

NOTHING IS CERTAIN BUT WEED AND (BACK) TAXES

Eugene's crowded marijuana market still faces financial questions

When you walk into one of Eugene or Springfield's 68 marijuana retailers, you will see shelves full of green. In the back offices, though, their books may be in the red. After reviewing the financial records of Lane County's 84 retailers from the Oregon secretary of state, *Eugene Weekly* found that some owe the Oregon Department of Revenue (DOR) up to hundreds of thousands of dollars in back taxes.

Oregon has 571 licensed marijuana retailers, which comes out to one for every 7,385 Oregonians. There's roughly one for every 4,425 people in Lane County, and retailers are just about as common as cracks in sidewalks. With a market that is becoming increasingly saturated and competitive, the dire financial situation of some retailers shows that the cannabis industry is evolving and moving into the mainstream.

"Obviously in the cannabis industry, just like in any industry, some businesses just don't make it," says Paul Loney, a Portland attorney who specializes in cannabis law. "It's a slippery slope when you fall behind on paying your taxes. It's hard to catch back up."

Marijuana retailers can end up with tax debts for a variety of reasons; however, one common reason is failing to pay taxes on retail marijuana sales.

The state levies a 17 percent marijuana tax, and the city of Eugene adds an additional 3 percent tax, in what many call a "sin tax" on a substance some see as harmful. If a customer purchased marijuana with a list price of \$10, the total bill would be \$12.

Retailers collect the taxes on marijuana from each customer's purchase and submit them to the DOR at the end of the month. At the end of the quarter, retailers submit a return to the DOR, which ideally should match up the payments made at the end of each month.

Joy Krawczyk, a spokeswoman with the DOR, writes in an email that the department can send the owner a "demand to pay letter" if there is a discrepancy in the retailer's finances. Krawczyk writes that the sanctions can escalate if the retailer doesn't respond to the letter.

"If they don't pay following receipt of that letter, then

we file the lien along with other collection activities, such as issuing a garnishment (if there's an account from which we can garnish)."

Debts don't just affect the owners of the business; failures to pay off a debt can lead to problems with the Oregon Liquor Control Commission, the agency that regulates the sale of recreational cannabis in the state.

According to Oregon law, after receiving a notice that a retailer is in financial trouble, the OLCC shall "refuse to reissue, renew or extend any license, contract or agreement until the agency receives a certificate issued by the department that the person is in good standing with respect to any returns due and taxes payable to the department as of the date of the certificate."

Because marijuana remains illegal under federal law, retailers can't seek protection from creditors by filing for bankruptcy.

"We're mainstream America, but on the federal level in so many ways we're still the weirdoes in the corner," says David Kelly, a former Eugene City Council member and the owner of Mary Jane's Pot Shop. "It's this strange dichotomy."

Kelly had a \$26,392.89 lien placed on his business by the DOR, but Kelly says that he was able to work out a payment plan with the DOR and said that the department was "very cooperative." Kelly adds that the OLCC has been supportive of his business.

"The lien hasn't affected our relationship with the OLCC at all," Kelly says. "I won't speak for OLCC but what I have seen both as a participant and as an observer, is that they have some flexibility in their administrative rules and they're looking for compliance. They will treat someone who made a mistake in inventory tracking very differently than someone who tries to cheat the system."

Kelly says he recently paid off the lien for Mary Jane's Pot Shop and that it should take 30 to 60 days to clear with the DOR.

Cooperation with the DOR seems commonplace, as Sweet Leaf Cannabis located in Springfield also has a lien worth \$326,844, but has a payment plan in place with the department.

Jamaica Joel's, located in downtown Eugene, has a \$94,873.74 lien against it for not paying retail marijuana taxes. Its owner, Travis Higbee, declined to comment.

Cannabliss, which operates in Portland, Eugene and Springfield, is another retailer that ran into financial difficulties. According to *The Oregonian*, Cannabliss' owner, Matthew Price, was charged in April with four counts of willfully failing to file personal income tax returns, and the DOR placed a \$110,536 lien against the retailer for not paying marijuana taxes in 2016 and 2017.

In an email response to questions regarding Cannabliss' finances, Price writes that Cannabliss, like other retailers, worked with the state and was able to pay off the lien in full.

"It is incredibly important for businesses and owners that may have fallen behind to reach out and work on terms with the state," Price writes. "They are great to work with and don't want to see people close down. Cannabliss did have a payment plan but it was paid in full."

Price writes that the retail marijuana market in Eugene is changing due to the city's refusal to pass an ordinance that would require retailers to be at least 1,000 feet away from each other. He refers to the city's current policy as a "silly experiment," and writes that the lack of a policy was meant to weed out the strong retailers from the weak, but ultimately smaller retailers suffered.

"Eugene did the opposite of what the intention was and is hurting the mom and pops. Not helping them," he writes.

It's unclear whether the 1,000-foot rule would make reduce the number of retailers with unpaid marijuana taxes in Eugene. Portland, which has enforced the ordinance since 2015, has 11 retailers with unsatisfied liens for marijuana taxes, according to the Oregon Secretary of State's Uniform Commercial Code records.

Price writes that due to the lack of regulation, the future of the marijuana retail market in Eugene may be cloudy.

"It's unfortunate, and I think we are going to see a ton of ramifications because of it. Taxes will go unpaid, leases will be terminated, employees will lose their jobs. I think the only people that will make money will be the attorneys." ■

AN APPLE A DAY

Queener Farm, boasting a large variety of apples, will start delivering to Eugene this season

You might think Red Delicious or Fuji when you think apples, but Queener Farm, an apple orchard located about 20 miles southeast of Salem, has more than 100 mature varieties of heirloom apples. It wants to show them off.

Heirloom apples are small scale, older varieties not generally in large commercial production.

This will be the first season that boxes, previously delivered only to Portland, Salem and Independence, will be available in Eugene and Springfield through the farm's Heirloom Apple Club program. Through this apple club, subscribers can receive a taste of the large variety of apples that are available at Queener Farm.

These heirloom apples have a history: The varieties have been saved over generations, and are not engineered for certain tastes or looks.

Jeannie Berg, a seeder at the farm and the founder of the



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Heirloom Apple Club, says there are two different kinds of boxes that one can choose from, differing in size and variety.

"The sampler boxes are about exploring different flavors. Family boxes are for people who like to bake and sauce," she says. "You can get to know the apples, it's quite the wide array."

Berg says she anticipates the first boxes going out at the end of July with the start of the apple season. They are hand-selected by farmers.

"Every Monday we walk through the farm and decide what goes in the box this week. There's always kind of a favorite of the week," Berg says.

Her favorite? It depends. "In August, when it's hot out, there's this one apple called the Alkmene; it tastes a lot like a lime soda. It's always the best thing when it's hot out."

Besides the Heirloom Apple Club, Queener Farm has a variety of activities for orchard visitors to enjoy. Berg mentions "farm stand Saturdays," where people can wander around the orchard and drink freshly pressed cider. This typically goes for the whole season, from July until Thanksgiving, Berg says.

Berg mentions that bridge closures in Portland, which will amp up metro-area traffic, are going to make it more difficult for the farm to deliver there. Because of this, she thinks focusing her efforts south, on Eugene, is a good idea.

"It's our first time in Eugene and we're really excited about it," she says.

The sampler boxes are \$150 for eight boxes during the season, and the family boxes cost \$260, but you can get a discount if you go to the farm to pick them up — a good opportunity to check out the orchard and all its unique tastes.

"I remember my first season at the Queener Farm. The flavors of the apples surprised and wowed me almost every day," Berg says. "I'd had a lot of apples, and cared for an old orchard with several heirloom varieties, but the apples at the Queener were a flavor adventure that was truly amazing." ■

Queener Farms is located near Salem. More information can be found at queenerfarm.com.