

Title 03 COMPTROLLER OF THE TREASURY

Subtitle 06 SALES AND USE TAX

Notice of Final Action

[23-093-F]

On August 1, 2023, the Comptroller of the Treasury adopted new Regulation .47 under **COMAR 03.06.01 Sales and Use Tax**; and amendments to Regulations .02 and .03 under **COMAR 03.06.03 Administrative and Procedural Regulations—Sales and Use, and Admissions and Amusement Taxes**. This action, which was proposed for adoption in 50:12 Md. R. 478-479 (June 16, 2023) has been adopted as proposed.

Effective Date: August 21, 2023.

03.06.01 Sales and Use Tax

Authority: Tax-General Article, §§2-102, 2-103, 11-102, [11-104 (h)] 11-104, 11-105, 11-206, 11-245, 11-502, and 11-504 Annotated Code of Maryland

.47 Cannabis.

A. Scope. This regulation applies to all businesses required to be licensed or registered by the Maryland Cannabis Administration, including growers, micro growers, processors, micro processors, incubator space operators, dispensaries, micro dispensaries, on-site consumption establishments, and delivery services.

B. Definitions.

(1) In this regulation, the following terms have the meanings indicated.

(2) Terms Defined.

(a) “Cannabis” has the meaning stated in Alcoholic Beverages and Cannabis Article, §1-101, Annotated Code of Maryland.

(b) “Delivery service” has the meaning stated in Alcoholic Beverages and Cannabis Article, §36-101, Annotated Code of Maryland.

(c) “Medical cannabis” means cannabis that is:

(i) Purchased by or administered to an individual who is registered as a qualifying patient, as defined in Alcoholic Beverages and Cannabis Article, §36-101, Annotated Code of Maryland; or

(ii) Purchased by a caregiver, as defined in Alcoholic Beverages and Cannabis Article, §36-101, Annotated Code of Maryland.

(d) “Vaping liquid” has the meaning indicated in Business Regulation Article, §16.7-101, Annotated Code of Maryland.

C. Returns and Record Keeping.

(1) A cannabis business shall:

(a) Maintain records as required by law; and

(b) Comply with all statutory and regulatory reporting requirements, and any other requirements published by the Comptroller.

(2) For each separate return required to be filed under COMAR 03.06.03.03, a cannabis business may claim the credit allowed under Tax-General Article, §11-105, Annotated Code of Maryland, for timely filing a sales and use tax return.

D. Exemptions.

(1) Sales Between Cannabis Businesses.

(a) Subject to §D(1)(b) and (c) of this regulation, the sales and use tax does not apply to the retail sale of cannabis between cannabis businesses that are licensed under Alcoholic Beverages and Cannabis Article, Title 36, Annotated Code of Maryland.

(b) A licensed buyer shall present a resale certificate to the licensed seller as evidence of eligibility for the exemption under §D(1)(a) of this regulation.

(c) A seller shall retain a record of the sale in compliance with COMAR 03.06.03.02.

(d) Except as provided in §D(1)(e) of this regulation, the resale certificate shall include the information required in Regulation .14 of this chapter.

(e) If the buyer is not required to obtain a sales and use tax license, the buyer shall include its cannabis business license number instead of a sales and use tax registration number on its resale certificate.

(2) Sales of Medical Cannabis.

(a) The sales and use tax does not apply to the sale of medical cannabis under Alcoholic Beverages and Cannabis Article, Title 36, Annotated Code of Maryland.

(b) For every sale of medical cannabis, the seller shall record the qualifying patient or caregiver’s registration number and retain a record of the sale in compliance with COMAR 03.06.03.02.

E. Clarifications.

(1) Notwithstanding Tax-General Article, §11-104(j), Annotated Code of Maryland, regarding the sales and use tax rate for certain vaping liquid containers, the sales and use tax rate for vaping liquid containing cannabis shall be the rate applicable to cannabis under Tax-General Article, §11-104(k), Annotated Code of Maryland.

(2) Notwithstanding the exemption from sales and use tax for certain food, the sale of food or edible products containing cannabis shall be subject to the sales and use tax rate applicable to cannabis under Tax-General Article, §11-104(k), Annotated Code of Maryland.

03.06.03 Administrative and Procedural Regulations—Sales and Use, and Admissions and Amusement Taxes

Authority: Tax-General Article, §§2-102 [and], 2-103, 11-104, and 11-245, Annotated Code of Maryland

.02 Records.

A.—C. (text unchanged)

D. *Exempt Sales.*

(1) If sales for resale are made, resale certificates obtained from the purchaser shall be retained. For sales and use tax purposes, if a sale to an exempt purchaser is made, an exemption number issued to the purchaser shall be a part of the sales record.

(2) For every sale of medical cannabis, as defined in COMAR 03.06.01.47, the qualifying patient or caregiver's registration number shall be a part of the sales record.

E.—G. (text unchanged)

H. The computation of the tax under [§F] §G is presumptively correct.

.03 Returns.

A. Filing Requirements.

(1) *Sales and Use Tax.*

(a) [A] Subject to §A(1)(b) of this regulation, a person who makes taxable sales or purchases during the course of a month shall file with the Comptroller a report of those sales or purchases, accompanied by payment of the taxes due, by the 20th day of the succeeding calendar month.

(b) A person who makes retail sales, sales for use, or purchases for use of cannabis, as defined in COMAR 03.06.01.47, during the course of a month shall file a separate report and payment for each physical location in the State at which the person makes retail sales, sales for use, or purchases for use of cannabis.

(2) (text unchanged)

B. (text unchanged)

C. The Comptroller shall mail [registrants] appropriate returns to registrants who request them well in advance of due dates. The failure to receive a return from the Comptroller does not, however, alter a person's obligation to file on time. A person who has not received a return from the Comptroller far enough in advance of the due date to avoid a late filing shall request an additional form from the Comptroller or file a signed schedule providing the information normally required on a return, together with the taxes due, on or before the due date.

D.—E. (text unchanged)

BROOKE LIERMAN
Comptroller of the Treasury