

## California: Voters' approval of recreational marijuana creates millions in revenue



David M. Kall | Thursday, December 1, 2016

Medical marijuana has been legal in the Golden State since 1996. California was the first state to take such action, but since then, 27 others, along with the District of Columbia, Guam, and Puerto Rico, have also enacted similar laws.

Many were eager for California to do the same for recreational marijuana, and now they have gotten their wish. In the recent election, voters approved the Adult Use of Marijuana Act via [Proposition 64](#), by 56.5 percent to 43.4 percent.

Prop 64 allows adults 21 and over to use and grow marijuana for personal use as of November 9, 2016. The sale and related taxation of recreational marijuana will take effect on January 1, 2018, by way of two different mechanisms. First, a 15 percent excise tax will be imposed on the purchasers of all marijuana and marijuana products, including medical marijuana. There will also be a tax on marijuana cultivators, at the rate of \$9.25 per dry-weight ounce of marijuana flowers, and \$2.75 per dry-weight ounce of marijuana leaves. Starting in 2020, both of these taxes will be adjusted for inflation.

The revenues will be spent on administration and enforcement, along with drug research and treatment. More specifically, here is what the recipients can expect:

- \$10 million per year for 11 years for public California universities to research and evaluate the implementation and impact of Proposition 64. Researchers would make policy-change recommendations to the California Legislature and California Governor.
- \$10 million, increasing each year by \$10 million until settling at \$50 million in 2022, for grants to local health departments and community-based nonprofits supporting job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address barriers to reentry, and linkages to medical care for communities disproportionately affected by past federal and state drug policies.
- \$3 million annually for five years to the Department of the California Highway Patrol, for developing protocols to determine whether a vehicle driver is impaired due to marijuana consumption.

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- \$2 million per year to the UC San Diego Center for Medical Cannabis Research, to study medical marijuana.

After these allocations, the remaining revenue will be distributed as follows:

- 60 percent to youth programs, including drug education, prevention, and treatment.
- 20 percent to prevent and alleviate environmental damage from illegal marijuana producers.
- 20 percent to programs designed to reduce driving under the influence of marijuana and a grant program designed to reduce negative impacts on health or safety resulting from the proposition.

### Prop 64's impact on medical marijuana

Prop 64 also contained a provision to exempt medical marijuana from the sales and use tax, effective November 9, 2016. A California State Board of Equalization (BOE) [Tax Guide](#) establishes that the exemption applies to the retail sales of medical cannabis, medical cannabis concentrate, edible medical cannabis products, or topical cannabis, as defined in the [Business and Professions Code section 19300.5](#).

The Tax Guide includes the following instructions:

“In order to properly claim the sales and use tax exemption, you should not collect sales tax reimbursement on the qualifying exempt sales of medical marijuana. In addition, you should claim a deduction on your sales and use tax return for the qualifying exempt medical marijuana sales. In order to claim the exempt sales, you must verify that purchasers have the proper identification (a valid MMIC and a valid government issued ID) and maintain specific information for your records.

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All retail establishments that sell medical cannabis and cannabis-related items must register with the BOE for a seller's permit. To obtain the sales and use tax exemption, qualified patients or their primary caregivers must furnish their valid Medical Marijuana Identification Card issued by the California Department of Public Health and a valid government issued identification card at the time of purchase.

In addition, there are various record keeping requirements, as set forth in the BOE's [Special Notice L-486](#).

As noted above, as of January 1, 2018, the 15 percent excise tax kicks in, even for medical marijuana.



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