



MEDICAL MARIJUANA TAX BULLETIN 2021-01

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Medical Marijuana Tax on Clinical Registrants

On April 17, 2016, Governor Tom Wolf signed into law, Act 16 of 2016 known as the Medical Marijuana Act ("the Act"), effective May 17, 2016 (P.L. 84, No. 16). Under the Act, the Pennsylvania tax on medical marijuana is imposed on the gross receipts of a grower/processor received from the sale of medical marijuana at the point a grower/processor sells or transfers product to a dispensary and the tax is paid by the grower/processor at the rate of 5%. Grower/processors and clinical registrant grower/processors must submit quarterly medical marijuana gross receipts tax returns, even for periods where no taxable sales occurred. Returns and payments must be submitted electronically through [myPATH](https://myPATH.pa.gov), the Department of Revenue's online filing system, at myPATH.pa.gov. Due dates for the current year can be found on form REV-1810.

This bulletin is being issued to provide guidance to taxpayers who are deemed "clinical registrants," under the Act.

Pursuant to Chapter 20, Section 2001 of the Act, a "*clinical registrant*" is defined as an entity that:

- (1) is approved by the Department of Health as a clinical registrant;
- (2) has a contractual relationship with an academic clinical research center under which the academic clinical research center or its affiliate provides advice to the entity, regarding, among other areas, patient health and safety, medical applications and dispensing and management of controlled substances; and
- (3) is approved by the Department of Health to hold a permit as both a grower/processor and a dispensary.

Under Section 2002 of the Act, a grower/processor facility owned by a clinical registrant may sell its medical marijuana products only to the clinical registrant's dispensary facilities and the dispensary facilities of other clinical registrants. The facility may sell seeds, medical marijuana plants and medical marijuana products to, or exchange seeds, medical marijuana plants

and medical marijuana products with, any other grower/processor facility holding a permit under Chapter 6 (relating to Medical Marijuana Organizations) or Chapter 20 of the Act. Authorized transactions between permitted Clinical Registrants and permitted grower/processors are not subject to tax.

The internal transfer of product from a grower/processor facility owned by a clinical registrant to its own dispensary is a sale and a taxable transaction. Transfers should be assigned a fair market value by the clinical registrant and have the necessary documentation to substantiate that value in the event of a future audit.

The documentation for each type of product transferred should be sufficient to allow for the identification and comparison of the price conferred on the transferred product(s) to the assigned fair market value of the subject product(s), akin to what would be established through a transfer pricing study. The basis, origin, methodology, and assignment of such values should be kept pursuant to the record keeping obligations under the Act and be made available during department audit.

Failure to keep proper documentation may result in a referral to the Department of Health for violation of the Act, additional assessments of tax, and could result in the suspension of the grower/processor's license.