and sets up Drug Enforcement Agency (DEA)
• 1980s: States pass drug stamp tax laws with real purpose to levy tax-related interest and penalties on those arrested. Most have been overturned unless there is a “firewall” between revenue and drug enforcement personnel
• 1994 & 2001: DEA declines to reschedule cannabis from Sch. I
• 1996: California legalizes medical marijuana in Proposition 215
• 1998-2012: AK, OR, WA, ME, CO, HI, NV, MT, VT, RI, NM, MI, AZ, DC, NJ, DE, CT, MA legalize medical marijuana
• 2012: Colorado voters pass Amendment 64 (55 to 45) and Washington passes Initiative 502 (56 to 44) to legalize marijuana
• 2016: Four more states approve marijuana legalization ballot measures (California, Maine, Massachusetts, Nevada)
### GASOLINE PRICE INCLUDES

- **48.55¢ Per Gallon Tax**
- **30.15¢ NC Tax**
- **18.4¢ Federal Tax**

*State Tax Rates change semi-annually. Rate Based on Jan. 1, 2006 figures. Brought to you by NC Petroleum Marketers Association Fueling North Carolina’s Future.*

### Structure of Taxes

<table>
<thead>
<tr>
<th>Description</th>
<th>Tax Rate</th>
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<td>Federal Universal Service Fee</td>
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<td>Local Number Portability Charge</td>
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<td>911 State/County Charges</td>
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<td>1.70</td>
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<tr>
<td>Federal Excise Tax</td>
<td>1.08</td>
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</table>

**Total Tax & Fees**  $10.01

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**City of Chicago**

**Department of Finance**

**Fountain Soft Drink Tax - 7590**
MARIJUANA LEGALIZATION & TAXES

STRUCTURING MARIJUANA TAXES
MARIJUANA LEGALIZATION & TAXES

STRUCTURING MARIJUANA TAXES

How Imposed? Per Item vs. Per THC content vs. Percentage of Price

How High? Raising Revenue vs. Discouraging Black Market
MARIJUANA LEGALIZATION & TAXES

STRUCTURING MARIJUANA TAXES

- **Who Collects?** Grower vs. Processor vs. Retailer.
- Colorado taxes at retail sale (15% wholesale and 10% retail).
- Washington started by taxing all three levels (25% at each level) but in 2015 changed to just tax at retail level. (Vertical integration of some sellers led to inequity.)
- Oregon will tax at retail sale, while Alaska is still figuring it out. California 15% retail plus cultivation tax. Massachusetts reconsidering low tax.
How Imposed? Per Item vs. Per THC content vs. Percentage of Price

All states have settled on percentage of the price. (Alaska still debating.) Oregon was going to tax per flower, per leaf, per plant but dropped that.

Per Item untenable due to variety of forms.

Per THC content untenable because it would require frequent testing, and results can vary somewhat.
How High? Raising Revenue vs. Discouraging Black Market

Colorado had ~29% plus sales tax (15% wholesale + 10% retail). 10% tax drops to 8% in July 2017
  - Denver also imposes local 3.5% excise tax
  - Compares to 31% on cigarettes and 8% on beer

Washington had ~37% (25% at all three levels). Replaced with flat 37% retail tax in July 2015.
  - Compares to 104% on cigarettes and 11% on beer

Oregon currently 25% but dropping to 17%.

Ballot initiatives this year all under 15%. 
How High Are Marijuana Taxes in Your State?
State Recreational Marijuana Excise Tax Rates, As of January 2017

Note: (*) California, Maine, and Massachusetts will not begin recreational marijuana sales until 2018.
(**) Colorado’s 10% sales tax will fall to 8% on July 1, 2017.
(†) Nevada will not begin recreational marijuana sales until July 2017.
D.C. voters approved legalization and purchase of marijuana in 2014 but federal law prohibits any action to implement it.
Alabama, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Nebraska, Oklahoma, Rhode Island, Tennessee, and Wisconsin impose a controlled substance tax on the purchase of illegal products.
Source: Tax Foundation, "Marijuana Legalization & Taxes: Lessons for Other States from Colorado and Washington" (2016); state statutes; Bloomberg BNA.
MARIJUANA LEGALIZATION & TAXES

TAX PROJECTIONS & RESULTS

- **Colorado** initiative supporters projected $70m per year; first $40m dedicated to school construction. Sales began January 1, 2014.

  - 2014: $56m tax on sales of $304m
  - 2015: $113m tax on sales of $568m
  - 2016: ~$160m tax on sales of ~$880m

- Some TABOR implementation headaches

- July 2017: Tax reduction after July 2014 state study of effects on gray and black market (Demand of 130 metric tons vs. legal supply of 77 tons.) Visitors are 44% of market.
MARIJUANA LEGALIZATION & TAXES

Colorado Retail Marijuana Tax Revenue by Month

Source: Colorado Department of Revenue.
MARIJUANA LEGALIZATION & TAXES

Colorado Retail Marijuana and Medical Marijuana Sales by Month

Source: Colorado Department of Revenue.
Washington initiative supporters said *as much as* $1.9 billion, with 40% going to state general fund and 60% for substance abuse prevention, research, education, and health care. 30% of revenue after first $25 million goes to local governments.

Slow start due to license approach (334 initially).
Washington sales began July 8, 2014.

- FY 2016: $62m in excise taxes, $10m in sales taxes, $1.3m in business taxes, $3.6m in local sales taxes, all on $157m in sales
- FY 2017: ~$270m in excise tax revenue

- “Seed to sale” inventory tracking & standards
- Challenge bringing unregulated medical into system
- Easing state zoning restrictions
- Tribal compact
Oregon sales began October 1, 2015.

- Recreational sales to begin later this year, but existing medical marijuana facilities now able to sell to all adults, in hopes of stamping out black market. 25% tax
- 17% tax to take effect with Oregon Liquor Control Commission sets up regulatory regime this year.
- Dispensaries keep 2% of collections for compensation
- First estimates are ~$60m/year
- DC cannot collect tax due to federal law. Was thinking 15%.
- Tax revenue estimates for each state based on extrapolated results from Colorado & Washington
- Nationwide between $5.3b to $8.8b
- Federal law remains restraint, with Section 280E, federal prosecution, and banking restrictions

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<th>25% tax</th>
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<td>All States</td>
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<td>$7,671</td>
<td>$8,399</td>
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</tbody>
</table>

Note: millions of dollars
All states mentioned have achieved legalization through ballot measures. Proponents are targeted that method.

Colorado and Washington legislators and officials say their hands tied by ballot initiative and would have preferred legislative route.

Vermont debated legislation in 2016 and 2017 but did not pass it.

Four more states enacted at the ballot in November 2016:

- California Proposition 64 – 15% tax plus cultivation tax
- Maine Question 1 – 10% tax
- Massachusetts Question 4 – 3.75% tax (likely revising)
- Nevada Question 2 – 15% tax
MARIJUANA LEGALIZATION & TAXES
LESSONS FOR OTHER STATES

- Tax rate should not be so high as to prevent elimination of the black market.
- Taxes on final retail sales have proven the most workable form of taxation.
- Be conscious of the medical marijuana market.
- Be cautious with revenue estimates.
- Resolve health, agricultural, zoning, local enforcement, and criminal penalty issues.
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