



# Special Notice

WASHINGTON STATE DEPARTMENT OF REVENUE

JULY 9, 2015

## Temporary Sales and Use Tax Exemptions for Medical Marijuana from Collective Gardens

A new law provides a temporary sales and use tax exemption to collective gardens and some individuals participating in collective gardens ([Second Engrossed Second Substitute House Bill \(2E2SHB\) 2136 \(Chapter 4, Laws of 2015\)](#)).

### Who qualifies

- Collective gardens
- Qualifying patients and designated providers participating in collective gardens ([RCW 69.51A.010](#))

### Marijuana sales by collective gardens

From July 1, 2015 until June 30, 2016, sales of certain products by collective gardens to qualifying patients and designated providers are exempt from retail sales tax.

Exempt products include:

- Marijuana products: marijuana, marijuana concentrates, useable marijuana, and marijuana infused products ([RCW 69.50.101](#))
- Low-THC products: products containing THC with a THC concentration of 0.3 percent or less that when used as intended are inhalable, ingestible, or absorbable

Collective gardens making sales under this exemption must report their gross sales, and then report a "Sales of Marijuana by Collective Gardens" deduction on their tax return.

### Marijuana use by collective gardens, qualifying patients and designated providers

From July 1, 2015 until June 30, 2016, use of marijuana products and low-THC products by collective gardens, qualifying patients and designated providers participating in collective gardens are exempt from use tax.

This includes donations of marijuana products or low-THC products by collective gardens to qualifying patients and designated providers.

All use must be in compliance with [Chapter 69.51A RCW](#) to qualify for the exemption.

### No B&O tax exemption

Collective gardens must still pay retailing B&O tax on all their retail sales of marijuana products, low-THC products, and all other goods. Collective gardens also owe manufacturing B&O tax on processing or manufacturing of these products.

A Multiple Activities Tax Credit may be claimed so that B&O tax is only paid under one classification for the same product ([WAC 458-20-19301](#)).

## Requirements for collective gardens

Until July 1, 2016, qualifying patients and designated providers that create and participate in collective gardens must follow all of the conditions in [RCW 69.51A.085](#):

- No more than 10 qualifying patients or designated providers may participate in a collective garden at any time
- No one under 21 may participate in a collective garden or receive marijuana that was produced, processed, transported, or delivered through a collective garden. A designated provider for someone under 21 may participate in a collective garden for that person
- A collective garden may contain up to 15 plants per patient, up to 45 plants total
- A collective garden may contain up to 24 ounces of useable marijuana per patient, up to 72 ounces total
- A copy of each qualifying patient's authorization, including a copy of the patient's proof of identity, must be available at all times on the premises
- No useable marijuana from the collective garden is delivered to anyone other than one of the qualifying patients participating in the collective garden

All sales of marijuana products and low-THC products must be in compliance with [Chapter 69.51A RCW](#) and meet the above requirements to qualify for the exemption. Each collective garden must maintain information establishing eligibility for the exemption.

## When retail sales or use tax still is required

Qualifying patients and designated providers must pay retail sales or use tax on marijuana products or low-THC products from an ineligible collective garden.

Sales by all collective gardens of items not covered by the exemption remain subject to retail sales and use tax. These items include paraphernalia, clothing, posters and memorabilia.

## Collective gardens to be eliminated in 2016

A new law eliminates collective gardens after June 30, 2016 ([Engrossed Second Substitute Senate Bill \(E2SSB\) 5052 \(Chapter 70, Laws of 2015\)](#)).

## For more information

- Collective gardens and medical marijuana, from the Department of Health: [doh.wa.gov/YouandYourFamily/Marijuana/MedicalMarijuana](http://doh.wa.gov/YouandYourFamily/Marijuana/MedicalMarijuana)
- The Liquor Control Board (now called Liquor and Cannabis Board) and its role under the new law: [lcb.wa.gov/mj2015/cppa-impact](http://lcb.wa.gov/mj2015/cppa-impact)
- Department of Revenue's website on medical marijuana: [dor.wa.gov/medicalmarijuana](http://dor.wa.gov/medicalmarijuana)