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Lieutenant Governor  
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**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**M E M O R A N D U M**

**TO:** Dan DeBartolo, Department of Revenue

**FROM:** Scott Meriwether, Office of the Lieutenant Governor   
465.4081

**DATE:** April 28, 2016

**RE:** Filed Permanent Regulations: Department of Revenue

Regulations re: excise tax under AS 43.61 on the sale or transfer of marijuana from a marijuana cultivation facility to a retail marijuana store or a marijuana product manufacturing facility (15 AAC 61)

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Attorney General File:	JU2014200963
Regulation Filed:	April 28, 2016
Effective Date:	May 28, 2016
Print:	218, July 2016

cc with enclosures: Linda Miller, Department of Law  
Dianne Blumer, Administrative Regulation Review Committee  
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO REGULATIONS  
OF THE DEPARTMENT OF REVENUE

The attached five pages of regulations, dealing with the taxation of marijuana, are adopted and certified to be a correct copy of the regulation changes that the Department of Revenue adopts under the authority of AS 43.05.080 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

In considering public comments, the Department of Revenue paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.


Date: 4-21-16

  
\_\_\_\_\_  
Randall Hoffbeck, Commissioner

FILING CERTIFICATION

I, Byron Mallot, Lieutenant Governor for the State of Alaska, certify that on

April 28, 2016, at 9:52a m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

  
\_\_\_\_\_  
Lieutenant Governor

Effective: May 28, 2016

Register: 218, July 2016

15 AAC is amended by adding a new chapter to read:

**Chapter 61. Marijuana Tax.**

**Article**

1. Administration (15 AAC 61.010 - 15 AAC 61.020)
2. Taxation (15 AAC 61.100 - 16 AAC 61.120)
3. General Provisions (15 AAC 61.900 - 15 AAC 61.990)

**Article 1. Administration.**

**Section**

10. Returns
20. License revocation and suspension

**15 AAC 61.010. Returns.** (a) Each marijuana cultivation facility shall file a monthly tax return and report the total amount of marijuana sold or transferred in ounces, with fractional ounces calculated to the third decimal place, for the preceding month.

(b) The return must be filed electronically over the Internet, using tax preparation software that has been provided or preapproved by the department. If electronic filing is impractical or impossible for the taxpayer, the taxpayer must receive department approval to file a return on a paper form prescribed by the department.

(c) A separate return must be filed for each location if a taxpayer is operating in several

Register 218, July 2016

REVENUE

locations within the state. (Eff 5/28/2016, Register 218)

**Authority:** AS 43.05.080 AS 43.61.010 AS 43.61.020

**15 AAC 61.020. License revocation and suspension.** The department will inform the Marijuana Control Board of failure to pay tax due or file a return as required under AS 43.61.010 and 43.61.020 to initiate license suspension or revocation proceedings by filing an accusation as provided under 3 AAC 306.820. (Eff 5/28/2016, Register 218)

**Authority:** AS 43.05.080 AS 43.61.030

## **Article 2. Taxation.**

### **Section**

- 100. Marijuana tax
- 110. Exemptions
- 120. Credits and refunds

**15 AAC 61.100. Marijuana tax.** (a) All non-exempt marijuana sold or transferred from a marijuana cultivation facility will be taxed as follows:

- (1) any part of the bud and flower will be taxed at \$50 an ounce;
- (2) the remainder of the plant, not included in (1) of this subsection, will be taxed at \$15 an ounce.

(b) A marijuana cultivation facility that is also licensed as a marijuana product manufacturing facility shall pay tax on all marijuana transferred from the marijuana cultivation facility to the marijuana product manufacturing facility for the month in which the marijuana was transferred.

(c) A marijuana cultivation facility that is also licensed as a retail marijuana store shall pay tax on all marijuana transferred from the marijuana cultivation facility to the retail marijuana store for the month in which the marijuana was transferred. (Eff 5 / 28 / 2016, Register 218)

**Authority:** AS 43.05.080 AS 43.61.010 AS 43.61.020

**15 AAC 61.110. Exemptions.** Transfers to a licensed marijuana testing facility are exempt from the excise tax on marijuana under AS 43.61 and this chapter. (Eff 5 / 28 / 2016, Register 218)

**Authority:** AS 43.05.080 AS 43.61.010

**15 AAC 61.120. Credits and refunds.** A marijuana cultivation facility may claim a credit for tax paid for marijuana that is returned to the marijuana cultivation facility. The credit must be claimed for the month in which the marijuana was returned. The marijuana cultivation facility must provide proof acceptable to the department that the tax had been previously paid and was refunded to the purchaser. (Eff 5 / 28 / 2016, Register 218)

**Authority:** AS 43.05.080 AS 43.61.010 AS 43.61.020

**Article 3. General Provisions.**

**Section**

900. Record keeping

990. Definitions

**15 AAC 61.900. Record keeping.** (a) A marijuana cultivation facility shall keep records to support the information required on the monthly tax returns including sales and transfers. The records must include an accounting for inventories of live plants, trimmings, and dried product on the first and last day of the month.

(b) An invoice, sales receipt, or other record of the sale or transfer of marijuana products from a marijuana cultivation facility must separately state the amount of tax due after the sale or transfer. (Eff 5 /28 /2016, Register 218 )

**Authority:** AS 43.05.080 AS 43.61.020

**15 AAC 61.990. Definitions.** In 43.61 and this chapter,

(1) "bud and flower" means the hairy, sticky, or crystal-covered parts of mature female marijuana plants generally harvested for their high potency content;

(2) "department" means the Department of Revenue;

(3) "marijuana" has the meaning given in AS 17.38.900;

(4) "marijuana cultivation facility"

(A) has the meaning given in AS 17.38.900;

(B) includes

(i) a standard marijuana cultivation facility as licensed under 3 AAC 306.400; and

(ii) a limited marijuana cultivation facility as licensed under 3 AAC 306.400;

(5) "marijuana establishment" has the meaning given in AS 17.38.900;

(6) "marijuana product manufacturing facility" has the meaning given in AS 17.38.900;

(7) "marijuana products" has the meaning given in AS 17.38.900;

(8) "marijuana testing facility" has the meaning given in AS 17.38.900;

(9) "retail marijuana store" has the meaning given in AS 17.38.900;

(10) "transfer" means the exchange of marijuana, with or without consideration, or by barter, between marijuana establishments, or within marijuana establishments possessing multiple permits, for commercial purposes. (Eff 5/28/2016, Register 218)

**Authority:** AS 43.05.080 AS 43.61.020 AS 43.61.030

AS 43.61.010



# MEMORANDUM


## State of Alaska Department of Law

To: Hon. Byron Mallott  
Lieutenant Governor

Date: April 26, 2016

File No.: JU2014200963

Tel. No.: 465-3600

From: Steven C. Weaver   
Sr. Assistant Attorney General  
and Assistant Regulations Attorney  
Legislation and Regulations Section

Re: Regulations re: excise tax under  
AS 43.61 on the sale or transfer of  
marijuana from a marijuana  
cultivation facility to a retail  
marijuana store or a marijuana product  
manufacturing facility (15 AAC 61)

We have reviewed the attached regulations from the Department of Revenue against the statutory standards of the Administrative Procedure Act. I have reviewed this project under a specific delegation dated April 25, 2016 from the Regulations Attorney. Implementing AS 43.61, the regulations establish requirements and procedures for payment of the excise tax on the sale or transfer of marijuana from a marijuana cultivation facility to a retail marijuana store or a marijuana product manufacturing facility.

We find no legal problems. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations.

The January 15, 2016 public notice and the April 21, 2016 adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

SCW

cc w/enc: (via email)

Hon. Randall Hoffbeck, Commissioner  
Department of Revenue



# MEMORANDUM


State of Alaska  
Department of Law

To: Hon. Randall Hoffbeck  
Commissioner  
Department of Revenue

Date: April 26, 2016

File No.: JU2014200963

Tel. No.: 465-3600

From: Steven C. Weaver   
Sr. Assistant Attorney General  
and Assistant Regulations Attorney  
Legislation and Regulations Section

Re: Regulations re: excise tax under  
AS 43.61 on the sale or transfer of  
marijuana from a marijuana  
cultivation facility to a retail  
marijuana store or a marijuana product  
manufacturing facility (15 AAC 61)

Under AS 44.62.060, we have reviewed the attached changes by the Department of Revenue and approve the changes for filing by the lieutenant governor. I have reviewed this project under a specific delegation dated April 25, 2016 from the Regulations Attorney.

You might wish to contact the lieutenant governor's office to confirm the filing date and effective date of the attached regulations changes.

The January 15, 2016 public notice and the April 21, 2016 adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

SCW

cc w/enc: (via email)

Dan DeBartolo, Regulations Contact  
Department of Revenue

Ken Alper, Director  
Tax Division  
Department of Revenue

Janis Hales  
Tax Division  
Department of Revenue

Chris Peloso, Assistant Attorney General  
Commercial and Fair Business Section

Harriet Dinegar Milks, Assistant Attorney General  
Commercial and Fair Business Section

# MEMORANDUM

## State of Alaska Department of Law

TO: Hon. Byron Mallott  
Lieutenant Governor

DATE: April 25, 2016

FILE NO.: JU2014200963

TELEPHONE NO.: 465-3600

FROM: Susan R. Pollard *SRP*  
Chief Assistant Attorney General  
& Regulations Attorney  
Legislation/Regulations Section—Juneau

SUBJECT: Specific delegation of authority  
regarding regulations review on  
Department of Revenue  
regulations re: excise tax under  
AS 43.61 on the sale or transfer  
of marijuana from a marijuana  
cultivation facility to a retail  
marijuana store or marijuana  
product manufacturing facility  
(15 AAC 61)

By this memorandum, I am delegating my authority as Regulations Attorney under AS 44.62 to Assistant Attorney General Steven C. Weaver for the above-referenced regulations project. Under this delegation of authority, Steven Weaver has my full authority under AS 44.62 to conduct the legal review under AS 44.62 and take necessary actions on this regulations project.

If you have questions, please let me know.

SRP:SCW

cc w/enc:

Scott C. Meriwether, AAC Coordinator  
Office of the Lieutenant Governor

Steven C. Weaver  
Sr. Assistant Attorney General & Assistant Regulations Attorney  
Legislation/Regulations Section—Juneau

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION  
AND FURNISHING OF ADDITIONAL INFORMATION

I, Janis Hales, Income & Excise Tax Specialist, of the Department of Revenue being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 15 AAC concerning taxation of marijuana has been given by being

- (1) published in a newspaper or trade publication;
- (2) furnished to interested persons;
- (3) furnished to appropriate state officials;
- (4) furnished to the Department of Law, along with a copy of the proposed regulation;
- (5) furnished electronically to incumbent State of Alaska legislators;
- (6) furnished to the Legislative Affairs Agency, Division of Legal and Research Services;
- (7) posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1);
- (8) furnished electronically, along with a copy of the proposed regulation, to the Legislative Affairs Agency, the chair of the Finance Committee of the Alaska Senate and House of Representatives, the Administrative Regulation Review Committee, and the legislative council.

As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (5) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

Date: 3/9/2016

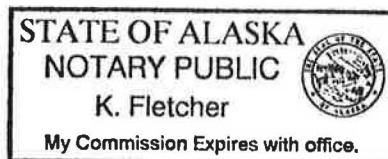
Janis Hales  
Janis Hales, Income & Excise Tax Specialist

Subscribed and sworn to before me at Anchorage, Alaska on  
3/9/16

Date

K. Fletcher  
Notary Public in and for the State of Alaska

[NOTARY SEAL]



AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Janis Hales, Income & Excise Tax Specialist for the Department of Revenue, being duly sworn, state the following:

In compliance with AS 44.62.215, the Department of Revenue has kept a record of its use or rejection of factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Department of Revenue regulation on the taxation of marijuana.

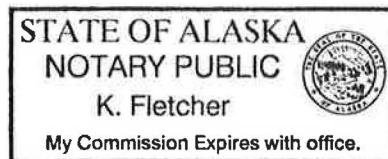
Date: 3/9/2016

Janis Hales  
Janis Hales, Income & Excise Tax Specialist

Subscribed and sworn to before me at Anchorage, Alaska on  
3/9/16  
Date

K. Fletcher  
Notary Public in and for the State of Alaska

[NOTARY SEAL]



NOTICE OF PROPOSED CHANGES IN THE  
REGULATIONS OF THE DEPARTMENT OF REVENUE

**Brief Description:** The Department of Revenue proposes to adopt new regulations pertaining to the excise tax on marijuana, including tax rates, filing procedures, exemptions, and record keeping requirements.

The Department of Revenue proposes to adopt regulations in Title 15 of the Alaska Administrative Code, dealing with Marijuana Tax including the following:

- (1) 15 AAC 61.010 is a proposed new section to reflect the requirements for filing a tax return.
- (2) 15 AAC 61.020 is a proposed new section to address procedures to notify the Marijuana Control Board of a taxpayer's failure to file a return or pay tax due and possible suspension or revocation of their license.
- (3) 15 AAC 61.100 is a proposed new section to address taxation of marijuana.
- (4) 15 AAC 61.110 is a proposed new section to reflect tax exemptions.
- (5) 15 AAC 61.120 is a proposed new section to address tax credits and refunds.
- (6) 15 AAC 61.200 is a proposed new section to address record keeping requirements.
- (7) 15 AAC 61.290 is a proposed new section defining or clarifying terms used in marijuana tax regulations and statutes.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Janis Hales at the Department of Revenue at 550 West 7<sup>th</sup> Avenue, Suite 500, Anchorage, Alaska, 99501. Additionally, the Department of Revenue will accept comments by electronic mail at [janis.hales@alaska.gov](mailto:janis.hales@alaska.gov). The comments must be received no later than 3:30 p.m. on February 15, 2016. Written comments received are public records and are subject to public inspection.

You may submit written questions relevant to the proposed action to Janis Hales by electronic mail or print at the addresses mentioned above. The questions must be received at least 10 days before the end of the public comment period. The Department of Revenue will aggregate its response to substantially similar questions and make the questions and responses available at [www.tax.state.ak.us](http://www.tax.state.ak.us). The Department of Revenue may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Janis Hales at 907-269-6627, no later than February 8, 2016 to ensure that any necessary accommodations can be provided.

For a copy of the proposed regulation changes, contact Janis Hales at 907-269-6627, or go to [www.tax.state.ak.us](http://www.tax.state.ak.us) and select the appropriate link under Regulations, Other Taxes, Draft Regulations. The proposed regulation change is also available on the Alaska Online Public Notice System.

After the public comment period ends, the Department of Revenue will either adopt these or

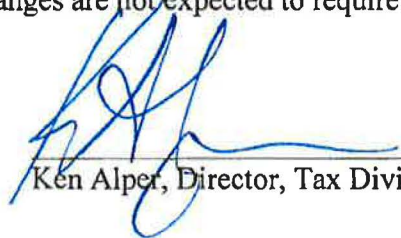
other provisions dealing with the same subject, without further notice, or decide to take no action on them. The language of the final regulations may be different from that of the proposed regulations. YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED.

**Statutory Authority:** AS 43.05.080, AS 43.61.010

**Statutes Being Implemented, Interpreted, or Made Specific:** AS 43.61.010, AS 43.61.020, AS 43.61.030

**Fiscal Information:** The proposed regulation changes are not expected to require an increased appropriation.

4/11/16  
Date

  
Ken Alper, Director, Tax Division

ADDITIONAL REGULATION NOTICE INFORMATION

(AS 44.62.190(d))<sup>1</sup>

1. Adopting agency: Department of Revenue
2. General subject of regulation: Marijuana taxation
3. Citation of regulation (may be grouped): 15 AAC 61.010 - 290
4. Department of Law file number, if any: JU2014200963

5. Reason for the proposed action:

( ) Compliance with federal law or action (identify): \_\_\_\_\_

(X) Compliance with new or changed state statute

( ) Compliance with federal or state court decision (identify): \_\_\_\_\_

( ) Development of program standards

( ) Other (identify): \_\_\_\_\_

6. Appropriation/Allocation: No appropriation required

7. Estimated annual cost to comply with the proposed action to:

A private person: None

Another state agency: None

A municipality: None

8. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year FY <u>16</u>	Subsequent Years
Operating Cost	\$ <u>0</u>	\$ <u>0</u>
Capital Cost	\$ <u>0</u>	\$ <u>0</u>
1002 Federal receipts	\$ <u>0</u>	\$ <u>0</u>
1003 General fund match	\$ <u>0</u>	\$ <u>0</u>
1004 General fund	\$ <u>0</u>	\$ <u>0</u>
1005 General fund/ program	\$ <u>0</u>	\$ <u>0</u>
Other (identify)	\$ <u>0</u>	\$ <u>0</u>

9. The name of the contact person for the regulation:



Name: Janis Hales  
Title: Income & Excise Tax Specialist  
Address: 550 West 7<sup>th</sup> Ave., Ste. 500, Anchorage, AK 99501  
Telephone: 907 269-6627  
E-mail address: janis.hales@alaska.gov

10. The origin of the proposed action:

☐ Staff of state agency  
☐ Federal government  
☒ General public  
☐ Petition for regulation change  
☐ Other (identify): \_\_\_\_\_

11. Date: 1/6/2016 Prepared by: Janis Hales  
[signature]  
Name (printed): Janis D. Hales  
Title (printed): Income & Excise Tax Specialist  
Telephone: 907 269-6627

RECEIVED

FEB 05 2016

Tax Division  
Department of Revenue  
Anchorage, Alaska

JAN 25 2016  
Tax Division JNU

# AFFIDAVIT OF PUBLICATION

270235  
0001378319  
\$393.44

STATE OF ALASKA

THIRD JUDICIAL DISTRICT

Emma Dunlap  
being first duly sworn on oath deposes and  
says that he/she is a representative of the  
Alaska Dispatch News, a daily newspaper.  
That said newspaper has been approved  
by the Third Judicial Court, Anchorage,  
Alaska, and it now and has been published  
in the English language continually as a  
daily newspaper in Anchorage, Alaska, and  
it is now and during all said time was  
printed in an office maintained at the  
aforesaid place of publication of said  
newspaper. That the annexed is a copy of  
an advertisement as it was published in  
regular issues (and not in supplemental  
form) of said newspaper on

January 15, 2016

and that such newspaper was regularly  
distributed to its subscribers during all of  
said period. That the full amount of the fee  
charged for the foregoing publication is not  
in excess of the rate charged private  
individuals.

Signed

*Emma Dunlap*

Subscribed and sworn to before me  
this 15th day of January, 2016

*Britney Thompson*

Notary Public in and for  
The State of Alaska.  
Third Division  
Anchorage, Alaska  
MY COMMISSION EXPIRES

*2/23/2019*  
Notary Public  
BRITNEY L. THOMPSON  
State of Alaska  
My Commission Expires Feb 23, 2019

## NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE DEPARTMENT OF REVENUE

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After the public comment period ends, the Department of Revenue will either adopt these or other provisions dealing with the same subject, without further notice, or decide to take no action on them. The language of the final regulations may be different from that of the proposed regulations. **YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED.**

Statutory Authority: AS 43.05.080, AS 43.61.010  
Statutes Being Implemented, Interpreted, or Made Specific: AS 43.61.010, AS 43.61.020, AS 43.61.030  
Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

1/11/16  
Date

Ken Alper, Director, Tax Division

Published: January 15, 2016