

June 2, 2023

	Yes	No
DOR Administrative Costs/Savings	X	

Department of Revenue
Analysis of Session Laws 2023, Chapter 63

	Fund Impact			
	F.Y. 2024	F.Y. 2025	F.Y. 2026	F.Y. 2027
	(000's)			
Gross Receipts Tax	\$10,600	\$32,000	\$52,200	\$68,600
Sales Tax	\$4,800	\$18,000	\$31,800	\$42,600
Property Tax Refund Interaction	\$0	\$0	\$10	\$40
General Fund – Total	\$15,400	\$50,000	\$84,010	\$111,240
Gross Receipts Tax	\$2,700	\$8,000	\$13,100	\$17,200
Special Revenue Fund – Total	\$2,700	\$8,000	\$13,100	\$17,200
Sales Tax	\$300	\$1,000	\$1,800	\$2,500
Natural Resources and Arts Funds – Total	\$300	\$1,000	\$1,800	\$2,500
Total – All Funds	\$18,400	\$59,000	\$98,910	\$130,940

Gross receipts tax is effective for gross receipts received after June 30, 2023.
Property tax changes are effective beginning with property taxes payable in 2024 and thereafter.
Business expense subtraction is effective for taxable years beginning after December 31, 2022.

EXPLANATION OF THE BILL

Current Law:

Therapeutic use of medical cannabis is legal in Minnesota for individuals with a qualifying medical condition who have been admitted into a patient registry program. Medical cannabis is not subject to the general state sales tax. Recreational use of cannabis is illegal in Minnesota. Hemp-derived, edible cannabinoid products for non-medical use are legal in Minnesota and are subject to sales tax.

Federal law prohibits a business from claiming any expense as a deduction from federal taxable income if the business consists of trafficking in controlled substances such as cannabis. If recreational consumption and sales of cannabis is legalized in Minnesota, current law would prevent businesses in the industry from subtracting their expenses on their state taxes.

Proposed Law:

The act legalizes the use, possession, or transport of adult-use cannabis, cannabis products, and cannabis accessories by individuals 21 years or older. Individuals 21 years or older are allowed to grow a limited number of cannabis plants for personal use without a license. Businesses involved with the manufacture, distribution, and sale of the products are required to be licensed with the state.

EXPLANATION OF THE BILL (Cont.)

A gross receipts tax of ten percent is imposed on the retail sale of cannabis, and cannabis products. The tax is also imposed on low-potency, hemp-derived edible cannabinoid products. The act dedicates 20% of revenues from the gross receipts tax to the newly established local government cannabis aid account in the Special Revenue Fund. The remaining revenues from the gross receipts tax is deposited in the General Fund.

The state general sales tax of 6.875%, and any local general sales taxes, also applies to sales of cannabis and cannabis products. Medical cannabis is exempt from the gross receipts tax and the sales tax. Cannabis products are not considered food or drugs for sales tax purposes. Sales of cannabis products to governments, nursing homes, and boarding care homes are not exempt from the sales tax. Local governments are not allowed to prohibit the sale or possession of cannabis or impose a local excise cannabis tax. The gross receipts tax and sales tax does not apply to cannabis sales made in Indian county by a Minnesota Tribal government-licensed business.

The act classifies property used for raising, cultivating, processing, or storage of cannabis plants, cannabis flower, or cannabis products for sale as class 3 commercial, industrial, or utility property. As class 3, this property is subject to the state general property tax levy on commercial-industrial property. The act is effective beginning with taxes payable in 2024.

The act allows the subtraction from Minnesota taxable income of expenses incurred in the business of providing recreational cannabis, for entities registered in Minnesota to do so. The subtraction is also allowed in determining alternative minimum taxable income.

REVENUE ANALYSIS DETAIL

Cannabis Gross Receipts Tax

- Estimates of cannabis usage in Minnesota are based on National Surveys on Drug Use and Health conducted by the Substance Abuse and Mental Health Services Administration.
- Sales data from several legal cannabis states was used.
- An elasticity of -0.54 is assumed.
- It is assumed that the Office of Cannabis Management will complete rulemaking and issue licenses in time for cannabis businesses to be operational by the beginning of 2024.
- Growth rates are estimated using cannabis sales growth from several legal cannabis states.
- The fiscal year 2024 estimate is adjusted for eleven months of impact for the gross receipts tax on edible cannabinoid products, and five months of impact for cannabis products which are assumed to be first sold at retail on January 1, 2024.
- For the purposes of controlled substances taxation, the definition of marijuana is changed to illegal cannabis which would include any cannabis that is in violation of Minnesota cannabis regulations or criminal laws. The impact would be negligible.

REVENUE ANALYSIS DETAIL (Cont.)

Property Tax Interaction

- Under current law, the only legal property used for raising, cultivating, processing, and storing cannabis plants, cannabis flower, and cannabis products is for medicinal cannabis. These properties are already classified as commercial, so their classification does not change under the act.
- Any other properties used for these purposes are not classified for this use because their use is illegal under current law. It is assumed that some properties would change use to cannabis production under the act. The current property types of these properties are unknown, so it is assumed that some properties would change classification while others would already be classified as class 3. Since class 3 property has the highest classification rate, properties that change classification would have a higher net tax capacity under the act.
- The act shifts property taxes onto properties changing to class 3 and away from all other properties, including homesteads.
- The shift in taxes away from homesteads would decrease state-paid property tax refunds beginning in fiscal year 2026.

Business Expense Subtraction

- The expected additional business income and corporate tax revenue from the legalization of cannabis is not included in the forecast. The business expense subtraction provided for in the act is also not included as a revenue impact.
- The business income and corporate tax subtraction is estimated to reduce general fund income and corporate tax revenue by \$700,000 in fiscal year 2024, \$3.2 million in fiscal year 2025, and \$6.0 million in fiscal year 2026.
- The estimates are based on Colorado cannabis business expenses and sales scaled to the Minnesota population and economy.
- A 7% marginal individual income tax rate is assumed for pass-through businesses and a 9.8% marginal income tax rate is assumed for C corporations.

Minnesota Department of Revenue
Tax Research Division
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