



## **COLORADO**

**Department of Revenue**

Taxation Division

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### **Colorado Department of Revenue Statement of Emergency Justification and Adoption Emergency Amendment to Rule 39-28.8-302**

Pursuant to sections 24-4-103(6), 39-28.8-302, and 39-28.8-308, C.R.S., I, Michael S. Hartman, Executive Director of the Department of Revenue, hereby adopt emergency amendments to tax Rule 39-28.8-302.

Section 24-4-103(6), C.R.S., authorizes the Executive Director to adopt a temporary or emergency rule if the Executive Director finds that the immediate adoption of the rule is imperatively necessary to comply with a state law and that compliance with the requirements of section 24-4-103, C.R.S. regarding promulgation of a permanent regulation would be contrary to the public interest.

I find that the immediate adoption of amendments to this rule is necessary to conform the rule to statutory amendments made by Senate Bill 17-192, which takes effect on August 9, 2017. The bill modifies the calculation of retail marijuana excise tax depending on whether the transfer of retail marijuana is made by affiliated or unaffiliated business licensees. Additionally, the bill eliminates the tax on transfers between retail marijuana cultivation facilities. The bill also requires the Department to determine one or more average market rates that cover unprocessed marijuana that is allocated for extraction. Finally, the bill establishes a definition of “contract prices” for use in the calculation of excise tax on certain transfers of retail marijuana. These legislative changes render the existing Rule 39-28.8-302 inconsistent with the underlying statute and necessitate the adoption of this emergency rule.

I, therefore, find that the emergency adoption of this amended rule is necessary to comply with state law. Finally, I find that compliance with the requirements of section 24-4-103, C.R.S., would be contrary to the public interest under the circumstances.

#### **Statutory Authority**

The statutory authority for this amendment to the existing rule for section 39-28.8-302, C.R.S., is cited above.

#### **Purpose**

To conform the existing rule to changes made by Senate Bill 17-192.

### Adoption

For the reasons set forth above, I hereby adopt emergency Rule 39-28.8-302, which is attached to this Statement and shall be effective on the date of its adoption and shall apply prospectively. This emergency rule shall be in force and effect for a period of one hundred and twenty days from the date of this notice, unless sooner terminated or replaced by permanent rules adopted in accordance with section 24-4-103, C.R.S.

Adopted this 8<sup>th</sup> day of August, 2017.



Michael S. Hartman  
Executive Director  
Colorado Department of Revenue