



BLOG | TAXES

# Getting Into the Weeds About Potential Recreational Marijuana Revenues

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## Introduction

Referenda to legalize adult use recreational marijuana were on ballots in four states—Arizona, Montana, New Jersey, and South Dakota—this year, and passed in each.<sup>1</sup> These states join 11 others that already have legalized recreational adult use of marijuana; now, three of New York’s bordering states have or will soon have recreational marijuana markets. Retail sales in Massachusetts began in 2018 and Vermont’s legislature recently finalized provisions to begin sales in 2022. Some elected leaders are calling for New York to join these states and are touting the revenue-raising potential of creating a new market; however, State leaders should be cautious about relying on these potential revenues to help close budget gaps. Experience in other states shows that it takes approximately three to four years to realize consistent tax revenues.

## Marijuana Legalization Proposals in New York

Governor Andrew Cuomo’s last two Executive budgets have proposed marijuana legalization.<sup>2</sup> In pursuit of regional alignment on marijuana legalization, Governor Cuomo and some neighboring governors (including New Jersey Governor Phil Murphy) convened to discuss “a collaborative joint regional approach to marijuana and vaping legislation and policies” in October 2019.<sup>3</sup> Assembly Speaker Carl Heastie and Senate Majority Leader Andrea Stewart-Cousins also have signaled their support, and during the 2020 legislative session, Senate Finance Committee chair Liz Krueger and Assembly Majority Leader Crystal Peoples-Stokes introduced legalization bills in their respective houses.<sup>4</sup>

Although the Governor, Assembly Speaker, and Senate Majority Leader are in favor of legalization, they have not agreed on a proposal. Key differences are focused on licensure details, dedicated uses of tax receipts, and public health and safety concerns. With four more states, including New Jersey, on the path to legalization, proposals are certain to be considered again during the 2021 Legislative session.<sup>5</sup>

## Principles for Budgeting Potential Tax Receipts

Any proposal that advances should follow [three general precepts](#) for budgeting marijuana tax revenue:

**1. Be cautious and pragmatic:** Recreational marijuana revenues would depend on implementing new tax, licensing, and oversight structures that take approximately 12 to 18 months based on experiences in other states. In states that have begun selling recreational marijuana, the time from legalization to the date of first commercial sale has been between 190 days and 1,713 days. While each state's approach and experience is unique, the fastest time to launch a retail marijuana market was in the most recent state to legalize (Illinois). (See Table 1.) When implemented, the legal market does not mature immediately; it takes at least another two years to realize robust tax receipts. Thus, it would likely take three to four years from legalization for the State to yield consistent receipts. Even after legalization, legal retailers still compete with lingering illicit markets, dampening legal sales and associated tax revenues.<sup>6</sup>

**2. Keep revenues on-budget:** Any future revenue should be received and spent on-budget, not through off-budget trusts or other fiscal gimmickry.

**3. Free from capture:** The revenue should **not** be committed to a specific purpose. Marijuana revenue will be recurring and reliable when the market is mature and should be used for recurring operating budget purposes, as determined by elected leaders in each year's budget process. Dedicating a portion to cover administrative costs and fund consequential public health and substance abuse programming may be reasonable. Vermont and Maine are the only states that have dedicated a majority share of revenues to their state's general fund.

**Table 1: Summary of State Recreational Marijuana Tax Policies**

	<u>First Day Enacted</u>	<u>First Sale Date</u>	<u>Days from Enactment to Sale</u>	<u>Recreation Marijuana Tax Structure</u>	<u>Revenue in Most Recent Year</u>	<u>Summary of Uses of Revenue</u>
<b>Colorado</b>	11/6/2012	1/1/2014	421	<ul style="list-style-type: none"> <li>• 15% excise tax on first sale</li> <li>• 15% marijuana sales tax</li> <li>• Exempted from sales tax</li> </ul>	<b>\$341,691,001</b> <i>(Aug 19 to Jul 20)</i>	Approximately half goes to school construction and public school aid and half is split by public health, substance abuse services, law enforcement, and other functions.
<b>Washington</b>	11/6/2012	7/8/2014	609	<ul style="list-style-type: none"> <li>• 37% marijuana sales tax</li> <li>• Subject to 6.5% general sales tax</li> </ul>	<b>\$395,523,567</b> <i>(Jul 18 to Jun 19)</i>	Approximately half goes to the Basic Health Fund, one-third goes to the general fund, and the remainder goes to public health and related services.
<b>Alaska</b>	11/4/2014	10/29/2016	725	<ul style="list-style-type: none"> <li>• \$50 per ounce excise tax on first sale</li> </ul>	<b>\$225,543,653</b> <i>(Sep 19 to Aug 20)</i>	Half goes to the Recidivism Reduction Fund and half goes to the general fund.
<b>Oregon</b>	11/4/2014	10/1/2016	697	<ul style="list-style-type: none"> <li>• 17% marijuana sales tax</li> </ul>	<b>\$142,517,466</b> <i>(Sep 19 to Aug 20)</i>	40% goes to school aid, 25% goes to mental health and substance abuse services, 20% goes to local governments and 15% goes to the state police.

<b>California</b>	11/8/2016	1/1/2018	419	<ul style="list-style-type: none"> <li>• \$9.65 per ounce excise tax on first sale</li> <li>• 15% marijuana sales tax</li> <li>• Subject to 7.25% general sales tax</li> </ul>	<b>\$764,000,000</b> (Jul 19 to Jun 20)	60% to substance abuse education and prevention, 20% to environmental restoration and protection, and 20% to state and local law enforcement.
<b>Maine</b>	11/8/2016	10/9/2020	1,431	<ul style="list-style-type: none"> <li>• \$335 per pound excise tax on first sale</li> <li>• 10% marijuana sales tax</li> <li>• Subject to 5.5% general sales tax</li> </ul>	n/a	12% goes to public health and law enforcement purposes, approximately 6% goes to municipalities where recreational marijuana is sold, and remainder goes to the general fund.
<b>Massachusetts</b>	11/8/2016	7/1/2018	600	<ul style="list-style-type: none"> <li>• 10.75% marijuana sales tax</li> <li>• Subject to 6.25% general sales tax</li> </ul>	<b>\$68,750,000</b> (Jul 19 to Jun 20)	All revenues net of expenses of the Cannabis Control Commission are to be used for public health and substance abuse programming including aid to communities disproportionately impacted by marijuana offenses
<b>Nevada</b>	11/8/2016	7/1/2017	235	<ul style="list-style-type: none"> <li>• 10% excise tax on first sale</li> <li>• 10% marijuana sales tax</li> <li>• Subject to 6.85% general sales tax</li> </ul>	<b>\$110,385,289</b> (Jul 19 to Jun 20)	Approximately 60% goes to the state's rainy day fund and 40% goes to local governments and distributive school aid
<b>Vermont</b>	1/22/2018	10/1/2022 (approx.)	1,713	<ul style="list-style-type: none"> <li>• 14% marijuana sales tax</li> <li>• Subject to 6 percent state sales tax</li> </ul>	n/a	30% for substance misuse prevention (up to \$10 million) and remainder to general fund.
<b>Michigan</b>	11/6/2018	12/1/2019	390	<ul style="list-style-type: none"> <li>• 10% marijuana sales tax</li> <li>• Subject to 6% general sales tax</li> </ul>	n/a	After administrative costs and \$20 million per year for clinical trials, 15% to municipalities, 15% to counties, 35% to school aid, and 35% to roads and bridges.
<b>Illinois</b>	6/25/2019	1/1/2020	190	<ul style="list-style-type: none"> <li>• 7% tax on cultivator</li> <li>• 10-25% marijuana sales tax depending on form and potency</li> <li>• Subject to 6.25% general sales tax</li> </ul>	n/a	35% to general fund 25% to equity investments 20% to substance abuse 10% to budget stabilization 8% to local governments 2% to public health
Arizona	11/3/2020				TBD	
Montana	11/3/2020				TBD	
New Jersey	11/3/2020				TBD	
South Dakota	11/3/2020				TBD	

**Notes:** In the four states with recent approved ballot referenda, some provisions of legalization are already determined. For example, New Jersey's proposal specifically subjects marijuana to the state's 6.625 percent sales tax. Still many other provisions of each state's programs will be developed in the future, and details in this table are labelled as "TBD" until they are finalized. The tax structures described above include only state general sales rates, excluding any additional sales taxes imposed by local districts. Most states also have licensing fees that generate small amounts of revenue. The original Colorado tax structure included a 10 percent excise tax and sales were subject to the 2.9 percent general sales tax, but the structure was amended to its current form as of July 2017. Revenue data for Washington includes excise and sales tax revenues. The \$50 per ounce tax in Alaska is assessed on mature buds, with lower tax rates on immature buds and other plant parts. California's cultivation tax rates are periodically adjusted for inflation, with e \$9.65 per flower ounce effective on January 1, 2020. California also has cultivation taxes on non-flower products. Oregon only applies the marijuana excise tax because there is no state or local sales tax in Oregon. Vermont voters authorized recreational marijuana use via referendum in 2018, but legislation for commercial retail sales required consideration. Legislation authorizing commercial production and retail sales of marijuana was enacted on October 7, 2020, and sales may begin beginning on approximately October 1, 2022.

**Sources:** Mitchell L. Moss, Kelsey B. McGuinness, and Rachel G. Wise, *A New Revenue Source for Mass Transit: Legalizing and Taxing Cannabis* (Rudin Center for Transportation Policy & Management, November 2018); Jared Walczak and Scott Drenkard, "State and Local Sales Tax Rates 2018" (Tax Foundation, February 13, 2018); Colorado Department of Revenue, "Marijuana Tax Data" (accessed December 10, 2018); Washington State Liquor and Cannabis Board, "Marijuana Dashboard" (accessed December 10, 2018); Alaska Department of Revenue, "Marijuana Tax Reports" (accessed December 10, 2018); Oregon Department of Revenue, "Oregon marijuana tax statistics" (accessed December 10, 2018); California Department of Tax and Fee Administration, *New Cannabis Taxes Begin January 1, 2018* (September 2017); Massachusetts Department of Revenue, "Learn about Massachusetts tax rates" (accessed December 10, 2018); State of Nevada, "Marijuana in Nevada" (accessed December 10, 2018); and State of Vermont, "Act No. 164: An Act Relating to the Regulation of Cannabis," (October 2022).

## Conclusion

Other states' experiences clearly demonstrate that it takes time for legalized marijuana tax revenues to be realized, but early implementor states now generate significant and consistent revenues. If New York legalizes and taxes the recreational adult use of marijuana, it should be pragmatic in estimating revenues, transparent on the sources and uses of those revenues, and not dedicate the revenues except to administration and perhaps programs related to the consequence of use.

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## Endnotes

1. Bruce Y. Lee, "4 States Vote To Legalize Recreational Marijuana Use: Arizona, Montana, NJ, South Dakota," *Forbes* (November 4, 2020), [www.forbes.com/sites/brucelee/2020/11/04/4-states-vote-to-legalize-recreational-marijuana-use-arizona-montana-nj-south-dakota/?sh=2ad0dcf6558f](https://www.forbes.com/sites/brucelee/2020/11/04/4-states-vote-to-legalize-recreational-marijuana-use-arizona-montana-nj-south-dakota/?sh=2ad0dcf6558f).
2. See New York State Legislature, Part VV of S.1509/A.2009 (2019-2020 Session), and Part BB of S.7509/A.9509 (2019-2020 Session).
3. Governor Andrew M. Cuomo, "Governor Cuomo, Governor Lamont, Governor Murphy and Governor Wolf Co-Host Regional Cannabis Regulation and Vaping Summit" (press release, October 17, 2019), [www.governor.ny.gov/news/governor-cuomo-governor-lamont-governor-murphy-and-governor-wolf-co-host-regional-cannabis](https://www.governor.ny.gov/news/governor-cuomo-governor-lamont-governor-murphy-and-governor-wolf-co-host-regional-cannabis).
4. Denis Slatery, "New York still rolling towards legalizing recreational marijuana as lawmakers prepare for budget talks," *Daily News* (March 4, 2019), [www.nydailynews.com/news/politics/ny-pol-marijuana-new-york-legalization-state-politics-20190226-story.html](https://www.nydailynews.com/news/politics/ny-pol-marijuana-new-york-legalization-state-politics-20190226-story.html); and New York State Legislature, S.1527-C/A.1617-C, "Marihuana Regulation and Taxation Act" (2019-2020 Session).
5. Ryan Deffenbaugh, "Cuomo says time is 'ripe' for recreational marijuana following New Jersey's approval" *Crain's* (November 5, 2020), [www.crainsnewyork.com/politics/cuomo-says-time-ripe-recreational-marijuana-following-new-jerseys-approval](https://www.crainsnewyork.com/politics/cuomo-says-time-ripe-recreational-marijuana-following-new-jerseys-approval).
6. Bill Chappell, "California Says Its Cannabis Revenue Has Fallen Short Of Estimates, Despite Gains," *NPR* (August 23, 2019), [www.npr.org/2019/08/23/753791322/california-says-its-cannabis-revenue-has-fallen-short-of-estimates-despite-gains](https://www.npr.org/2019/08/23/753791322/california-says-its-cannabis-revenue-has-fallen-short-of-estimates-despite-gains).