How State and Federal Revenue Tools Might Nudge Cannabis Policy

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Www.newrevenue.org
Looking for controversy

• Cannabis revenue design = public policy issue; government revenue = afterthought.
• Optimal size of black market > 0.
• Taxing only by price is untenable in the long run.
• Government monopoly is best.
• Marijuana advertising should stay non-tax-deductible.
• Taxing bud or flower by THC is not realistic.
• Medical marijuana should not be tax exempt.
What drug policy can revenue nudge?

• **Price – sweet spot**
  • Products – nudge toward safer ones
  • Promotion – keep the noise down
• (Revenue = Afterthought)

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For Price, Products, Promotion: The Non-tax Option

• Government sellers
  – Alcohol sales in many states and countries
  – North Bonneville, Washington, retail
  – Louisiana medical growing

• Cf. economic (not drug) policy concern: Who gets rich?

• Drug Policy: Pros and Cons?
For All 3: The Monopoly Option

• Pros: Control of ALL policy, high revenue
• Cons: Inefficiency, distrust, federal law
The tax tool is trickier

• **Price** – sweet spot
• **Products** – support safer ones
• **Promotion** – keep the noise down
Taxes: Find **Consumer Price Sweet Spot**?

- **Rationale:**
  - Externalities
  - Internalities

- Constrained by black market price
Taxes to Nudge Prices Higher -- Considerations

• Burden – How much?
• Base – What to tax?
• Big Boy – What about Uncle Sam?
Tax burden -- to nudge prices

• How much will the legal market bear?
  – What will public accept?
  – Moving target:
    • Enforcement vs. black market can strengthen over time.
    • Legal price declines over time.

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Base Options – What to Tax

• Price
• Weight
• THC
• Carbon footprint
• [Fees]
• [Income – covered under Promotion]
What base to tax? Price?

• Easy first tax
• Correlation with potency (somewhat)
• Downsides
  – Base evaporates over time
  – Relationships and Shenanigans
  • Related parties
  • Related products
    – Bundling
    – Quantity discounts

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What to Base tax? Weight?

• Gold standard for alcohol and tobacco
• Only tax base in AK; de facto in CO and NV
• But
  – Incentivizes potent product
  – Requires set up
  – Requires tricky categories

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What to Base tax? Weight?

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Categories in Nevada

• 1. Flower
• 2. Small Bud
• 3. Trim
• 4. Wet Whole Plants
• 5. Immature Plants
• 6. Pre-Rolls
• 7. Seeds
What Base to tax? THC content?

Percentage of Active Cannabinoids

- THCA: 17.49%
- THC: 0.92%
- CBN: 0.12%
- CBDA: 0.58%
- CBD: 0.00%

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What to Tax? THC in bud?

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What Base to Tax? THC in bud?

Dale Gieringer, CA NORML

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What Base to Tax? THC in Concentrates? More homogeneous

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What Base to tax? Carbon footprint?

- Arcata CA excess electricity tax on everyone
- Boulder County CO -- marijuana growers only

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The Big Boy

• Federal legalization =
  – Federal tax
  – Interstate commerce and race to bottom
    • Less freedom for subnational taxes
    • Like local canopy taxes

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Nudging Products

- Adjust tax to favor certain products over others?
- Lungs and 2d hand smoke?
- Uncalibrated kid-available edibles?
- Blumenauer: FDA + sold “solely” as medicine
Nudging against Promotion

• No deduction for selling expenses (280E)
  – Retail vs. Grower
  – Hits advertising and marketing
  – Constitutionally OK
  – But overbroad
    • Expense of trucking cash to bank
Tax breaks

• Small producer?
• Home grown?
• Medical?
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Questions and Comments

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