

Byron Mallott
Lieutenant Governor
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Juneau, Alaska 99811
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Anchorage, Alaska 99501
907.269.7460
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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Brad Ewing
Department of Revenue

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: October 8, 2018

RE: Filed Permanent Regulations: Department of Revenue

Department of Revenue update to regulations re: marijuana excise tax (15 AAC 61.100(a), (d); 15 AAC 61.990)

Attorney General File:	JU2017200568
Regulation Filed:	10/8/2018
Effective Date:	1/1/2019
Print:	228, January 2019

cc with enclosures: Linda Miller, Department of Law
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO
REGULATIONS OF THE DEPARTMENT OF REVENUE

The attached three pages of regulations, dealing with the marijuana tax, 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, AS 43.61.010, AS 43.61.020, and AS 43.61.030 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 January 1, 2019 under AS 44.62.180.

DATE: 10/4/18
Anchorage, Alaska


Sheldon Fisher, Commissioner
Department of Revenue

Claire Richardson for FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on October 8, 2018, at 12:14 pm, I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.


Lieutenant Governor Mallott

Effective: January 1, 2019.

Register: 228, January 2019.

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, BYRON MALLOTT, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employee to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:

Claire Richardson, Special Assistant

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on January 7th 2015.



A handwritten signature in blue ink, appearing to read "Byron Mallott", is written over a horizontal dotted line.

**BYRON MALLOTT
LIEUTENANT GOVERNOR**

Register 228, January 2018 19

REVENUE

15 AAC 61.100(a) is amended to read:

(a) All non-exempt marijuana sold or transferred from a marijuana cultivation facility will be taxed as follows:

(1) mature bud will be taxed at \$50 an ounce [ANY PART OF THE BUD AND FLOWER WILL BE TAXED AT \$50 AN OUNCE];

(2) immature bud will be taxed at \$25 an ounce; [THE REMAINDER OF THE PLANT, NOT INCLUDED IN (1) OF THIS SUBSECTION, WILL BE TAXED AT \$15 AN OUNCE.]

(3) abnormal bud will be taxed at \$25 an ounce;

(4) the remainder of the plant will be taxed at \$15 an ounce; and

(5) clones will be taxed at \$1 per plant.

15 AAC 61.100 is amended by adding a new subsection to read:

(d) Marijuana offered for sale in a manner that contains a combination of plant parts will be taxed at the tax rate applicable to the plant part subject to the highest tax rate under this section. (Eff. 5/28/2016, Register 218; am 1 / 1 / 2018, Register 228)

Authority:

AS 43.05.080

AS 43.61.010

AS 43.61.020

introductory

amended

The ~~lead-in~~ language to 15 AAC 61.990 is ~~changed~~ to read:

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

...

no bold or underline -- the period is set out in the official Alaska Administrative Code !!!

Register 228, January 2018

REVENUE

15 AAC 61.990(1) is repealed:

«lowercase»

(1) Repealed 1 / 1 / 2019;

~~Eff. 5/28/2016, Register 218; am / / , Register~~

«Publisher: At the end of existing 15 AAC 61.990(10), please change the periods to a semicolon.»

15 AAC 61.990 is amended ^{*by adding*} to add the following new paragraphs:

«lowercase»

(11) "Abnormal bud" means a flower formed on a flowering marijuana

plant, and consists of calyx, pistils, resin, and trichomes, that also

(A) failed a microbial testing required by 3 AAC 306.645(b); or

«lowercase» **(B) contains observable seeds;**

(12) "Clones" has the meaning given in 3 AAC 306.990(b);

«lowercase»

(13) "Flowering" has the meaning given in 3 AAC 306.990(a);

«lowercase»

(14) "Immature bud" means an immature flower formed on a flowering marijuana plant, and consists of calyx, pistils, resin, and trichomes ~~and~~ that generally

(A) appear loose, wispy, or leafy; and

«lowercase» **(B) are not dense to sight or touch;**

(15) "Mature bud" means a mature flower formed on a flowering marijuana plant, and consists of calyx, pistils, resin, and trichomes that are generally

(A) swelled with resin;

(B) dense to sight and touch; and

«lowercase»

(C) visibly covered in trichomes;

(16) "Remainder of the plant" means any part of ~~or derived from~~ a flowering marijuana plant not included in ~~paragraphs~~ (11), (14), or (15) of this section

«boldface and underline not necessary»

Register 228, January 2019

REVENUE

(Eff. 5/28/2016, Register 218; am 1 / 1 / 2019, Register 228)

Authority:

AS 43.05.080

AS 43.61.020

AS 43.61.030

AS 43.61.010

« no bold or underline --
the period is set out
in the existing Alaska
Administrative Code »)

MEMORANDUM

State of Alaska Department of Law


To: The Honorable Byron Mallott
Lieutenant Governor

Date: October 8, 2018

File No.: JU2017200568

Thru:

Tel. No.: 465-3600

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

UPDATED MEMORANDUM
Re: Department of Revenue update to
regulations re: marijuana excise tax
(15 AAC 61.100(a), (d); 15 AAC
61.990)

The Department of Law has reviewed the attached regulations of the Department of Revenue against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. I have reviewed this project under a specific delegation dated September 27, 2018 from the Regulations Attorney. 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 regulations were adopted by the Department of Revenue after the close of the public comment period. The regulations update excise taxes for marijuana and add related definitions.

The July 3, 2018 public notice and the October 4, 2018 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.

These regulations were originally delivered under our approval memorandum of October 1, 2018, along with an August 29, 2018 adoption order from the Department of Revenue. After we delivered the regulations, but before they were filed, the agency realized that the regulations need a special effective date of January 1, 2019. The new adoption order of October 4, 2018 sets that special effective date; with the new adoption order, the regulations are now ready for filing.

We have made some technical corrections to conform the regulations in accordance with AS 44.62.125. The corrections are shown on the attached copy of the regulations.

SCW

cc w/enc: Honorable Sheldon Fisher, Commissioner
Department of Revenue

Brad Ewing, Director and Regulations Contact
Administrative Services Division
Department of Revenue

Ken Alper, Director
Tax Division
Department of Revenue

Kelly Mazzei
Tax Division
Department of Revenue

Jonathan P. Clement, Assistant Attorney General
Commercial, Fair Business, and Child Support Section

MEMORANDUM

State of Alaska Department of Law

TO: Hon. Byron Mallott
Lieutenant Governor

DATE: September 27, 2018

FILE NO.: JU2017200568

TELEPHONE NO.: (907) 465-3600

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

SUBJECT: Specific delegation of authority
regarding regulations review on
update to Department of Revenue
regulations re: marijuana excise
tax (15 AAC 61.100(a), (d);
15 AAC 61.990)

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.

SCW

cc w/enc: Scott C. Meriwether, AAC Coordinator
Office of the Lieutenant Governor

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

NOTICE OF PROPOSED CHANGES
ON MARIJUANA TAXES IN THE REGULATIONS
OF THE DEPARTMENT OF REVENUE

Brief Description: The Department of Revenue proposes to make changes to the regulations pertaining to the excise tax on marijuana regarding the tax rate applicable to various parts of the marijuana plant.

The Department of Revenue proposes to adopt regulations in 15 AAC 61 of the Alaska Administrative Code, dealing with marijuana tax including the following:

- (1) **15 AAC 61.100. Marijuana tax**, is proposed to be changed to implement new tax rates for various parts of marijuana and to add a new subsection pertaining to the tax rate applicable to different parts of marijuana sold or transferred in a single package.
- (2) **15 AAC 61.990. Definitions**, is proposed to be amended by adding new paragraphs.

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 Kelly Mazzei at the Department of Revenue, 550 West 7th Avenue, Suite 500, Anchorage, Alaska, 99501. Additionally, the Department of Revenue will accept comments by electronic mail at kelly.mazzei@alaska.gov, or by facsimile at (907) 269-6644. **Written comments must be received no later than 4:00 p.m. on Friday, August 10, 2018.**

You may submit written questions relevant to the proposed action to Kelly Mazzei 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 on the Alaska Online Public Notice System and the Tax Division website at www.tax.alaska.gov. If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Kelly Mazzei at 907-269-1018 no later than July 27, 2018 to ensure that any necessary accommodations can be provided.

For a copy of the proposed regulation changes, contact Kelly Mazzei at 907-269-1018 or by email at kelly.mazzei@alaska.gov, or go to www.tax.alaska.gov and select the appropriate link under Regulations, Other Taxes, Proposed Regulations. The proposed regulation change is also available on the Alaska Online Public Notice System. If you would like to be added to the department's "Interested Parties" list to receive email notification of any proposed action you may contact Kelly Mazzei.

After the public comment period ends on Friday, August 10, 2018, the Department of Revenue will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. 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.** Written comments received are public records and are subject to public inspection.

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.

Date: July 2, 2018
Anchorage, Alaska

/s/ Ken Alper
Ken Alper
Director, Tax Division
(907) 269-6620

ADDITIONAL REGULATIONS NOTICE INFORMATION
[AS 44.62.190(d)]

1. Adopting Agency: Department of Revenue, Tax Division
2. General subject of regulation: Administration of Revenue Laws: The regulations relate to new tax rates for various parts of marijuana and definitions relevant to those various parts.
3. Citation of regulations: 15 AAC 61.100 and 61.990.
4. Department of Law file number: JU2017200568
5. Reason for the proposed action:
 - ☐ compliance with federal law
 - ☐ compliance with new or changed state statutes
 - ☐ compliance with court order
 - ☒ development of program standards
 - ☐ other: (please list)
6. Appropriation/Allocation: Tax Division, Revenue Operations
7. Estimated annual cost to comply with the proposed action to:

A private person: *

Another state agency: \$0. The department does not expect additional costs to any other state agency.

A municipality: *

* The department is not able to make a numeric estimate based on information available to it. However, the department does not expect that any private person or municipality would incur additional costs beyond re-programming of computer systems that may be necessary to comply with the proposed regulations.

8. Cost of implementation to the state agency and available funding (in thousands of dollars):
No costs are expected in FY 2018 or subsequent years.

	Initial Year FY 2018	Subsequent Years
Operating Cost	\$ 0	\$ 0
Capital Cost	\$ 0	\$ 0
1002 Federal receipts	\$ 0	\$ 0
1003 General fund match	\$ 0	\$ 0
1004 General fund	\$ 0	\$ 0
1005 General fund/		

Additional Regulations Notice Information

Program	\$ 0	\$ 0
1037 General fund/ mental health	\$ 0	\$ 0
Other	\$ 0	\$ 0

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

Name: Kelly Mazzei
Title: Revenue Audit Supervisor, Tax Division
Address: 550 W. 7th Ave., Ste. 500, Anchorage, AK 99501
Telephone: (907) 269-1018
FAX: (907) 269-6644
E-mail: kelly.mazzei@alaska.gov

10. The origin of the proposed action:

☒ staff of state agency
☐ Federal government
☐ General public
☐ petition for regulation change
☐ other (please list)

11. Date: July 2, 2018

Prepared by: /s/ Kelly Mazzei
Kelly Mazzei
Revenue Audit Supervisor
Tax Division
(907) 269-1018

RECEIVED

JUL 06 2018

Tax Division
Department of Revenue
Anchorage, Alaska

ANCHORAGE DAILY NEWS

AFFIDAVIT OF PUBLICATION

Account #: 270235

ST OF AK/DEPT REVENUE/TAX DIV

P O BOX 110420

JUNEAU, AK 998110420

Order#

0001424085

Cost

\$333.68

Product

ANC-Anchorage Daily News

Placement

0300

Position

0301

STATE OF ALASKA THIRD JUDICIAL DISTRICT

Joleesa Stepetin

being first duly sworn on oath deposes and says that he/she is a representative of the Anchorage Daily 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

July 03, 2018

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

Joleesa Stepetin

Subscribed and sworn to before me
this 3rd day of July, 2018

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 ON MARIJUANA TAXES IN THE REGULATIONS OF THE DEPARTMENT OF REVENUE

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For a copy of the proposed regulation changes, contact Kelly Mazzei at 907-269-1018 or by email at kelly.mazzei@alaska.gov, or go to www.tax.alaska.gov and select the appropriate link under Regulations, Other Taxes, Proposed Regulations. The proposed regulation change is also available on the Alaska Online Public Notice System. If you would like to be added to the department's "Interested Parties" list to receive email notification of any proposed action you may contact Kelly Mazzei.

After the public comment period ends on Friday, August 10, 2018, the Department of Revenue will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. 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.** Written comments received are public records and are subject to public inspection.

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.

Date: July 2, 2018

/s/ Ken Alper
Anchorage, Alaska
Director, Tax Division
(907) 269-6620

Published: July 3, 2018

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

I, Kelly Mazzei, Revenue Audit Supervisor, 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 Title 15, Chapter 61, of the Alaska Administrative Code, dealing with marijuana excise taxes has been given by being

- (1) published in a newspaper or trade publication;
- (2) furnished to every person who has filed a request for notice of proposed action with the state agency;
- (3) furnished to appropriate state officials;
- (4) furnished to interested persons;
- (5) furnished to the Department of Law, along with a copy of the proposed regulation;
- (6) furnished electronically to incumbent State of Alaska legislators;
- (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).

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 persons in (2), (4), and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

Date: 8/21/18

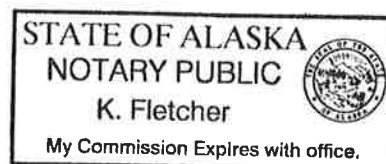


Kelly Mazzei, Revenue Audit Supervisor

Subscribed and sworn to before me at Anchorage on
8/21/18.



Notary Public in and for the State of Alaska



APPENDIX K

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT


I, Kelly A. Mazzei, Revenue Audit Supervisor for the Department of Revenue, Tax Division, 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 regulations on the marijuana tax.

Date: 9/25/18
Anchorage, Alaska


Kelly A. Mazzei
Revenue Audit Supervisor

SUBSCRIBED AND SWORN TO before me at Anchorage on
9/25/2018.


Notary Public in and for the State of Alaska

