

Public Health Approach to Marijuana Taxation

On November 8, 2016, California voters will decide on an initiative to legalize the recreational use of marijuana, named “California’s Adult Use of Marijuana Act” (AUMA). If California and Los Angeles County decide to legalize marijuana, strategic tax policies can support the goals of minimizing the high costs of marijuana use and abuse in our communities; increasing marijuana and other substance use education, prevention, and treatment; and raising funds to address homelessness and other issues often associated with substance abuse.

Tax Rate

The rate of taxation must effectively decrease accessibility without encouraging the illicit market. A high tax rate that translates into higher marijuana prices has the potential to both maximize state revenue and reduce consumption by discouraging purchases among price-sensitive groups. However, a high tax rate could also contribute to continued or expanded growth of an illicit market with the sale of unregulated, untaxed, and cheaper marijuana, or even lower cost, dangerous synthetic marijuana.

AUMA proposes implementing a 15% state excise tax on all retail sales of marijuana and an additional tax on licensed marijuana growers, based on plant weight. Marijuana flowers and leaves will be taxed at \$9.25 per ounce and \$2.75 per ounce, respectively. The proposed measure also allows the legislature to adjust the tax rate with a 2/3 vote. This approach introduces a tax rate of 15%, aiming to minimize the volume of illicit market sales. The rate could gradually increase over time to boost revenue and reduce consumption.

The County of Los Angeles may have opportunities to impose local taxes on legal marijuana. Local tax options will need to be carefully considered to avoid unintentional encouragement of an illicit market. Considering Los Angeles County already has a fairly developed medical marijuana market, sales of recreational marijuana could be particularly sensitive to diversion to illicit outlets. Thorough market analysis and research are recommended for the development of an additional local tax rate that balances these concerns.

Type of Tax

The type of taxation could also contribute to reducing the availability of high-potency marijuana products.

An “ad valorem” tax based on the percentage of the retail price does not necessarily address the quantity or strength of the marijuana product being sold. Ad valorem taxes can be manipulated by retailers and can be unstable due to the fluctuations in marijuana prices. A weight-based tax, while more stable, can encourage the production of marijuana products with high potency levels of $\Delta 9$ -tetrahydrocannabinol (THC), the primary psychoactive compound in marijuana. Alternatively, a tax rate based on the strength of THC concentration would be difficult to administer, and could encourage manipulation of the reported THC content.

Regardless of the taxation type imposed, there must be adequate oversight and testing systems to ensure that retailers are not manipulating reported levels of THC or mislabeling products to avoid taxation.

Reinvesting Revenue

How tax revenues are reinvested into the community could be instrumental in reducing the broad social costs of, and harm related to, marijuana use in our communities. Marijuana is already the most widely used illicit substance in Los Angeles County (SAPC Medical Director's Brief No. 4, Marijuana Misuse/Abuse and Consequences, September 2015). Furthermore, marijuana use increases and peaks at ages 18-21 years, remains high throughout the 20s, and then steadily decreases with age. This pattern indicates that investment of tax dollars in prevention, public health education, and treatment is important for youth, transition-aged youth, and adults.

AUMA includes grants for outreach, education, and treatment for homeless youth with substance use disorders. Discretionary funds from the state tax and local taxes can be used to provide similar programs for homeless adults struggling with substance use.

The Blue Ribbon Commission on Marijuana Policy, a commission of expert marijuana researchers and policymakers, stated in its report,

“The ability to tax cannabis is one of the main political reasons given to support recreational legalization... However, this commission feels strongly that maximizing tax revenue should not be the focus of cannabis tax policy... Protecting youth and ensuring safe, healthy communities must be the guiding principles of any cannabis regulation, even if that means failing to maximize the potential for cannabis as a source of tax revenue... Furthermore, while the tax revenue may be noticeable and substantial, we do not expect tax revenue from cannabis to be so large as to make a dramatic impact on the state budget as a whole.” -Blue Ribbon Commission Pathways Report, 2015.

Marijuana use has and will continue to have a negative impact on the public health and safety of Los Angeles County residents. It disproportionately impacts communities with high levels of crime, homelessness, substance use disorders, and other public health issues. Legalization may exacerbate these inequities across communities. Any policies regarding the regulation and taxation of marijuana must prioritize these communities and ensure that marijuana legalization does not cause greater harm than good to disadvantaged or vulnerable areas in Los Angeles County.

Recommendations

- Pursue strategic tax policies that support public health and safety goals. Tax rates should be high enough to discourage consumption, but low enough to drive out the illicit market.
- Reduce the high costs of substance use by reinvesting state tax revenues to fund related social services, such as treatment, prevention, and housing.
- Support a public health approach to marijuana policy that prioritizes public health over revenue and profit.



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