

Tax Language in S.54 (as proposed to be amended by House Gov. Ops.)

Sec. 14. Creation of Cannabis Excise Tax and Cannabis Local Option Tax

- § 7900. DEFINITIONS
 - Specific definition section for the chapter.
 - Virtually all of the definitions come from codified law.
- § 7901. CANNABIS EXCISE TAX
 - 16 percent cannabis excise tax on retail sales of cannabis and cannabis products (including food and beverages) to be paid by the purchaser to the retailer or integrated licensee and held in trust for the State.
- § 7902. CANNABIS LOCAL OPTION TAX
 - Two percent cannabis local option tax on retail sales of cannabis and cannabis products (including food and beverages) to be paid by the purchaser to the retailer or integrated licensee and held in trust for the State.
 - Can be adopted by any municipality that does not currently prohibit the retail sale of cannabis and cannabis products and has provided notice of the tax and amount to the Department of Taxes at least 90 days prior to the first day of the tax quarter when the tax will be collected. (§ 7902(b)).
 - ***NOTE: This language needs to change because 7 V.S.A. § 863 in House Gov. Ops. amendment makes municipalities opt-in and not opt-out, also might want to change the “and amount” language if it can be two percent or nothing.***
 - (b) The cannabis local option tax may be adopted by a municipality that:
 - (1) currently permits the retail sale of cannabis and cannabis products within the municipality; and
 - (2) provided notice of the tax to the Department of Taxes at least 90 days prior to the first day of the tax quarter when the cannabis local option tax will be collected.
 - All of the cannabis local option tax revenue goes back to the municipality on a quarterly basis less a \$5.96 per monthly return administrative fee that is kept by the Department of Taxes (§ 7902(f)).
 - *Note: Destination basis language is to address taxation if deliveries are allowed (deliveries are prohibited in S.54 as proposed to be amended by House Gov. Ops., see 7 V.S.A. § 907(e), but future of deliveries addressed in reporting required in 2020, see Sec. 5(f)(2), (3)).*
 - Cannabis local option tax does not affect the validity of any existing provision of law or municipal charter authorizing a municipality to impose a local option tax on anything not subject to the cannabis local option tax.
- GENERAL THINGS TO NOTE:
 - Both the cannabis excise tax and cannabis local option tax are separate from and in addition to one another; are not included in the sales price for purposes of calculating the other tax; and must appear as separate itemizations on the receipt from the cannabis retailer (§§ 7901(c), 7902(d)).
 - Certain sales are exempt from both taxes:

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1. Sales where the State is without power to tax (standard language);
 2. Cannabis and cannabis product sales made by a dispensary to a registered qualifying patient; and
 3. Sales not for resale (sales from a cannabis cultivator, cannabis product manufacturer, cannabis wholesaler, or integrated licensee to a cannabis product manufacturer, cannabis retailer, cannabis wholesaler, or integrated licensee).
- (§§ 7901(d), 7902(e))

- § 7903. LIABILITY FOR TAXES
 - Standard language on authority to collect/liability for collection, taxes held in trust for the State, and refunds if taxes should not have been collected.
- § 7904. RETURNS; RECORDS
 - Permits the Department of Taxes to choose to require electronic submission of returns and/or prohibit tax returns paid in cash and aligns the tax return due date with other retail taxes on the 25th day of the month.
 - Retailer and integrated licensee records must be maintained for three years and are subject to inspection by the Department of Taxes.
- § 7905. BUNDLED TRANSACTIONS
 - The full retail purchase price of a bundled transaction containing cannabis or cannabis products is subject to the cannabis excise tax and cannabis local option tax unless the retailer or integrated licensee can identify by reasonable and verifiable standards the portion of the bundled transaction that is not subject to the two taxes.
 - Bundled transaction means (1) the retail sale of two or more distinct or identifiable products, one of which is cannabis or a cannabis product, for one nonitemized price or (2) cannabis or cannabis product that is provided free of charge with the required purchase of another product.
- § 7906. LICENSE
 - Retailer or integrated licensee must have and display a cannabis retail tax license from the Department of Taxes in order to collect the cannabis excise tax and cannabis local option tax.
 - The Cannabis Control Board may require the Commissioner of Taxes to Suspend or revoke the license (§ 7906(c)).
- § 7907. ADMINISTRATION OF CANNABIS TAXES
 - Permits the Commissioner of Taxes to adopt rules pursuant to the Administrative Procedures Act to administer and enforce this new chapter (§ 7907(a)).
 - Other sales tax provisions apply if not inconsistent (§ 7907(b)).

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- § 7908. STATUTORY PURPOSES
 - Statutory purpose, required pursuant to 32 V.S.A. § 312(d), for the tax expenditures in §§ 7901(d), 7902(e): lower the cost of medical products and avoid taxing cannabis and cannabis products to be incorporated into a new cannabis product.
- § 7909. ADDITIONAL TAXES DO NOT APPLY
 - Cannabis excise tax and cannabis local option tax are the only taxes that apply to the retail sale of cannabis and cannabis products.

Sec. 14a. Disclosure of Registered Tax Collectors

- Adds language to 32 V.S.A. § 3102(d)(3) that permits the Department of Taxes to disclose what cannabis retailers and integrated licensees have been granted a cannabis retail tax license by the Department of Taxes.

Sec. 15. Sales Tax Exemption (definition of “food and food ingredients”)

- Excludes cannabis and cannabis products from the definition of food and food ingredients in 32 V.S.A. § 9701(31).

Sec. 16. Sales Tax Exemption

- Exempts all sales of cannabis and cannabis products from the six percent sales and use tax (32 V.S.A. § 9741(53)).

Sec. 17. Tax Expenditure

- Statutory purpose, required pursuant to 32 V.S.A. § 312(d), of the six percent sales and use tax exemption for cannabis and cannabis products: lower the cost of medical products and avoid having both the sales tax and the cannabis excise and local option taxes apply (32 V.S.A. § 9706(mm)).

Sec. 17a. Meals and Rooms Tax

- Excludes cannabis and cannabis products from the definition of taxable meal in 32 V.S.A. § 9202(10) for purposes of the meals and rooms tax.

Sec. 17b. Meals and Rooms Tax Expenditure

- Statutory purpose, required pursuant to 32 V.S.A. § 312(d), of the meals and rooms tax exemption for cannabis and cannabis products: avoid having both the meals and rooms tax and the cannabis excise and local option taxes apply to edible cannabis products (32 V.S.A. § 9201(n)).

Tax Language in S.54 (as proposed to be amended by House Gov. Ops.)**Sec. 18 Income Tax Deduction**

- Decreases both Vermont net income and taxable income by any federal deductions that the taxpayer would have been allowed for the authorized cultivation, testing, processing, or sale of cannabis or cannabis products but for federal law.

Sec. 18b. Substance Misuse Prevention Fund

- 30 percent of the revenues raised by the cannabis excise tax, but no more than \$6M per fiscal year, goes to the Substance Misuse Prevention fund (18 V.S.A. § 4810(b)(1)).

Sec. 5. Cannabis Control Board Report

- January 15, 2020 report:
 - Subdivision (a)(3) – Report back on whether monies generated from fees will be sufficient to support the statutory duties of the Cannabis Control Board and if any portion of the cannabis excise tax revenue should be allocated to the Cannabis Regulation Fund.
 - Subdivision (a)(4) – Report back on whether monies collected pursuant to the cannabis local option tax should be shared with municipalities that host a cannabis establishment that is not a retailer or integrated licensee and, if so, recommend a sharing formula.

Sec. 6c Contingent Cannabis Regulation Fund Deficit Offset

- If the Cannabis Regulation Fund has a negative balance at the close of fiscal year 2022 then proceeds from the cannabis excise tax in fiscal year 2023 in the amount of the negative balance shall be deposited into the Cannabis Regulation Fund.
- ***NOTE: There might need to be clarity on what happens in fiscal year 2023 with respect to whether the Cannabis Regulation Fund negative balance, if any, is eliminated from total proceeds from the cannabis excise tax before 30 percent goes to the Substance Misuse Prevention Fund.***