

DEPARTMENT OF REVENUE

Taxpayer Service Division - Tax Group

RETAIL MARIJUANA TAX

1 CCR 201-18

Rule 39-28.8-101. Definitions.

Basis and Purpose

The basis for this rule is §§ 39-21-112(1), 39-28.8-101, 205, and 308, C.R.S. The purpose of this rule is to establish definitions for terms used in 1 CCR 201-18 regarding retail marijuana sales tax and retail marijuana excise tax.

With respect to rules promulgated under Article 28.8 of Title 39, the following terms have the following meanings:

(1) Unless the context clearly requires otherwise, terms defined by section 39-28.8-101, C.R.S. section 12-43.4-103, C.R.S., or in Rule R 103 of 1 CCR 212-2, the Marijuana Enforcement Division's rules related to the Colorado Retail Marijuana Code, shall have the same meanings in these rules as therein defined.

(2) "Affiliated Marijuana Business Licensees" shall have the same meaning as defined in subsection 39-28.8-101(1), C.R.S.

(3) "Average Market Rate" shall have the same meaning as defined in subsection 39-28.8-101(1.5), C.R.S., and shall be calculated pursuant to Department Rule 39-28.8-302(5) in the following categories:

- (a) Bud
- (b) Trim
- (c) Bud Allocated for Extraction
- (d) Trim Allocated for Extraction
- (e) Immature Plant
- (f) Wet Whole Plant
- (g) Seed

(4) "Bud" shall have the same meaning as the product of the "Flowering" stage as set forth by Rule R 103 of 1 CCR 212-2 including the actual flower.

(5) "Bud Allocated for Extraction" means Bud that is designated for the extraction of Retail Marijuana Concentrate and not for direct sale to consumers.

(6) "Immature Plant" shall have the same meaning as set forth by Rule R 103 of 1 CCR 212-2.

(7) "Inventory Tracking System" shall have the same meaning as set forth by Rule R 103 of 1 CCR 212-2.

(8) "Marijuana" means Medical Marijuana or Retail Marijuana.

(9) "Retail Marijuana" shall have the same meaning as defined in subsection 39-28.8-101(7), C.R.S..

(10) "Retail Marijuana Concentrate" shall have the same meaning as "Retail Marijuana Concentrate" as set forth by Rule R 103 of 1 CCR 212-2.

(11) "Retail Marijuana Cultivation Facility" shall have the same meaning as defined in subsection 39-28.8-101(8), C.R.S..

(12) "Retail Marijuana Excise Tax" or "Excise Tax" means excise tax imposed by Part 3 of Article 28.8 of Title 39, C.R.S.

(13) "Retail Marijuana Excise Tax Return" means the excise tax return upon which all sales or Transfers of Retail Marijuana subject to Retail Marijuana Excise Tax and the amount of Retail Marijuana Excise Tax are reported.

(14) "Retail Marijuana Plant" means a plant of the genus cannabis, other than an Immature Plant, whether growing or harvested, that is cultivated by a licensed Retail Marijuana Cultivation Facility.

(15) "Retail Marijuana Product Manufacturing Facility" shall have the same meaning as defined in subsection 39-28.8-101(10), C.R.S.

(16) "Retail Marijuana Sales Tax" means sales tax imposed by Part 2 of Article 28.8 of Title 39, C.R.S.

(17) "Retail Marijuana Sales Tax Return" means the sales tax return upon which all sales of Retail Marijuana and Retail Marijuana Products and the amount of state and local Retail Marijuana Sales Tax are reported.

(18) "Retail Sales Tax" means the sales tax imposed by Part 1 of Article 26 of Title 39, C.R.S.

(19) "Test Period" means the period of time used to calculate the Average Market Rate. The Test Period shall be each November 1st to the subsequent January 31st, each February 1st to the subsequent April 30th, each May 1st to the subsequent July 31st, and each August 1st to the subsequent October 31st.

(20) "Transfer(s)(ed)(ing)" means to grant, convey, hand over, assign, sell, exchange, or barter, in any manner or by any means, with or without consideration, any Retail Marijuana or Retail Marijuana Product from one licensee to another licensee or to a consumer. A Transfer includes the movement of Retail Marijuana or Retail Marijuana Product from one licensed premises to another, even if both premises are contiguous, and even if both premises are owned by a single entity or individual or group of individuals and also includes a virtual transfer that is reflected on the Inventory Tracking System, even if no physical movement of the Retail Marijuana or Retail Marijuana Product occurs.

(21) "Trim" means any part of a Retail Marijuana Plant other than Bud or Wet Whole Plant. Trim includes "sweet leaf" or "sugar leaf".

(22) "Trim Allocated for Extraction" means Trim that is designated for the extraction of Retail Marijuana Concentrate and not for direct sale to consumers.

(23) "Unaffiliated Marijuana Business Licensees" shall mean Retail Marijuana business licensees that are not owned or controlled by the same or related interests, where "related interests" includes individuals who are related by blood or marriage or entities that are directly or indirectly controlled by an entity or individual or related individuals.

(24) "Unprocessed Retail Marijuana" means all Retail Marijuana that is first Transferred by a Retail Marijuana Cultivation Facility to a Retail Marijuana Store or a Retail Marijuana Products Manufacturing Facility, even though it may have gone through some processing, and even though it may be subject to further processing by another licensee.

(25) "Wet Whole Plant" means a Retail Marijuana Plant that is cut off just above the roots and is not trimmed, dried, or cured. The weight of the Wet Whole Plant includes all bud, leaves, stems, and stalk. The Wet Whole Plant must be weighed within 2 hours of the plant being harvested. The plant must not undergo any further processing prior to being weighed, and tax must be paid on the weight of the entire unprocessed plant.