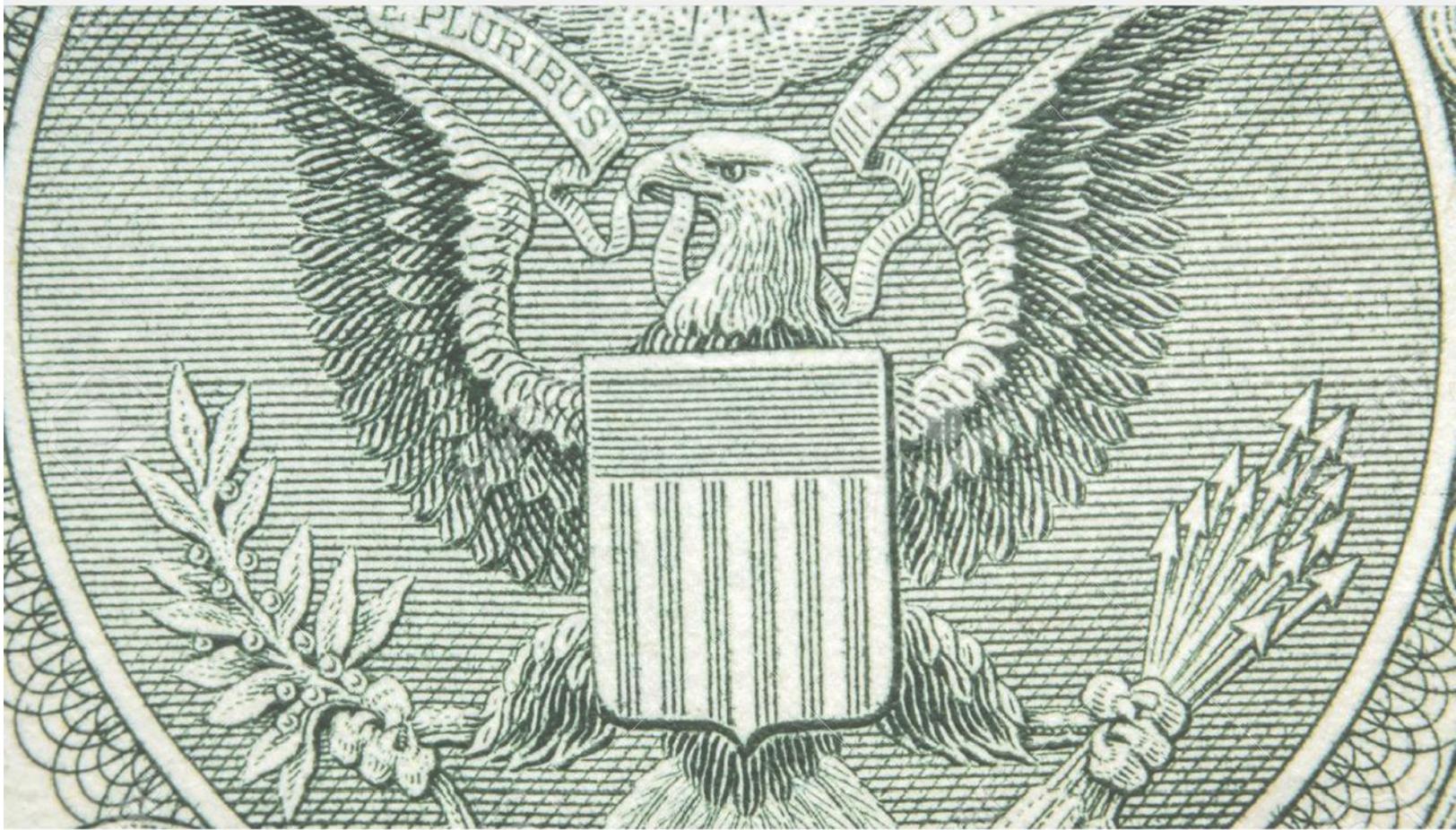


Update on State Cannabis Taxation



Despite its status as an illegal schedule one substance at the federal level, adult-use marijuana has become increasingly common across the states. It is legal in 19 states and D.C., Guam, and the Northern Mariana Islands. [One in three](#) Americans now live in a state with legal retail operations.

For the states that have joined the legal cannabis bandwagon, the decision paid off through the pandemic as revenues experienced consistent growth. In many states, tax collections from cannabis are outpacing alcohol collections, and in a few cases, tobacco tax collections as well. However, according to officials in states like [Colorado](#) and [California](#), tax revenues have flattened or slightly declined in FY 2022, as a pandemic-fueled spike in consumption returned to normal.

Cannabis Tax Collections from Longest-Established State Markets

State	FY 2018	FY 2019	FY 2020	FY 2021
Alaska	\$11.1	\$19.2	\$24.5	\$28.9
California*	\$397.3	\$636.9	\$1,031.9	\$1,314.7
Colorado*	\$266.5	\$302.5	\$387.4	\$423.5
Nevada	\$69.8	\$99.2	\$105.2	\$157.8
Oregon	\$82.2	\$102.1	\$133.2	\$178.3
Washington	\$362.0	\$390.4	\$469.2	\$555.4

*Calendar year

Cannabis Tax Collections Compared to Tobacco and Alcohol Collections

State	FY 2021 Cannabis Revenue	FY 2021 Tobacco Tax Revenue	FY 2021 Alcohol Tax Revenue
Alaska	\$28.9	\$56.8	\$40.9
California	\$1,314.7*	\$1,700.9	\$407.6
Colorado*	\$423.5	\$338.0	\$53.2
Nevada	\$157.8	\$195.0	\$48.5
Oregon	\$178.3	\$354.0	\$323.0
Washington	\$554.9	\$384.6	\$454.3

Significant 2022 Cannabis Enactments

Seven states legalized adult-use cannabis from 2020 to 2021, but new enactments have slowed in 2022. Rhode Island is the only state to legalize adult use so far this year. Delaware’s legislature passed a measure to legalize adult use, but it was vetoed by the governor. Mississippi also passed a measure to

implement a medical marijuana program and California passed a measure to reduce and restructure its cannabis tax scheme by eliminating a cultivation tax on growers.

Minnesota enacted a legalization measure of sorts by passing a law allowing 5 mg of hemp-derived THC, the primary intoxicant in marijuana, in individual products and up to 50 mg of THC per package. The [regulation of hemp products](#) is often a gray, unregulated area in state policy that is receiving growing attention. Given that intoxicating hemp is substantially similar to cannabis and can be sold legally and excise-tax-free in some states, this can create downward pressure on cannabis tax revenues. Colorado passed a law ([SB 205](#)) to create a task force that will study products made with converted forms of THC. A few states (e.g., [Connecticut](#) and [Michigan](#)) have passed laws to clarify that intoxicating hemp products are to be regulated like adult-use cannabis.

- **California** (AB 195): Suspended the state's cannabis cultivation tax. Maintains a 15% cannabis excise tax, as required by Proposition 64, until June 30, 2025. Moves collection of the excise tax from the distributor to the point-of-sale. Requires, by July 1, 2025, the California Department of Tax and Fee Administration (CDTFA) to adjust the excise tax every two years by a rate that would generate revenue equal to what would have been collected from the cultivation tax.
- **Colorado** (S 205): Concerns the regulation of cannabis related products that may potentially cause a person to become intoxicated when used.
- **Minnesota** (HF 4065): Legalizes the sale of edibles derived from hemp; the bill does not include taxation on the products.
- **Mississippi** (SB 2095): The Mississippi Medical Cannabis Act legalizes the use of medical marijuana for certain medical conditions and imposes a 5% excise tax on medical cannabis cultivators.
- **Rhode Island** (H 7593): Legalizes recreational marijuana and regulates its use. There is a 20% tax on recreational marijuana. It is made up of a 7% sales tax, 10% cannabis tax, and a 3% tax by the municipality where the marijuana is sold.
- **Washington D.C.** (B 629): Creates D.C.'s first medical cannabis sales tax holiday, on Friday, Feb. 11, 2022. The holiday will start on Friday, April 15, 2022, and end on Sunday, April 24, 2022.

2022 Ballot Measures

Legalization of adult-use cannabis will be on the ballot in at least six states in 2022. Nebraska voters will be considering authorizing medical marijuana. Of the [13 states](#) that have legalized recreational marijuana via ballot measure, it won by a margin of at least 6% of the vote in every state except Maine, so the odds are pretty good that more states will join the legal bandwagon in November.

- **Arkansas:** [Proposal](#) to allow adults 21 and older to purchase and possess up to an ounce of cannabis. The state could impose up to a 10% supplemental tax on recreational cannabis sales. In addition to existing state and local tax
- **Maryland:** Maryland residents will have the opportunity to vote on legalizing recreational marijuana, taxation and licensing is being left up to lawmakers to resolve in 2023.

- **Missouri:** Legal Missouri 2022 seeks to allow people 21 and older to purchase, possess, consume and cultivate marijuana. Additionally, the bill proposes expunging the records of people with non-violent marijuana offenses.
- **Nebraska:** Nebraska has a two-part cannabis ballot initiative. The [Medical Cannabis Patient Protection Act](#) protects patients with serious health conditions and their caregivers from arrest. The [Medical Cannabis Commission Act](#) regulates private businesses to provide medical cannabis to qualified patients.
- **North Dakota:** New Approach North Dakota is a ballot measure seeking to legalize the possession of up to one ounce of cannabis, four grams of cannabis concentrate, and up to five hundred milligrams in a cannabis infused product. The measure also seeks to make the cultivation of up to 3 cannabis plants legal.
- **Oklahoma:** SQ820 seeks to legalize the purchase and possession of up to one ounce of cannabis and grow up to six cannabis plants for personal use. The measure also seeks to create a pathway for the resentencing and/or expunging of criminal records.
- **South Dakota:** In November, South Dakota voters will see a [ballot initiative](#) to legalize personal use, possession, and cultivation of cannabis for adults 21 and older.

Update Cannabis Tax Structures

A [previous fiscal brief](#) discussed the various cannabis tax structures states have created. A few states have adopted novel tax approaches since. New Jersey adopted a hybrid tax structure, imposing a weight-based, per-ounce tax on cannabis that is adjusted according to retail selling prices. (Lower taxes are imposed if retail selling prices are higher.) Both New Mexico and New Jersey, are phasing in higher tax rates over time, partly to improve the ability of the legal market to be more competitive with the illicit market as it establishes itself. Two states, Connecticut and New York, joined Illinois in imposing a tax based on the THC content of cannabis products, with more potent products being taxed at higher rates.

State Cannabis Taxes

State	Year Legalized	Type of Tax and Tax Rate	Local Tax?
Alaska	2014	Weight-Based Excise Tax: <ul style="list-style-type: none"> • \$50 per ounce for flowers/mature buds. • \$25 per ounce for immature or abnormal buds • \$15 per ounce for trim • Clones: flat rate of \$1 per clone 	Local option retail sales taxes may also apply

Arizona	2020	<ul style="list-style-type: none"> • 16% excise tax at retail. • State sales and use tax rate (5.6%) applies. 	Local sales tax rates apply
California	2016	<ul style="list-style-type: none"> • 15% excise tax on retail sales • 7.25% state sales tax 	Local taxes may apply
Colorado	2012	<ul style="list-style-type: none"> • 15% excise tax • 15% retail sales tax 	Local excise and sales taxes may apply
Connecticut	2021	<ul style="list-style-type: none"> • 6.35% general sales tax • Potency-based excise tax: \$0.00625 per milligram of THC in flower \$0.0275 per milligram of THC in edibles \$0.009 per milligram of THC in other cannabis products. 	3% municipal gross receipts tax
District of Columbia	2014	Ballot Initiative 71 allowed the possession of less than 2 ounces of marijuana. It did not permit the cultivation, distribution or retail sales.	
Guam	2019	<ul style="list-style-type: none"> • 15% excise tax 	None
Illinois	2019	<p>Cultivation privilege tax:</p> <ul style="list-style-type: none"> ○ 7% of the gross receipts from the sale of cannabis by a cultivator or craft grower to a dispensing organization <p>Cannabis Purchaser Excise Tax:</p> <ul style="list-style-type: none"> ○ 10% of purchase price—cannabis with THC level at or below 35% ○ 20% of purchase price—all cannabis infused products ○ 25% of the purchase price—cannabis with THC level above 35% • 6.25% state sales and use tax 	Local option sales taxes may apply

Maine	2016	<ul style="list-style-type: none"> • \$335 per pound excise tax—flower • Excise tax of \$94 per pound—trim • Excise tax of \$1.50 per seedling • Excise tax of \$0.30 per seed • Retail excise tax of 10% • 5.5% state sales and use tax 	None
Massachusetts	2016	<ul style="list-style-type: none"> • 10.75% excise tax • 6.25% state sales and use tax 	Local option marijuana sales tax may apply
Michigan	2018	<ul style="list-style-type: none"> • 10% excise tax • 6% state sales and use tax 	None
Montana	2020	<ul style="list-style-type: none"> • 20% excise tax at retail 	Local Option Tax
Nevada	2016	<ul style="list-style-type: none"> • 15% wholesale excise tax • 10% retail tax/consumer sales tax • 6.85% state sales tax 	Local sales taxes may apply
New Jersey	2020	<ul style="list-style-type: none"> • Social Equity Excise Fee <p>33% of average retail price per ounce for first nine months of legal sales. Then,</p> <ul style="list-style-type: none"> ○ \$10 per ounce if average retail price per ounce is above \$350 ○ \$30 per ounce if average retail price per ounce is between \$250 and \$350 ○ \$40 per ounce if average retail price per ounce is between \$200 and \$250 ○ \$60 per ounce if average retail price per ounce is below \$200 • 6.625% sales tax rate 	Local sales taxes up to 2% may apply

New Mexico	2021	<ul style="list-style-type: none"> • 12% cannabis excise tax (rises to 18% by 2030) • 5.125% gross receipts tax (sales tax) 	Local sales taxes apply
New York	2021	<p>Potency-based tax: Products sold by a distributor to a retailer will be taxed at the following rates based upon the amount of total THC, as reflected on the product labels:</p> <ul style="list-style-type: none"> • Cannabis flower at five-tenths of one cent (0.5) per milligram • Concentrated cannabis at eight-tenths of one cent (0.8) per milligram • Cannabis edible product at three cents (3.0) per milligram. • There is an additional retail tax of 9%, as well as an additional 4% going to the local cities, counties, towns, or villages. 	No additional tax upon the centralized 4% tax that is collected and distributed to localities.
N. Mariana Islands	2018	<ul style="list-style-type: none"> • 10% excise tax 	
Oregon	2014	<ul style="list-style-type: none"> • 17% retail tax 	Local sales taxes apply
Rhode Island	2022	<ul style="list-style-type: none"> • 10% retail excise tax • 7% state sales tax 	3% local excise tax applies
Vermont	2018, 2020	<ul style="list-style-type: none"> • Excise tax of 14% of the sales price • State sales and use tax (6%) 	Local sales taxes apply
Virginia	2021	<ul style="list-style-type: none"> • 21% retail marijuana tax at point of sale • 5.3% state sales and use tax 	Localities are authorized to adopt and additional excise tax of up to 3%.
Washington	2012	<ul style="list-style-type: none"> • 37% excise tax on retail sales • 6.5% state sales tax 	Local sales taxes may apply

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