

Recreational Marijuana Taxation

OLCC tax collection experience

OLCC's tax collection experience includes monthly reports/returns for beer and wine. OLCC collects \$17 million per year in taxes from 3,654 breweries, wineries, wholesalers and distributors. Bonds are required for all licensees where tax is collected. Bond amounts reflect the amount of expected tax owed. OLCC would request to require bonds for entities that owe marijuana tax as a risk mitigation measure for tax default.

Currently OLCC collects \$540 million per year (\$45 million per month) in liquor sales. Liquor suppliers are paid for their costs of goods, 248 liquor agents are paid an average 9% commission (\$ 4 million per month, \$48 Million per year), agency expenses and operating costs are paid (\$2 million per month, \$24 million per year) and the rest is distributed by statutory formula to the general fund cities and counties (\$18 million per month, \$216 million per year).

Distributions are made for all 36 Oregon counties and 239 Oregon cities. About \$ 84 million per year (\$7 million per month) is distributed to cities and counties through statutory formulas that base the distribution on population. OLCC determines the distributions that are communicated to Treasury.

OLCC's Financial Services Division utilizes 19 FTE to collect, audit and distribute \$45 million per month in liquor revenue and \$1.4 million per month in beer and wine tax revenue. The other 3 FTE in Financial Services are used for budgeting, accounts payable and payroll.

Marijuana tax receipt are projected at \$16-40 million per year. The commission is projecting that taxing at a retail level will require tax payments from 300 or more retail shops.

OLCC auditing experience

All inventory in liquor stores and the warehouse is tracked daily.

OLCC physically audits each of its 248 liquor stores (\$55 million in state-owned inventory) once each year.

OLCC physically audits OLCC warehouses (\$1 million in state-owned inventory and \$96 million in bailment inventory) once each year. The February 2105 yearly audit showed a variance rate of 0.017%.

OLCC audits 3,654 breweries, wineries, wholesalers and distributors for tax

payments on an average basis of once every 20 months.

The OLCC has received the Gold Star rating for each of the last 20 years from DAS for Statewide Financial Reporting. In addition, the Secretary of State has audited OLCC revenue twice. No discrepancies were found.

Change from an excise tax to a retail tax will require more audit resources in OLCC to deal with the increased number of transactions at the retail side. OLCC expects the need for 3 more auditors over their original agency request budget.

Traceability system

The traceability system being considered by OLCC to track marijuana has a retail tax module that produces estimates of tax owed monthly.

OLCC started the procurement process for securing a seed to sale system in January 2015, consequently there may be a six month time advantage as well as cost efficiencies in aligning the tracking system with a retail tax system add-on developed by the same company.

The estimate of taxes owed produced by the tracking system can be used to audit tax collections.

Sanction options for nonpayment of taxes

As the licensing entity, OLCC can sanction licensees for nonpayment of taxes as well as failure to report. OLCC can also sanction for audit shortages.

OLCC has the authority to seize alcohol product for non-compliance and non-payment of taxes but rarely does so. The bonding requirement for beer and wine mitigates the need for seizures.

The bonding requirement needs to be tied to the agency that collects the taxes.

Banking issues

OLCC has regional offices in Portland, Eugene, Salem, Medford, and Bend that could provide an opportunity to collect tax receipts. OLCC is in discussions with Treasury and US Bank to develop kiosks for accepting cash payments. These kiosks will be outside of the banking system and only be used for tax payments. They can be located regionally. Washington is considering the same system

Tax rates

OLCC has heard from retailers that one tax rate is easier to administer. Both Washington and Colorado have set a single tax rate for all marijuana products.

There is no reliable information on Oregon marijuana markets to develop the six different retail tax rates in the Dash-1. It is uncertain how rates will be derived given that the quantities and value of marijuana products are unknown. Washington marijuana sales in January by value were 77% flower, 11% concentrates (hash) and 10% edibles and 2% topicals. These percentages are likely to change as the industry matures.

Washington currently taxes all marijuana products at 25% for all levels (producer, processor, and retailer). Washington's HB2136 is proposing to eliminate the producer and processor tax and set a 37% tax at the retail level. Colorado uses a single 15% rate for all marijuana products. In addition they have a 10% surcharge and a 2.9% sales tax at the retail level.

Measure 91 sets marijuana tax at the producer level. Measure 91 taxes \$35 per ounce for flower and \$10 per ounce for leaf. At the current retail price for flower (\$210 per ounce) an equivalent or retail estimated tax rate would be 17%. An equivalent retail estimated tax rate for leaf processed into concentrate would be 12%.

Department of Revenue

DOR's system is not expected to come online until next year and their system will only record fixed transaction fees (\$0.75) not retail value tax. DOR has two major IT projects related to personal income tax that are expected in 2016 that could pose a risk to implementing the marijuana tax system.

OLCC would consult with the Department of Revenue in the development and auditing of a retail tax system.