

ARTICLE TWELVE - COUNTY TAXES

DIVISION ONE - IMPOSE TAX ON MARIJUANA ITEMS SOLD BY MARIJUANA RETAILERS [Adopted as Division One of Article Twelve on June 12, 2016, approved in the general election of November 8, 2016 and effective on January 1, 2017.]

SECTION 12.01.010 TITLE

Impose Tax on Marijuana Items Sold by Marijuana Retailers.

SECTION 12.01.020 PURPOSE

The purpose of this Division is to impose a three percent (3%) tax on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the County.

SECTION 12.01.030 DEFINITIONS

Except where the context otherwise requires, the definitions given in this section govern the construction of this ordinance.

- (1) Board means the Board of County Commissioners of Coos County.
- (2) Marijuana item(s) means marijuana, cannabinoid products, cannabinoid concentrates, and cannabinoid extracts as defined in ORS 475B.015(16).
- (3) Marijuana retailer means a person who sells marijuana items to a consumer in this state as defined in ORS 475B.015(20).
- (4) Retail sale price means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.
- (5) Tax Administrator means the Board or the person it so designates to receive returns and tax payments pursuant to this Ordinance.

SECTION 12.01.040 IMPLEMENTING ORDINANCE AUTHORIZATION

The Board may, by separate ordinance, promulgate additional definitions, rules and regulations necessary or convenient for the administration, collection, refund, and enforcement of this ordinance.

SECTION 12.01.050

TAX IMPOSED

Pursuant to ORS 475B.345, Coos County hereby imposes a tax of three percent (3%) on the retail sale price of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the County. The tax must be computed on the total retail price, including all charges other than taxes, paid by a consumer of marijuana items. The tax imposed by this Ordinance does not repeal or supersede any similar tax enacted by a city.

SECTION 12.01.060

COLLECTION AND REMITTANCE

- (1) The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs and remitted by each marijuana retailer that engages in the retail sale of marijuana items pursuant to the procedure set forth in this Ordinance and/or any subsequent rules promulgated by the Board.
 - (a) Every marijuana retailer shall keep records, render statements and comply with all rules adopted by the Board with respect to the tax imposed by this Ordinance; the records must be sufficient to show the tax liability of the marijuana retailer.
 - (b) Every marijuana retailer shall file a return with the County Tax Administrator, on or before the last day of the month following the end of each calendar quarter, reporting the amount of tax due during the quarter in a form as set forth by the Board, or its designee, and subject to penalties for false swearing.
 - (c) When a return is required under this Ordinance, the marijuana retailer required to make the return shall remit the tax due to the Tax Administrator at the time fixed for filing the return.
 - (d) Every marijuana retailer shall be deemed to hold the amount collected pursuant to this Ordinance in trust for Coos County and for payment to the Tax Administrator.
 - (e) If any marijuana retailer fails to remit any amount held in trust for Coos County pursuant to this Ordinance, the County may enforce collection according to the rules and regulations adopted under Section 12.01.040 or as otherwise provided by law.

SECTION 12.01.070

EXEMPTIONS

The sale of medical marijuana by an entity registered with the Oregon Health Authority under ORS 475B.450 is exempt from the tax imposed under this Ordinance; provided however, that to the extent such an entity also engages in the sale of marijuana items as a marijuana retailer under Oregon Revised Statutes regulating the Recreational Use of Cannabis, no such exemption shall apply to those sales.

SECTION 12.01.080

PENALTIES

Violation of any of the provisions of this Ordinance shall constitute a Class A Violation, subject to a maximum penalty of \$2,000.00 for each day a violation occurs.

ARTICLE TWELVE - COUNTY TAXES

DIVISION TWO - COOS COUNTY TAX ON MARIJUANA ITEMS SOLD BY
MARIJUANA RETAILERS IMPLEMENTING ORDINANCE
[Adopted as Division Two of Article Twelve
on February 6, 2018; effective May 7, 2018.]

SECTION 12.02.010 TITLE

Coos County Tax on Marijuana Items Sold by Marijuana Retailers
Implementing Ordinance.

SECTION 12.02.020 PURPOSE

The purpose of this Division is to promulgate additional
definitions, rules and regulations necessary or convenient for
the administration, collection, refund, and enforcement of
Article 12, County Taxes, Division One and Ordinance 16-04-003L.

SECTION 12.02.030 DEFINITIONS

Except where the context otherwise requires, the definitions
given in this section govern the construction of this Division.

- (1) Board means the Board of County Commissioners of Coos
County.
- (2) Consumer means a person who purchases, acquires, owns,
holds, or uses marijuana items other than for the purpose
of resale.
- (3) Marijuana item(s) means marijuana, cannabinoid products,
cannabinoid concentrates, and cannabinoid extracts as
defined in ORS 475B.015 (16).
- (4) "Marijuana Item Tax Review Committee" means the Board of
County Commissioners or a committee composed of three (3)
qualified persons appointed by the Board.
- (5) Marijuana retailer means a person who sells marijuana
items to a consumer in this state as defined in ORS
475B.015 (20).
- (6) Retail sale price means the price paid by a consumer for
a marijuana item, excluding tax, to a marijuana retailer
by or on behalf of a consumer of the marijuana item.

- (7) Tax means the 3% tax on the sale of marijuana items imposed under this Division pursuant to ORS 475D.345 and Ordinance 16-04-003L.
- (8) Tax Administrator means the Board of County Commissioners or the qualified person it so designates to receive returns and tax payments pursuant to this Division.

SECTION 12.02.040 AUTHORIZATION

The Board hereby, pursuant to County Code 12.01.040, promulgates additional definitions, rules and regulations necessary or convenient for the administration, collection, refund, and enforcement of the Marijuana Item Tax imposed by Article Twelve, County Taxes, Division One.

SECTION 12.02.050 COLLECTION AND REMITTANCE

- (1) The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs and remitted by each marijuana retailer that engages in the retail sale of marijuana items pursuant to the procedure set forth in this Division and/or any subsequent rules promulgated by the Board. The tax shall not be collected from a "registry identification cardholder," as defined by ORS 475.410, or a "designated primary caregiver," as defined by ORS 475.410, who is purchasing a marijuana item for a registry identification cardholder.
 - (a) Every marijuana retailer shall keep receipts, invoices, and other records sufficient to show the tax liability of the marijuana retailer. A marijuana retailer shall render statements and comply with all rules adopted by the Board with respect to the tax imposed by this Division.
 - (b) Every marijuana retailer shall file a return with the Tax Administrator, on or before the last day of the month following the end of each calendar quarter, reporting the amount of tax due during the quarter in a form as set forth by the Board, or its designee, and subject to penalties for false swearing. A return shall be filed even if no taxes have been collected by the marijuana retailer.
 - (c) A marijuana retailer required to file a return shall deliver the return, together with the remittance of

the amount of the tax due, to the Tax Administrator's office, either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.

- (d) When a return is required under this Division, the marijuana retailer required to make the return shall remit any tax due to the Tax Administrator on or before the last day of the month following the end of each calendar quarter. Any marijuana retailer who fails remit the tax due to the Tax Administrator within the applicable time period is subject the penalties set forth in Section 12.02.070 of this Division.
- (e) Every marijuana retailer shall be deemed to hold the amount collected pursuant to this Division in trust for Coos County and for payment to the Tax Administrator.
- (f) If any marijuana retailer fails to remit any amount held in trust for Coos County pursuant to this Division, the County may enforce collection according to the rules and regulations adopted under this Division, or as otherwise provided by law.

SECTION 12.02.060

REGISTRATION OF MARIJUANA RETAILER;
FORM AND CONTENTS; EXECUTION;
CERTIFICATE OF AUTHORITY

- (1) Every person or entity about to engage in business as a marijuana retailer in the county shall register with the Tax Administrator within fifteen (15) days after commencing business. All marijuana retailers operating within the county's jurisdiction at the time of the adoption of this Division are exempt from the registration requirement contained herein. However, any subsequent additional place of business opened by a registration exempt marijuana retailer after the effective date of this Division is subject to the registration requirements contained herein. A marijuana retailer exempt from registration under this section shall be subject to all other requirements of this Division.
- (2) Registration of a marijuana retailer shall be provided on a form provided by the Tax Administrator.

SECTION 12.02.070

PENALTIES AND INTEREST ON TAX

- (1) Penalty-Original Delinquency. Any marijuana retailer who fails to remit any portion of any tax imposed pursuant to this Division within the time required shall pay, in addition to the amount of the tax, a penalty of the greater of ten percent (10%) of the amount of the tax due or one hundred dollars (\$100).
- (2) Penalty-Continued Delinquency. Any marijuana retailer who fails to remit any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent, shall pay a penalty of fifteen percent (15%) of the amount of the tax in addition to the amount of the tax and penalty first imposed.
- (3) Interest. In addition to the penalties imposed, any marijuana retailer who fails to remit any tax imposed by this Division shall pay interest at the rate of one percent (1%) per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- (4) Penalties and Interest Merged With Tax. Every penalty imposed and such interest as accrues under the provisions of this Division shall be merged with and become a part of the tax herein required to be paid.

SECTION 12.02.080

DEFICIENCY DETERMINATIONS; EVASION;
DELAY; APPEAL

- (1) Deficiency Determinations. If the Tax Administrator determines that the returns filed by a marijuana retailer are incorrect, the amount required may be computed and determined upon the basis of the facts contained in the return or returns or upon the basis of any information in the possession of the Tax Administrator. One or more deficiency determinations may be made of the amount due for one, or more than one, period, and the amount so determined shall be due and payable immediately upon service of notice as herein provided after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in Section 12.02.070.

- (a) In making a deficiency determination, the Tax Administrator may offset previous overpayments, if any, which may have been previously made for a period or periods, against any underpayment for a subsequent period or periods, or against penalties and interest on the underpayments. The interest on underpayments shall be computed in the manner set forth in Section 12.02.070.
 - (b) The Tax Administrator shall give to the marijuana retailer a written notice of the deficiency determination. The notice may be served personally or by mail. If by mail, the notice shall be addressed to the marijuana retailer at the address as it appears on the records of the Tax Administrator. In case of service by mail of any notice required by this Division, it shall be served by mailing such notice by certified mail, postage prepaid, return receipt requested.
 - (c) Except in the case of fraud or intent to evade this Division or other authorized rules or regulations, every deficiency determination shall be made and notice thereof mailed within three years after the last day of the month following the close of the quarterly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period expires later.
 - (d) Any determination shall become due and payable immediately upon receipt of notice and shall become final within twenty days after the Tax Administrator has given notice thereof; provided, however, the marijuana retailer may petition for a review of the determination by the Marijuana Item Tax Review Committee within twenty (20) days after the service of such notice.
- (2) Fraud; Refusal to Collect; Evasion. If a marijuana retailer shall fail or refuse to collect the tax or to make, within the time provided in this Division, any report or remittance of the tax or any portion thereof required by this Division, or makes a fraudulent return or otherwise willfully attempts to evade this Division, the Tax Administrator shall proceed in such manner deemed best to obtain the facts and information on which to base an estimate of the tax due. As soon

as the Tax Administrator has determined the tax due that is imposed by this Division, the Tax Administrator shall proceed to determine and assess against such marijuana retailer the tax, interest, and penalties provided by this Division. When this determination is made, notice shall be given as provided in subsection (1)(b) of this section of the amount so assessed. Such determination and notice shall be made and mailed within three years of the discovery of any fraud, intent to evade, failure or refusal to collect the tax, or failure to file a return. Any determination shall become due and payable upon receipt of notice and shall become final within twenty days after the Tax Administrator has given notice thereof; provided, however, the marijuana retailer may request a review of the determination by filing a petition with the Marijuana Item Tax Review Committee within twenty days after the service of such notice.

SECTION 12.02.090

APPEAL TO MARIJUANA ITEM TAX REVIEW COMMITTEE

Any determination by the Tax Administrator pursuant to this Division, or any other applicable law, may be appealed to the Marijuana Item Tax Review Committee within twenty (20) days of serving or mailing of the tax notice or a decision given by the Tax Administrator. All appeals must be in writing and clearly identify the determination of the Tax Administrator being appealed. The Marijuana Item Tax Review Committee shall fix a time and place for hearing such appeal and shall give the appellant not less than twenty days written notice of the time and place of hearing.

SECTION 12.02.100

MARIJUANA ITEM TAX REVIEW COMMITTEE

The Board of Commissioners is authorized to create a Marijuana Item Tax Review Committee composed of at least three (3) members. If said Committee is not created, the Board shall perform all duties and have all powers given to the Committee by this Division. The Committee shall select from its members a chairman who shall serve at its pleasure. The committee shall keep a record of its transactions. The Committee shall be deemed to be in the office of the Tax Administrator and shall keep its files in that office. The members of the Committee shall not, at

any time, receive any compensation as such members or acting members for their services on the Committee. The Committee shall be appointed by the Board and shall serve 4-year terms.

SECTION 12.02.110

DUTIES AND POWERS OF MARIJUANA ITEM TAX
REVIEW COMMITTEE

The Committee's duties shall be:

- (1) To hear and determine appeals of orders or decisions of the Tax Administrator. The Committee may affirm, modify or reverse such orders or decisions, or dismiss the appeals, as may be just, and shall prescribe such forms, rules and regulations relating to appeals as may be deemed necessary. In review of the Tax Administrator decision or order, the committee may take such evidence and make such investigation as is deemed necessary. It shall give notice of its determinations in the manner set forth in Section 12.02.080(1)(b) and shall file a copy of such determination with the Tax Administrator with certification thereon of the date of service thereof. Such determination shall be final and conclusive upon filing of the determination with the Tax Administrator.
- (2) To approve, modify, or disapprove all forms and policies prescribed by the Tax Administrator in the administration and enforcement of this Division.
- (3) To hear and determine in such manner as shall be just, any protest which may be made by any person who may be interested, to any form or policy approved or prescribed by the Committee.
- (4) To make such investigations as are deemed advisable regarding the imposition and administration of the marijuana item tax and report the findings to the Board; to act in an advisory capacity to the Board on matters pertaining to the marijuana item tax and enforcement problems and to recommend to the Board the adoption, amendment, or repeal of regulations pertaining thereto.

SECTION 12.02.120

LIEN

- (1) The tax imposed by this Division together with the interest and penalties, reasonable attorneys' fees, filing fees, and advertising costs shall be and, until

paid, remain a lien from the date of its recording with the clerk, and superior to all subsequent recorded liens on all tangible personal property used in the business of a marijuana retailer within the county, and may be foreclosed on and sold as may be necessary to discharge said lien. Upon the recording of the lien with the county clerk, notice of the lien shall be issued by the Tax Administrator whenever the marijuana retailer is in default in the payment of the tax, interest, and/or penalty. A copy of the notice shall be sent by certified mail to the marijuana retailer. The personal property subject to a lien seized by any deputy or employee of the Tax Administrator may be sold at public auction after 10 days' notice by one publication in a newspaper of general circulation published in the county. Any lien for taxes shown on the records of the proper county official shall, upon payment of all taxes, penalties, and interest thereon, be released by the Tax Administrator when the full amount determined to be due has been paid to the county. Upon payment, the marijuana retailer or person making such payment shall have a receipt stating thereon that the full amount of taxes, penalties, and interest have been paid and that the lien is hereby released and the record of lien is satisfied.

- (2) The lien or liens created by this section attach to all tangible personal property referenced herein. The lien or liens created shall also attach to the proceeds of the sale of tangible personal property subject to the lien or liens if: (A) Subsequent to the recording of the lien or liens, tangible personal property, or any part thereof, is sold or delivered to an agent, broker, cooperative agency, or other person to be sold or otherwise disposed of; and (B) The purchaser, agent, broker, cooperative agency, or other person has actual or constructive notice of the filing of the lien or liens, and the proceeds that were received or will be received from the sale or other disposal of the tangible personal property have not been delivered to the owner of the tangible personal property.

- (3) Any person to whom a notice of lien has been given as provided by this section, who dismantles, removes from the county, misdelivers, or conceals tangible personal property or the proceeds of the sale of tangible personal property upon which there is a valid lien without the written consent of the lien claimant shall be liable to the lien claimant for damages proximately resulting therefrom.

SECTION 12.02.130

INSPECTION OF RECORDS; DEMAND FOR
RECORDS; REIMBURSEMENT OF TAX
ADMINISTRATOR'S EXPENSES

- (1) The Tax Administrator, upon oral or written demand, may examine during business hours the books, papers, records, and equipment of marijuana retailers and conduct any other investigation the Tax Administrator deems necessary to carry out the provisions of this Division.
- (2) Upon written demand, the Tax Administrator may require a marijuana retailer to deliver to the Tax Administrator the books, papers, records, or any other documents necessary to determine the tax liability of a marijuana retailer. The marijuana retailer may provide the Tax Administrator with copies of said documents. A marijuana retailer shall be given no less than thirty (30) days to comply with a Tax Administrator's request for records under this section. The request for records must be served upon a marijuana retailer in the manner specified in Section 12.02.080(1)(b) of this Division.
- (3) If a marijuana retailer is found to be in violation of this Division, subject to a deficiency determination under Section 12.02.080(1), and/or found to have committed fraud or willfully evaded the provisions of Section 12.02.080(2), the marijuana retailer shall be responsible for all reasonable costs incurred by the Tax Administrator in inspecting records, requesting records, reviewing records, or taking any other investigatory actions pursuant to this section and resulting from the violation, deficiency, fraud, or willful evasion of this Division by the marijuana retailer.

SECTION 12.02.140

EXEMPTIONS

- (1) The sale of medical marijuana by an entity registered with the Oregon Health Authority under ORS 475B.450 are exempt from the tax imposed under this Division; provided however, that to the extent such an entity also engages in the sale of marijuana items as a marijuana retailer under Oregon Revised Statutes regulating the Recreational Use of Cannabis, no such exemption shall apply to those sales.
- (2) The tax imposed by County Code 12.01.050 and collected pursuant to this Division shall not be imposed on the sale of marijuana retail items to a "registry identification cardholder," as defined by ORS 475B.410, or on a "designated primary caregiver," defined by ORS 475B.410, who is purchasing a marijuana item for a registry identification cardholder.

SECTION 12.02.150

SEVERABILITY

If any section, subsection, paragraph, sentence, clause or phrase of this Division, or any part thereof, is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this Division or any part thereof. The Board hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

SECTION 12.02.160

VIOLATIONS; PENALTIES

It is unlawful for any marijuana retailer or other person so required, to fail or refuse to register, furnish any required return or other data required by the Tax Administrator, or to render a false or fraudulent return. No person required to make, render, sign, or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due under this Division. Violation of any of the provisions of this Division shall constitute a Class A Violation, subject to a maximum penalty of two thousand dollars (\$2,000) for each day a violation occurs.