

Opening Statement
Amanda Hiller, Acting Commissioner
New York State Department of Taxation and Finance
Joint Public Hearing on Issues Related to Adult-Use Cannabis
October 30, 2023

Good afternoon. I'm Amanda Hiller, General Counsel and Acting Commissioner of the Department of Taxation and Finance.

I welcome this opportunity to discuss the work of the Tax Department with regard to adult-use cannabis.

As is true for over 40 other state and local taxes, the Tax Department administers the taxes on adult-use cannabis: we register the taxpayers who must pay adult-use cannabis taxes, process their tax filings, and collect and distribute the tax revenue.

There are two different types of adult-use cannabis taxes, the taxes paid by retailers and the tax paid by distributors. Adult-use cannabis retailers must pay state and local taxes on the adult-use cannabis products they sell to their retail customers. These taxes, like sales taxes, are based on the retail sales price of the product. We distribute the local taxes to counties, who are permitted to retain a portion and must distribute the balance to the localities where licensed dispensaries are operating.

Adult-use cannabis distributors must pay a separate tax on the products they sell to adult-use cannabis retailers. Pursuant to the Marihuana Regulation and Taxation Act, or MRTA, this tax is imposed at various rates based on the type and potency of various adult-use cannabis products. Sometimes the grower or processor sells directly to retailers, in which case they are responsible for paying the distributor tax.

To date, the Tax Department has registered 26 adult-use cannabis retailers and 124 adult-use cannabis distributors. We have collected \$8.6 million in retail taxes, including \$2.6 million in local taxes. We have also collected \$4.3 million in distributor taxes.

The Tax Department now also has the responsibility to enforce these cannabis taxes. As most of you know, when the MRTA was enacted in 2021, the enforcement of the new adult-use cannabis laws was vested in the Office of Cannabis Management. The Tax Department was assigned administrative responsibilities, but not enforcement authority.

That changed this past May when the 2023-24 state budget included new cannabis enforcement laws that are modeled on our tobacco tax laws. The Tax Department now has the authority and responsibility to enforce the state's adult-use cannabis taxes, including the authority to inspect businesses selling cannabis to ensure tax compliance and the authority to seize any illicit cannabis we find.

The Tax Law now includes a number of civil penalties that increase substantially for repeat offenders. And, the state's tax evasion criminal statutes now treat evasion of cannabis taxes like evasion of other taxes.

The distributor-level tax is the key to this enforcement authority: this tax must be paid on every adult-use cannabis product when it is transferred to a retailer, so any retailer holding product for which this tax was not paid has violated the Tax Law and all that illicit cannabis can then be seized.

Tax Department criminal investigators, together with investigators from the Office of Cannabis Management, began conducting regulatory inspections of retail cannabis locations in early June. To date we have conducted 275 inspections of 202 unique locations. We have seized over 4.5 tons of illicit cannabis.

I am incredibly proud of the work Team Tax has been doing around cannabis enforcement. And we're just getting started.

Again, thank you for this opportunity. I'm happy to take questions.