

# STATE OF NEW YORK

4619

2023-2024 Regular Sessions

## IN ASSEMBLY

February 17, 2023

Introduced by M. of A. PEOPLES-STOKES, LUPARDO, WOERNER -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to the imposition of taxes, registration and records of the sale of cannabis; and to repeal certain provisions of such law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision (k) of section 492 of the tax law is REPEALED.  
2 § 2. Section 493 of the tax law, as added by chapter 92 of the laws of  
3 2021, is amended to read as follows:  
4 § 493. Imposition of tax. (a) [~~There is hereby imposed a tax on~~  
5 ~~adult use cannabis products sold by a distributor to a person who sells~~  
6 ~~adult use cannabis products at retail at the following rates:~~  
7 ~~(1) cannabis flower at the rate of five tenths of one cent per milli-~~  
8 ~~gram of the amount of total THC, as reflected on the product label,~~  
9 ~~(2) concentrated cannabis at the rate of eight tenths of one cent per~~  
10 ~~milligram of the amount of total THC, as reflected on the product label,~~  
11 ~~and~~  
12 ~~(3) cannabis edible product at the rate of three cents per milligram~~  
13 ~~of the amount of total THC, as reflected on the product label. This tax~~  
14 ~~shall accrue at the time of such sale or transfer. Where a person who~~  
15 ~~distributes adult use cannabis is licensed under the cannabis law as a~~  
16 ~~microbusiness or registered organization, such person shall be liable~~  
17 ~~for the tax, and such tax shall accrue at the time of the retail sale.~~  
18 (b)] In addition to any other tax imposed by this chapter or other  
19 law, there is hereby imposed a tax of [~~nine~~] sixteen percent of the  
20 amount charged for the sale or transfer of adult-use cannabis products  
21 to a retail customer by a person who sells adult-use cannabis products  
22 at retail. This tax is imposed on the person who sells adult-use canna-  
23 bis at retail and shall accrue at the time of such sale or transfer.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1     ~~(e)~~ (b) In addition to the taxes imposed by ~~[subdivisions]~~ subdivi-  
2     sion (a) ~~[and (b)]~~ of this section, there is hereby imposed a tax on the  
3     sale or transfer of adult-use cannabis products to a retail customer by  
4     a person who sells adult-use cannabis products at retail at the rate of  
5     four percent of the amount charged by such person for such adult-use  
6     cannabis product, which tax shall accrue at the time of such sale or  
7     transfer. The tax imposed by this subdivision is imposed on a person who  
8     sells adult-use cannabis products at retail, and shall be paid to the  
9     commissioner in trust for and on account of a city having a population  
10    of a million or more, and counties (other than counties wholly within  
11    such a city), towns, villages, and cities with a population of less than  
12    a million in which a retail dispensary is located.

13    ~~(d)~~ (c) The taxes imposed by this section shall not apply to sales  
14    of adult-use cannabis to a person holding a cannabis research license  
15    under section thirty-nine of the cannabis law.

16    § 3. Paragraph (i) of subdivision (a) of section 494 of the tax law,  
17    as added by chapter 92 of the laws of 2021, is amended to read as  
18    follows:

19    (i) Every ~~[distributor on whom tax is imposed under this article and~~  
20    ~~every]~~ person who sells adult-use cannabis products at retail must file  
21    with the commissioner a properly completed application for a certificate  
22    of registration before engaging in business. An application for a  
23    certificate of registration must be submitted electronically, on a form  
24    prescribed by the commissioner, and must be accompanied by a non-refund-  
25    able application fee of six hundred dollars. A certificate of registra-  
26    tion shall not be assignable or transferable and shall be destroyed  
27    immediately upon such person ceasing to do business as specified in such  
28    certificate, or in the event that such business never commenced.

29    § 4. Section 496 of the tax law, as added by chapter 92 of the laws of  
30    2021, is amended to read as follows:

31    § 496. Records to be kept; penalties. (a) Records to be kept. Every  
32    ~~[distributor on whom tax is imposed under this article and every]~~ person  
33    who sells adult-use cannabis products at retail shall maintain complete  
34    and accurate records in such form as the commissioner may require  
35    including, but not limited to, ~~[such items as the total THC content of~~  
36    ~~the adult-use cannabis products sold to or produced by such person,]~~  
37    complete records of every retail sale of adult-use cannabis, and any  
38    other record or information required by the commissioner. Such records  
39    must be preserved for a period of three years after the filing of the  
40    return to which such records relate and must be provided to the commis-  
41    sioner upon request.

42    (b) Penalties. In addition to any other penalty provided in this arti-  
43    cle or otherwise imposed by law, ~~[every distributor on whom tax is~~  
44    ~~imposed under this article and]~~ every person who sells adult-use canna-  
45    bis products at retail who fails to maintain or make available to the  
46    commissioner the records required by this section is subject to a penal-  
47    ty not to exceed five hundred dollars for each month or part thereof for  
48    which the failure occurs. This penalty may not be imposed more than once  
49    for failures for the same monthly period or part thereof. If the  
50    commissioner determines that a failure to maintain or make available  
51    records in any month was entirely due to reasonable cause and not to  
52    willful neglect, the commissioner must remit the penalty for that month.

53    § 5. This act shall take effect immediately.