

July 28, 2017

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Re: Your request for access to information under Part II of the *Access to Information and Protection of Privacy Act* [Our File #: FIN-50-2017]

On July 5, 2017, the Department of Finance received the following request for access to information:

“Reports, studies and research related to implementing the legalization of cannabis for recreational use in Newfoundland and Labrador.”

The Department is pleased to advise that access has been granted in part to the above request and is attached. It is important to note the following when reviewing this information:

- Some information is considered Policy Advice or Recommendations and has been severed pursuant to section 29.(1)(a) of the *Access to Information and Protection of Privacy Act, 2015* (ATIPPA).
- Some information is considered Harmful to Intergovernmental Relations or Negotiations and has been severed pursuant to sections 34.(1)(a) and 34.(1)(b) of the *Access to Information and Protection of Privacy Act, 2015* (ATIPPA).
- For additional information pertaining to the exemptions cited above and used in this response (Sections 29 and 34 of ATIPPA), please consult the online version of the Act (<http://www.assembly.nl.ca/legislation/sr/statutes/a01-2.htm>).

For your convenience, provided in the table below is a listing of the page numbers that have been completely removed due to exemptions pursuant to ATIPPA (as described above). Please note when referencing the page numbers, refer to the top right hand corner of the page.

Page Number Removed	Exemption Used
Pages 8-14	Section 29.(1)(a)
Pages 22-51	Section 34.(1) and 34.(1)(b)

Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request, as set out in section 42 of the *Access to Information and Protection of Privacy Act* (the *Act*). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner.

The address and contact information of the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John's, NL. A1B 3V8

Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the *Act*.

The responsive records will be published following a 72-hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Completed Access to Information Requests website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please feel free to contact the undersigned by telephone at 709-729-2082, or by email at bethbartlett@gov.nl.ca.

Sincerely,



Beth Bartlett
ATIPP Coordinator

Attachment

Information Note

Department of Finance

Title: Cannabis Tax

Issue: Cannabis taxation is one of the issues included on the June 19 Federal-Provincial Territorial Finance Minister's Meeting in Ottawa. This note is being prepared in the event that the Federal Minister solicits feedback from PTs regarding a coordinated cannabis tax regime.

Background and Current Status

- The Government of Canada has tabled legislation for cannabis legalization in Parliament (Bill C-45) with an effective implementation date of just before July 1, 2018.
- Legalization of cannabis products will likely generate modest revenues from existing tax bases – including through the imposition of HST, federal excises tax, provincially imposed taxes and/or proprietary markups.
- The Parliamentary Budget Officer (PBO) has opined that the higher the price for legal cannabis, the more likely consumers will choose the illicit market. The PBO has suggested that the legal price premiums of \$1, \$2, and \$3 per gram were projected to result in declining legal market share percentages of 65, 56, and 43, respectively.
- The federal *Task Force on Cannabis Legalization and Regulation* noted that tax and price coordination between levels of government is critical and recommends that any tax regime implemented include equitable distribution of revenues.
- While the GNL has yet to finalize any decision regarding the pricing and regulatory model to be used in this province, Minister Morneau may use the June 19 meeting as an opportunity to gage the degree of interest that PTs may exhibit regarding the possibility of a coordinated cannabis tax regime.

Analysis

- Product-specific taxes in Canada (e.g., on alcohol, tobacco and fuel) are generally imposed both indirectly at the federal level on manufacturers and importers, and directly at the provincial/territorial (PT) level on final consumers (but are usually pre-collected at the wholesale-level).

29.(1)(a) •



- In establishing a new cannabis control framework, all levels of government will have a stake in ensuring that tax rates do not lead to prices that promote or perpetuate contraband activity.
- Pursuant to this, a coordinated FPT regime could be effective in limiting the illicit market by ensuring a modest, uniform level of taxation in cannabis prices across Canada.
- This type of approach could consist of a single taxation authority at the federal level combined with a revenue sharing mechanism with PTs.

29.(1)(a)

[Redacted]

29.(1)(a),
34.(1)(b)

- [Redacted]

- It is unknown at this time, whether a coordinated taxation framework would require the participation of all provinces, or if the framework would operate along the same lines as the HST, whereby some provinces have elected not to participate in that framework.

29.(1)(a)

- [Redacted]
- [Redacted]

- Although a single regime would entail a common cannabis tax base and a single administrator, there are several considerations related to how cannabis tax rates could be determined.
- In addition to ensuring a low common rate to prevent contraband, uniform rates could mitigate cross border revenue leakage that may otherwise arise between jurisdictions with varying price points.

29.(1)(a)

- [Redacted]

34.(1)(b)

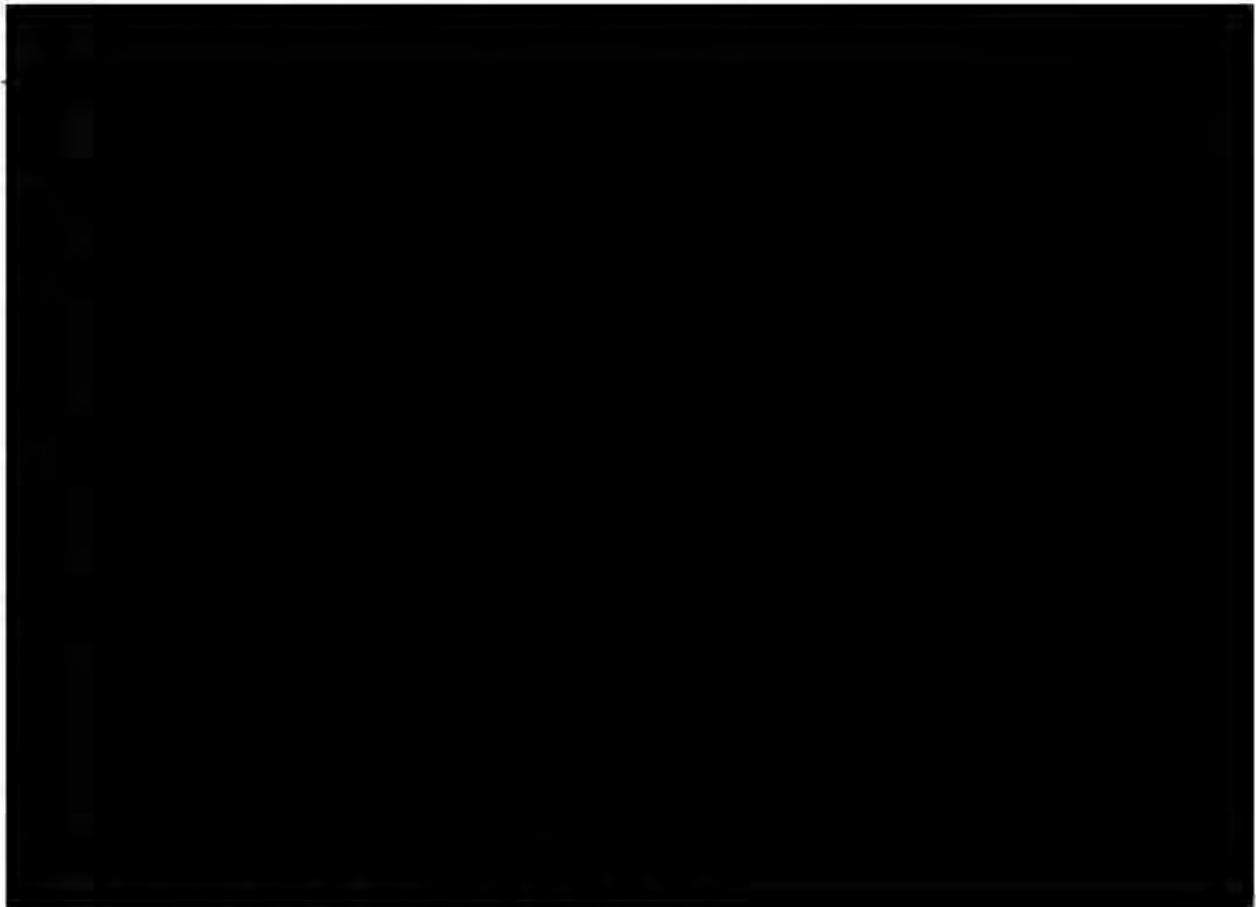


- The provincial rate components could be separately determined by each jurisdiction. A potential maximum overall rate (i.e., of the combined federal/PT component) could be set and changed over time with agreement from both levels of government.
- Compared to the single rate option, this approach would allow jurisdictions to adjust their PT rate component of a tax on cannabis to a level of their choosing, subject to the conditions of the agreement (i.e. similar to CITCA, whereby HST participating provinces can only change the provincial portion by certain degrees over a specified time frame).

NLC Mark-up Considerations

- Mark-ups are a key feature of the province’s alcohol regulatory framework.

29.(1)(a)



Prepared/ Reviewed by: D. Haynes/J. Griffin / C. Martin

Approval:



Cannabis Tax Considerations

Department of Finance

February 2017

(Presented without Prejudice)

Background



- Government of Canada committed to legalizing, regulating and restricting access to recreational cannabis use
- Legislation to legalize recreational cannabis use expected in Spring 2017.
- Established a Task Force to examine legalization and regulation.

Federal Task Force Recommendations



- Recommended that tax co-ordination between levels of government is critical. FPT tax regime should provide equitable distribution of revenue.
- Other recommendations stressed that governments:
 - Establish a tax regime that balances health protection with reducing the Underground Economy (UE).
 - Create a tax and price system that is flexible and responsive to market changes.
 - Introduce a tax system that discourages consumption of high TCH potency products.

Key Considerations



29.(1)(a)

- Parliamentary Budget Office (PBO) has warned that the higher the price for legal cannabis, the more likely consumers will continue to purchase from the UE.

PBO Estimates	
Legal Price Above Avg. UE Price	Market Share
\$1.00	65%
\$2.00	56%
\$3.00	42%

Federal/Provincial Tax Coordination



- Important for all governments that tax rates do not lead to promotion of contraband.
- An uncoordinated approach would likely follow same path as alcohol/tobacco.
- Federal Government has suggested that a single tax authority combined with a revenue sharing mechanism with PTs could be explored.

Age Restrictions



- The Federal Task Force recommended a minimum age of 18 for consumption of cannabis.
- Also recommended that PTs have option to align minimum age for cannabis with their respective age limit for consumption of alcohol.
- Most PTs, have a legal drinking age of 19. Some (BC & AB) are reportedly considering raising the smoking age to 21 and aligning cannabis age with it.

34.(1)(a)(i)



29.(1)(a)



Distribution and Sales



- Task Force recommends that wholesale distribution of cannabis be regulated by PTs. Also recommends that co-location of alcohol/tobacco and cannabis sales, be avoided, where possible.

29.(1)(a) • [Redacted]

- Canadian Pharmacist Association supports allowing drug stores to serve as retailers.

29.(1)(a) • [Redacted]

- Distribution and sale of cannabis will be highly regulated. [Redacted]

29.(1)(a) [Redacted]

Next Steps



- Federal government has initiated an ad hoc FPT working group on taxation that could produce:
 - Draft paper on potential tax co-ordination options
 - Economic analysis on potential market/revenues
 - Final tax policy options paper.
 - Would meet regularly with goal of a final report to ADMs in April, 2017.

Council of Atlantic Premiers – Background Note – Common Age on Legalization of Cannabis
Intergovernmental Affairs Secretariat

34.(1)(a)(i)

Overview: [REDACTED] will lead a discussion on possible Atlantic harmonization of a minimum legal age for Cannabis use, upon legalization.

Background and Current Status:

- In the 2015 Speech from the Throne, the Federal government committed to legalizing, regulating and restricting access to cannabis.
- A Task Force on Cannabis Legalization and Regulations (the Task Force) was created by the Minister of Justice and Attorney General of Canada, supported by the Minister of Public Safety and Emergency Preparedness and the Minister of Health. It had a mandate to "engage with a broad range of stakeholders and to provide advice on the design of a new federal framework."
- The Task Force on Cannabis Legalization and Regulation released its final report entitled *A Framework for the Legalization and Regulation of Cannabis in Canada* on December 13, 2016 which included 80 recommendations.
- The recommendations have numerous legislative, regulatory, policy and program implications for NL and will require considerable study.
- The Task Force has recommended that the federal government set a minimum age of 18 for the legal possession and consumption of cannabis. It has also recommended that provinces and territories have the option to harmonize the minimum age for cannabis use with their respective age limit for legal consumption of alcohol.
- All Canadian Provinces have a legal drinking age of 19 with the exception of Alberta, Manitoba and Quebec which have a legal drinking age of 18.

Analysis:

- A Provincial Interdepartmental Committee, co-led by HCS and JPS, on the legalization of cannabis has been meeting bi-weekly since December 2016. The Interdepartmental Committee is considering the recommendations listed in the Task Force Report and is working on developing recommendations on provincial positions on federal measures over the coming months, including potential provincial legislative, regulatory policy and program measures.
- Representatives of Atlantic provincial governments met with the Task Force in Halifax on August 26, 2016. Jurisdictions presented preliminary thoughts on the following themes: minimizing harms of use; establishing a safe and responsible production system; designing an appropriate distribution system; enforcing public safety and protection; and accessing cannabis for medical purposes. NL was represented at this meeting by HCS and JPS officials. Preliminary views expressed were based on consultations with departmental officials represented on the interdepartmental committee.
- Key objectives for Newfoundland and Labrador include: public health and safety; minimizing harm associated with cannabis use; promoting responsible social use; reducing the burden

on the police and justice system for minor offences; reducing profits for criminals and organized crime; pursuing regional and national consistency around regulations and restriction of access to cannabis; exploring the economic impact/implications, including potential economic benefits; and establishing and enforcing a system of strict production, distribution and sale of cannabis.

34.(1)(a)(i)

- [REDACTED] has proposed that Atlantic Premiers commit to share information and best practices in preparing for the forthcoming legalization of cannabis use in Canada and direct their Justice Ministers to continue collaborative efforts with their Atlantic colleagues. [REDACTED]

[REDACTED]

[REDACTED]

29.(1)(a)

- The Provincial Interdepartmental Committee is currently discussing the possibility of not only synchronization with alcohol/smoking age at the present age of 19, [REDACTED]

29.(1)(a)

[REDACTED]

- Some stakeholder groups, including the Medical Societies of New Brunswick and Nova Scotia, have publicly advocated for a minimum legal age of 21. Newfoundland and Labrador acknowledges that additional research on development ages and impairment levels should be completed.

29.(1)(a)

[REDACTED]

29.(1)(a)

- Given the diversity of views and ongoing internal consideration of this complex matter, [REDACTED]

[REDACTED]

- It is understood that the federal government has indicated it would possibly bring legislation to the House of Commons on the Legalization of Cannabis in Spring 2017 with implementation as early as 18 months later, therefore identifying a minimum age in a timely fashion is important.

Key Messages:

- Newfoundland and Labrador is supportive of continued internal discussions regarding a common minimum age for the Atlantic Provinces.
- Newfoundland and Labrador supports continued research into an appropriate age for cannabis usage to minimize harm.
- The Province support further work being undertaken by officials on this matter with further input being provided to Premiers prior to a future CAP meeting.

Prepared/Reviewed by: D. Thomas/D. Mackenzie in consultation with the Provincial Interdepartmental Committee. [PENDING]

Approval:

February 9, 2017