WEST VIRGINIA CODE CHAPTER 16A ARTICLE 9

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§16A-9-1. Tax on medical cannabis.

(a) Tax imposed. — For the privilege of engaging or continuing within this state in the business of a dispensary of medical cannabis, as defined in §16A-2-1 of this code, there is hereby levied upon and collected from every person exercising the privilege a privilege tax.

(b) Rate and measure of tax. — The rate of tax imposed by this section shall be 10 percent of the gross receipts the dispensary receives or accrues during the reporting period, depending upon its method of accounting for federal income tax purposes, from the sale of medical cannabis to a patient or to a caregiver. The tax imposed by this section shall not be added by the dispensary as a separate charge or line item on any sales slip, invoice, receipt, other statement, or memorandum of the price paid by a patient, or caregiver.

(c) Definitions. — For purposes of this article:

(1) "Gross receipts" means and includes the gross receipts, however denominated, derived from the sale, distribution, or transfer of medical cannabis, without any deduction on account of the cost of property sold; the cost of materials used to grow, process, or sell the medical cannabis; labor costs, taxes, royalties paid in cash or in kind, or otherwise; interest or discount paid; or any other expense, however denominated.

(2) "Person" includes any natural person, corporation, partnership, limited liability company, or other business entity as those terms are defined in §11-1-1 et seq. of this code.

(d) Payment of tax and reports. — Every person subject to the tax imposed by this section shall make quarterly payments under this section for each calendar quarter at the rate prescribed in subsection (b) of this section on the gross receipts received or accrued for the calendar quarter, depending upon the person’s method of accounting for federal income tax purposes. The tax shall be due and payable on the 20th day of January, April, July, and October for the preceding calendar quarter. When the payment of tax is due, the person shall file a tax return in a form prescribed by the Tax Commissioner. The Tax Commissioner may require such forms, schedules, and returns and impose such filing and remittance requirements as may be necessary or convenient for the efficient administration of taxes imposed by this section.

(e) Electronic filing and payment. – The taxes imposed by this section shall be paid to the Tax Commissioner by electronic funds transfer, unless electronic payment is prohibited by state or federal law. Tax returns required by this section shall be filed electronically with the Tax Commissioner.

(f) Liability for reporting and payment of tax. — If any dispensary does not renew its permit, gives up its permit, loses its permit to operate a dispensary, or otherwise ceases business then any tax, additions to tax, penalties, and interest imposed by this article and by §11-10-1 et seq. of this code shall become due and payable immediately and the dispensary shall make a final return or returns and pay any tax which is due within 30 days after not renewing its

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permit, giving up its permit, losing its permit to operate a dispensary, or otherwise ceasing business. The unpaid amount of any tax is a lien upon the property of the dispensary and of its owners.

(g) Deposits of proceeds. — All money received from the tax imposed under this section, including any interest and additions to tax paid under §11-10-1 et seq., less the amount of any refunds, shall be deposited into the Medical Cannabis Program Fund.

(h) Exemption. — Sales of medical cannabis shall not be subject to the taxes imposed by §11-15-1 et seq. and §11-15A-1 et seq. of this code if gross receipts from the sale thereof are included in the measure of tax under this section and the tax has been paid as provided in this section. Additionally, sales of medical cannabis shall not be subject to a special district excise tax imposed by a county or municipality pursuant to this code, or to a county or municipal sales tax.

(i) Information. —

(1) Persons subject to the tax imposed by this section shall provide to the Tax Commissioner any information the Tax Commissioner may require to administer, collect, and enforce the tax imposed by this section.

(2) Notwithstanding any provision of §11-10-1 et seq. of this code or of this article to the contrary, the Tax Commissioner, the bureau, and the Secretary of Health and Human Resources may enter into written agreements pursuant to which the Tax Commissioner will disclose to designated employees of the bureau and the Secretary of Health and Human Resources, whether a particular grower, processor, or dispensary is in good standing with the Tax Commissioner, and the bureau and the secretary will disclose to designated employees of the Tax Commissioner information a grower, processor, or dispensary provides to the bureau and the secretary pursuant to this code. Tax information disclosed pursuant to a written agreement shall remain confidential in the hands of the receiver and shall not be disclosable under §29B-1-1 et seq. of this code. To the extent feasible, this information should be shared or exchanged electronically.

(j) Rules. — The Tax Commissioner may promulgate, in accordance with the provisions of §29A-3-1 et seq. of this code, such procedural, interpretive, or legislative rules, including emergency rules, as the Tax Commissioner may deem necessary or convenient for the efficient administration of taxes imposed by this §16A-9-1 of this code.

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§16A-9-2. Medical Cannabis Program Fund.

(a) Fund established. — The Medical Cannabis Program Fund is established as a special fund in the State Treasury. Money in the fund is appropriated as set forth in subsection (c) of this section. Any amount unspent at the end of a fiscal year shall be appropriated to the bureau for its operations.

(b) Source of funds. — Fees and taxes payable under this act shall be deposited into the fund. The money deposited into the fund may only be used for the purposes set forth in this section. Any interest accrued shall be deposited into the fund.

(c) Use of proceeds. — Money in the fund is allocated in accordance with the following percentages:

(1) Fifty-five percent of the revenue in the fund shall be allocated to the bureau.

(2) The remaining forty-five percent of the revenue in the fund shall be allocated as follows:

(A) Fifty percent shall be allocated to the Fight Substance Abuse Fund created by section eight, article nine, chapter sixty-a of the code.

(B) Forty percent shall be allocated to the Division of Justice and Community Services, for grants to local law enforcement agencies for training, drug diversion, and other programs focused on crime and addiction, pursuant to and in accordance with the provisions of article nine-a, chapter fifteen of this code.

(C) Ten percent shall be allocated to the fund created in section four, article twenty-nine, chapter thirty, to be used for law enforcement professional training and professional development programs.

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§16A-9-3. Tax on medical cannabis crimes and penalties.

Notwithstanding any provision in §11-9-1 et seq. of this code to the contrary, each and every provision of the West Virginia Tax Crimes and Penalties Act set forth in §11-9-1 et seq. of this code shall apply to the tax imposed by §16A-9-1 et seq. of this code with like effect as if said act were applicable only to the tax imposed by §16A-9-1 et seq. of this code and were set forth in extenso in §16A-9-1 et seq. of this code.

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§16A-9-4. Procedure and administration of the tax on medical cannabis.

Notwithstanding any provision of §11-10-1 et seq. of this code or any other provision of this code to the contrary, each and every provision of the West Virginia Tax Procedure and Administration Act set forth in §11-10-1 et seq. of this code shall apply to the tax imposed by §16A-9-1 et seq. with like effect as if the said West Virginia Tax Procedure and Administration Act were applicable only to the tax imposed by §16A-9-1 et seq. of this code and were set forth in extenso in §16A-9-1 et seq. of this code.

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