



Tax



Purchases



Checklist

# Tax Insights: Application of Sales and Use Tax to the medical cannabis industry

August 7, 2017

Act 42-2017, was enacted on July 9, 2017 to establish the statutory framework applicable to the Medical Cannabis industry. To provide guidance on the provisions of the sales and use tax (SUT) as they relate to this industry, the Puerto Rico Treasury Department issued Administrative Determination 17-0 (DA 17-0) on July 20, 2017.

Following we provide five basic questions and answers that will give you a head start to the new procedures.

## What is covered?

Medical Cannabis is defined as:

1. all compound, derived product, mix or preparation of all parts of the Cannabis Sativa and Cannabis Indica plants.
2. it also includes any hybrid of the plants, seeds, flowers, or resin. However, it does not include the adult or mature stems.

1. Merchants' Registry
2. fiscal terminal requirements
3. filing of monthly sales and use tax and imports returns
4. deposit of SUT
5. payment upon importation of taxable items
6. display in receipts of the sales price separate from the state and municipal SUT.

## How is it treated for SUT?

DA 17-06 states that the Medical Cannabis and its derivatives are a taxable item for sales and use tax purposes in Puerto Rico. It is not covered by any of the following exemptions:

1. food or food ingredients
2. prescription medicines
3. bona fide farmers
4. articles for manufacturing
5. machinery and articles used in health services

## What requirements apply?

Merchants in this industry, must comply with all registrations, filings and payments as they apply to all merchants:



### What NAICS apply?

According to DA 17-06 the following are the possible applicable NAICS:

NAICS	Description	Commercial Activity
11141	Food crops grown under cover	Farming
42459	Other farm product raw material merchant	Product
45399	All other miscellaneous store retailers	Dispensaries
54138	Testing laboratories	Laboratory quality tests
48422	Specialized freight (except used goods) trucking, local	Transportation

Those merchants that are already registered, must verify and or change their NAICS to one of the above on or before August 31, 2017. A penalty of \$500 may be imposed in case of failure to update the NAICS.

### When is DA 17-06 effective?

The provisions of DA 17-06 are effective immediately.

Please contact our Tax Department should additional information is required regarding this or any other tax issue. We will be glad to assist you.

Access our Monthly Alerts and Tax Insights on: [www.grantthornton.pr](http://www.grantthornton.pr)



**María de los Angeles Rivera**  
Partner Head of Tax and IBC Director  
Kevane Grant Thornton  
E [maria.rivera@pr.gt.com](mailto:maria.rivera@pr.gt.com)



**Lina Morales**  
Tax Partner  
Kevane Grant Thornton  
E [lina.morales@pr.gt.com](mailto:lina.morales@pr.gt.com)



**Francisco Luis**  
Tax Partner  
Kevane Grant Thornton  
E [francisco.luis@pr.gt.com](mailto:francisco.luis@pr.gt.com)



**Isabel Hernández**  
Tax Partner  
Kevane Grant Thornton  
E [isabel.hernandez@pr.gt.com](mailto:isabel.hernandez@pr.gt.com)



DISCLAIMER: This update and its content do not constitute advice. Clients should not act solely on the basis of the material contained in this publication. It is intended for information purposes only and should not be regarded as specific advice. In addition, advice from proper consultant should be obtained prior to taking action on any issue dealt with this update.

© 2017 Kevane Grant Thornton LLP All rights reserved. Kevane Grant Thornton LLP is a member firm of Grant Thornton International Ltd (GTIL). GTIL and the member firms are not a worldwide partnership. Services are delivered by the member firms. GTIL and its member firms are not agents of, and do not obligate, one another and are not liable for one another's acts or omissions. Please visit [www.grantthornton.pr](http://www.grantthornton.pr) for further details.