



INFORMATIONAL MEMORANDUM

TO: **Finance and Governance Committee**
 FROM: **Laurel Humphrey, Legislative Analyst**
 DATE: **April 30, 2021**
 SUBJECT: **Marijuana Retail Tax Revenue**

ISSUE

The City Council requested staff provide an update on revenue potential should zoning be expanded to allow marijuana retailers in more areas of Tukwila.

BACKGROUND

Initiative 502 passed in November 2012 and created a comprehensive regulatory approach on marijuana with state-licensed producers, processors and retailers. Through the rulemaking process the Liquor and Cannabis Board adopted regulations on the number of retail store licenses for jurisdictions, determining a maximum of 2 for Tukwila. Currently, a license is issued to Mount Baker Retail Partnership, LLC (12539 E Marginal way S) and a license is pending for Dash & Wrigley, LLC (13003 Tukwila International Boulevard).

On September 3, 2013, the City Council adopted Ordinance 2407 to implement Initiative 502. In Tukwila, marijuana retailers, producers and processors are permitted uses in Tukwila Valley South and Heavy Industrial Zones, subject to the 1,000-foot exclusion rule. In 2015, 2SSB 5052 and HB 2136 allowed cities to reduce buffers from 1000 to 100 feet around all entities except elementary and secondary schools and public playgrounds. In 2017, the City Council received two separate requests to expand permitted marijuana retail zones but denied both on February 13, 2017.

In 2019, the Finance Committee discussed marijuana revenue and zoning considerations and decided against recommending any changes to the City Council at that time.

DISCUSSION

The state marijuana excise tax and its distributions has changed over time and can be altered in any future legislative session. The State currently taxes marijuana through a single excise tax of 37% at the time of retail sale, in addition to the regular state and local sales tax, and \$30M of that revenue is shared with cities, towns and counties. There are two components to the distributions: 1) per capita share to all jurisdictions that allow the siting of producers, processors and retailers; 2) retail share to all jurisdictions where licensed retailers are physically located and in proportion to total statewide retail sales. Tukwila does not have any marijuana businesses and therefore does not receive sales-based revenue. Tukwila’s per capita excise tax distribution has been:

Year*	Revenues
2021 (to date)	6,018.67
2020	23,951.38
2019	23,016.77
2018	30,275.81
2017	4,697.34

*City Fiscal Year Jan 1 – Dec 31

It is difficult to estimate what Tukwila would receive for its retail share if the two state-issued licenses were active businesses. The formula depends not only on population but also on marijuana retail sales as a proportion of total retail sales, as well as the number/total population of cities and counties that prohibit marijuana. MRSC used to offer an estimate calculator but discontinued it due to complexity of the formula.

While the revenue is difficult to predict, we can look to neighboring jurisdictions for insight, while recognizing that their larger residential populations result in greater shares than Tukwila would receive in similar circumstances. The chart below shows the 2020 marijuana excise revenue for neighboring cities where marijuana retailers are currently open:

City (number of locations)	Population	2020 Marijuana Excise Revenue*
Burien (2)	51,477	\$111,115
Auburn (3)	80,134	\$178,918
Des Moines (1)	31,734	\$76,657
Renton (4)	101,484	\$207,866

**State Fiscal Year: July 1 – June 30*

RECOMMENDATION

Discussion only.

ATTACHMENTS

Marijuana Excise Tax Excerpt from 11/20 MRSC Revenue Guide for Washington Cities & Towns

MARIJUANA EXCISE TAX

Quick Summary

- A portion of the state’s marijuana excise tax is distributed to cities and counties depending on their marijuana policies.
- Two separate components:
 - **Per capita share** distributed to all cities and counties that do not prohibit marijuana businesses.
 - **Retail share** distributed to cities and counties where marijuana retailers are located, in proportion to statewide marijuana revenues.
- No clear guidance on use of revenues, but stated intent of I-502 is that marijuana legalization will “[allow] law enforcement resources to be focused on violent and property crimes [and generate] new state and local tax revenue for education, health care, research, and substance abuse prevention.”

RCW: 69.50.540(2)(g)

Initiative 502 (I-502), which was approved by voters in 2012, legalized recreational marijuana and authorized marijuana excise taxes. Marijuana excise taxes are imposed and collected by the State of Washington; as of 2018, the state imposes a 37% marijuana excise tax on the retail sale of marijuana, marijuana concentrates, and marijuana-infused products ([RCW 69.50.535](#) and [WAC 314-55-089](#)).

Cities and counties may *not* impose additional local excise taxes upon the sale of marijuana. However, the state shares some of the excise tax revenues with cities and counties, as mandated by I-502.⁶⁰ The actual revenues received by cities depend on legislative appropriations from the state budget. The state legislature has previously attempted to reduce local marijuana excise tax distributions, and like all shared revenues these distributions could be changed in future legislative sessions.

Marijuana excise tax distributions depend in significant part upon local marijuana policies and regulations. The regulatory approach that each city adopts, as well as the number of local marijuana retailers, will determine whether the city receives any marijuana excise tax revenue (and how much).

Eligibility and Distribution Formula

There are two separate components to marijuana excise tax distributions:

- **Per capita share:** Distributed on a strictly per capita (population) basis to all cities, towns, and counties that allow the siting of marijuana producers, processors, AND retailers. Any jurisdiction that prohibits marijuana producers, processors, OR retailers is not eligible.
- **Retail share:** Distributed to all cities, towns, and counties where licensed marijuana retailers are physically located, and in proportional share to total statewide marijuana retail sales.

The different distribution formulas mean that some jurisdictions will receive both the per capita and retail distributions, while others may receive only one or the other, and some jurisdictions will receive neither. The chart below shows a few hypothetical scenarios to illustrate the differences.

⁶⁰ The intent of I-502 states, among other things, that it will “[generate] new state *and local* tax revenue” [emphasis added], although it does not specify how the revenue will be shared with local governments or how much will be shared.

Hypothetical Marijuana Excise Tax Distribution Scenarios	Eligible for per capita share?	Eligible for retail share?
City allows marijuana production, processing, and retail and has at least one retailer located within the jurisdiction.	Yes	Yes
City prohibits marijuana entirely and has no retailers located within the jurisdiction.	No	No
Town took no action to prohibit marijuana, but is small enough that no marijuana businesses can locate there under state law due to the buffer requirements.	Yes	No
City prohibits marijuana producers and processors but allows retailers and has at least one retailer located within the jurisdiction.	No	Yes
City currently prohibits new marijuana businesses but has existing retailers that are grandfathered in.	No	Yes
City prohibits marijuana retail and has no retailers but allows marijuana production and processing.	No	No

Each year by September 15, the LCB must provide the state treasurer with the annual distribution amount for each county and city. For the most recent legislative appropriations and distribution estimates, refer to our annual [Budget Suggestions publication](#), released every year at the end of July.

Use of Revenues

The restrictions on the use of marijuana excise tax revenues are somewhat murky, as there is no clear statute stating how the funds must be used. However, the notes in [RCW 69.50.540](#) reference [RCW 69.50.101](#) and the stated intent of I-502, which states that marijuana legalization will “[allow] law enforcement resources to be focused on violent and property crimes [and generate] new state and local tax revenue for education, health care, research, and substance abuse prevention.”

Timing of Receipts

Payments are distributed quarterly on the last business day of March, June, September, and December. The State Treasurer’s Office distributes both the “per capita” and “retail” shares together in one payment using the same BARS code.