# Doing Business in Delaware 2B: Retail Marijuana

February 2025

# Key Contacts

## Marijuana Tax Department Email Contacts

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- Brady Lamers – Brady.Lamers@delaware.gov
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Immediate questions or concerns please call 302-577-8200

*Inquiries will be responded to within 24 hours*

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# AGENDA

- **Process Overview for Marijuana Establishments**
- Navigating One Stop
- Marijuana Retail Excise Tax
- Example RMT-TAX
- Gross Receipts Tax (GRT)
- Example GRT

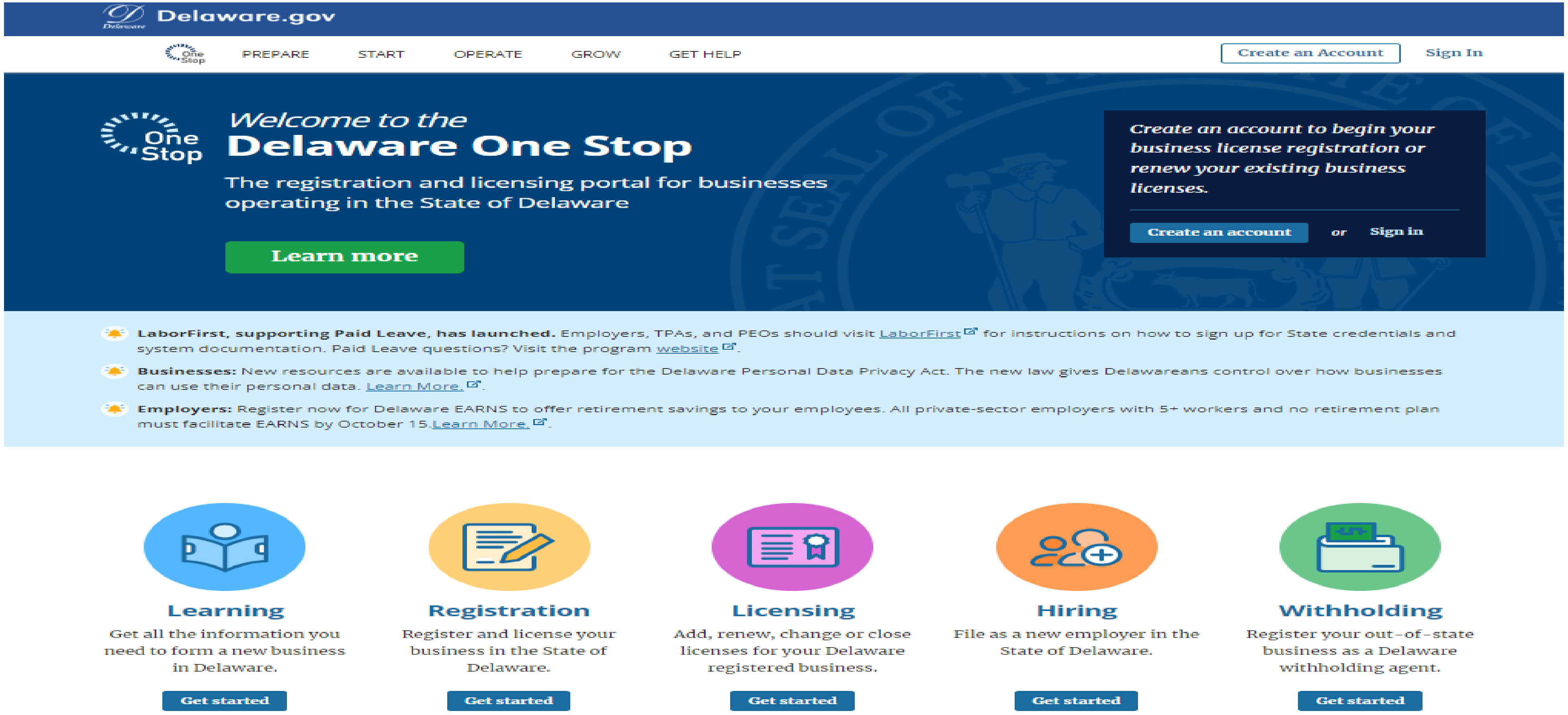
- **Navigating Delaware Taxpayer PORTAL**
  - ➢Renew Business License
  - ➢File Gross Receipts
  - ➢File Withholding Tax
  - ➢Pay 15% Excise Tax
- Other Business-Related Taxes
- Key Contacts

# Process Overview for Marijuana Establishments

1. Create Entity through One-Stop
2. OMC Application
3. Approval Conversion/Approval Lottery Winner
4. Tax Clearance DOR
5. Final Approval OMC
6. Create Portal Account
7. File your GRT, WTH, and RMT through the DE TAXPAYER PORTAL
8. Pay your Tax Bill through the DE TAXPAYER PORTAL

# Navigating One Stop

https://onestop.Delaware.gov



# Navigating One Stop

- ADD, RENEW, OR MODIFY LICENSES
  - If you've already registered your business with the Delaware Division of Revenue, you can create an account or log in to the new One Stop to renew, modify, add or close your business license.
- Checklist for renewing, adding, changing, or modifying a license:
  - ➢ Login information for your existing One Stop Account
  - ➢ Business License Number, found on your business license or in your One Stop account.
  - Method of payment
    - ➢ Visa, MasterCard, Discover, and American Express are accepted
      - ✓ Debit Cards with a credit card brand are also accepted
      - ✓ The card billing address must be in the U.S
    - ➢ ACH Debit transactions are accepted

DIVISION OF REVENUE

# Navigating One Stop

- How long would you like to renew (one or three years)?
  - Division of Revenue licenses are issued by calendar year.  You can renew each year, or you can choose a three-year renewal option.
  - There is only a one-year option the first time you get the license.

- Have you become an employer?
  - If you have grown from zero employees to one or more employees, you will need to open a withholding account with the Division of Revenue and register as an employer with the Division of Unemployment Insurance and the Office of Worker's Compensation with the Delaware Division of Labor.

# Marijuana Retail Excise Tax

**What is Delaware's Retail Marijuana Tax rate?**

- **Delaware's Retail Marijuana Tax rate is 15%,** which is imposed on the retail sales price of any marijuana product sold in Delaware. This tax is rounded up to the next whole cent.

**Who pays the Retail Marijuana Tax?**

- The Retail Marijuana Tax is imposed upon the consumer of marijuana products at the point of sale. The tax is remitted to Delaware by the retail marijuana store licensee who acts as a taxpayer in trust of Delaware tax revenue paid by marijuana consumers.

# Marijuana Retail Excise Tax

**Why does my business pay the Retail Marijuana Tax if the tax is imposed on the consumer?**

- The Retail Marijuana Tax is a **“trust fund tax”** where a person or business collects a tax for the State to satisfy the liability owed by another party in a transaction. Delaware’s tax on marijuana consumers will be held in trust by marijuana retailers until the tax is paid.

**What is a responsible party and how does it relate to Retail Marijuana Taxes?**

- In the case of trust fund taxes like the Retail Marijuana Tax, individuals, including those who, as a matter of status or authority, are responsible to collect and account for a tax because of significant control over a company’s finances and satisfaction of a company’s debts are considered “responsible parties”. These individuals are personally liable for the payment of the Retail Marijuana Tax and may be subject to additional penalties if they are deemed to have willfully evaded remittance of a company’s trust fund tax liabilities.

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# Marijuana Retail Excise Tax

**What if I purchase marijuana for medicinal use?**

- If the consumer provides a **valid medical marijuana registry identification card** at the time of purchase, the Retail Marijuana Tax is not charged.

**Are there any other exemptions from the Retail Marijuana Tax?**

- No, only consumers who provide a valid medical marijuana registry identification card at the time of purchase are exempt from the Retail Marijuana Tax.

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# Marijuana Retail Excise Tax

**How do I file a refund for overpaid tax?**

- Overpayment claims are included as part of the monthly Retail Marijuana Tax form and will be credited as an offset against future tax liabilities.
- No Refunds

**What is the penalty for failure to pay the marijuana tax due?**

- The standard penalty for failure to pay tax in Delaware applies to the Retail Marijuana Tax. This penalty is 1% of the amount of tax owed if the failure is for not more than 1 month, with an additional 1% for each additional month or fraction thereof during which such failure continues, not exceeding 25%. Furthermore, failure to pay tax or penalty due timely will result in interest which accrues for 0.5% of any unpaid tax, penalty, or additional amounts owed if the payment is not more than 1 month late, with an additional 0.5% for each additional month or fraction thereof during which such failure continues.
- In addition to the failure to pay penalty, a failure to file penalty also applies to the Retail Marijuana Tax. This penalty is 5% of the amount of tax owed if the failure is for not more than 1 month, with an additional 5% for each additional month or fraction thereof during which such failure continues, not exceeding 50%. Interest on an underpayment as described above also applies to failure to file penalties.

# Marijuana Retail Excise Tax

- **Are Retail Marijuana Tax records subject to inspection during normal business hours?**
- Yes. The Division of Revenue may examine all Retail Marijuana Tax records, including point of sale records (i.e. Bio-Track) and machinery, at any time during the Division of Revenue's regular business hours and may review seed-to-sale documentation at any time from Delaware's mandatory seed-to-sale tracking system. Examinations may occur independently or in conjunction with other regulatory authorities.

DIVISION OF REVENUE

# Example RMT-TAX

**DELAWARE** DIVISION OF REVENUE — FORM **RMT-TAX**

RETAIL MARIJUANA TAX

PERIOD BEGIN 1/1/2025 PERIOD END 1/31/2025

TAXPAYER ID FILE:003354546 MARIJUANA LICENSE NUMBER

BUSINESS NAME: DE CANNA

FIRST NAME | MI | LAST NAME | SUFFIX

STREET ADDRESS: 820 N FRENCH ST

CITY: WILMINGTON STATE: DE ZIP CODE: 19801-3509

FINAL RETURN

AMENDED RETURN

DO NOT FILE
FOR YOUR RECORDS ONLY

SECTION A — RECREATIONAL MARIJUANA SALES

| PRODUCT TYPE | UNITS SOLD | UNIT TYPE | RECREATIONAL SALES | TAX RATE | MARIJUANA TAX |
|---|---|---|---|---|---|
| 1. Flower | 0 | | $ 150,000.00 | 00.15 | $ 22,500.00 |
| 2. Pre-Rolls | 0 | | $ 00.00 | 00.15 | $ 00.00 |
| 3. e-Cigarettes | 0 | | $ 00.00 | 00.15 | $ 00.00 |
| 4. Concentrates | 0 | | $ 00.00 | 00.15 | $ 00.00 |
| 5. Edibles | 0 | | $ 00.00 | 00.15 | $ 00.00 |
| 6. Non-Edibles | 0 | | $ 00.00 | 00.15 | $ 00.00 |
| 7. Total Recreational Marijuana Tax | | | | | $ 22,500.00 |

SECTION B — REFUNDED MARIJUANA TAX

| PRODUCT TYPE | UNITS REFUNDED | UNIT TYPE | RECREATIONAL SALES REFUNDED | TAX RATE | MARIJUANA TAX REFUNDED |
|---|---|---|---|---|---|
| 8. Flower | 0 | | $ 00.00 | 00.15 | $ 00.00 |
| 9. Pre-Rolls | 0 | | $ 00.00 | 00.15 | $ 00.00 |
| 10. e-Cigarettes | 0 | | $ 00.00 | 00.15 | $ 00.00 |
| 11. Concentrates | 0 | | $ 00.00 | 00.15 | $ 00.00 |
| 12. Edibles | 0 | | $ 00.00 | 00.15 | $ 00.00 |
| 13. Non-Edibles | 0 | | $ 00.00 | 00.15 | $ 00.00 |
| 14. Total Recreational Marijuana Tax Refunded | | | | | $ 0.00 |

15. BALANCE DUE $ 22,500.00

# Gross Receipts (GRT)

- Delaware does not currently impose a sales tax on typical sales
- Gross receipts includes total consideration received by a manufacturer for all goods sold or services rendered within the State. Consideration for goods sold or services rendered includes cash, checks, credit cards, gift certificates, traveler's checks, money orders, barter, trade-ins, manufacturer's coupons and rebates and any other consideration of any kind.
- Gross Receipts Tax Returns have a large monthly exclusion, but no deductions
- If you derive income from multiple license types, you will require multiple licenses
- Must file Gross Receipts Tax Return even if there is no balance due
- All Gross Receipt Tax Returns must be filed through our Tax Portal.  We do not accept paper returns

DIVISION OF REVENUE

# Example Retail GRT Form

**DELAWARE**
DIVISION OF REVENUE
GROSS RECEIPTS TAX

FORM
**GRT-TAX**

RESET | PRINT

| BUSINESS NAME AND ADDRESS | TAXPAYER ID | AMENDED |
|---|---|---|
| NEW MARIJUANA RETAIL<br>631 MAIN ST<br>Dover,De 19904 | 472-35-1168 | |
| | TAX PERIOD STARTING | 01-01-2024 |
| | TAX PERIOD ENDING | 03-31-2024 |
| | DUE ON OR BEFORE | |

| | | | |
|---|---|---|---|
| 1. | TOTAL GROSS RECEIPTS | $ | 125,000.00 |
| 2. | EXCLUSION AMOUNT | $ | 100,000.00 |
| 3. | TAXABLE GROSS RECEIPTS | $ | 25,000.00 |
| 3a. | GROSS RECEIPTS RATE | | .7468 % |
| 4. | GROSS RECEIPTS TAX DUE | $ | 187.00 |
| 5. | NEW BUSINESS FACILITY CREDITS | $ | |
| 6. | TOTAL TAX DUE | $ | 187.00 |

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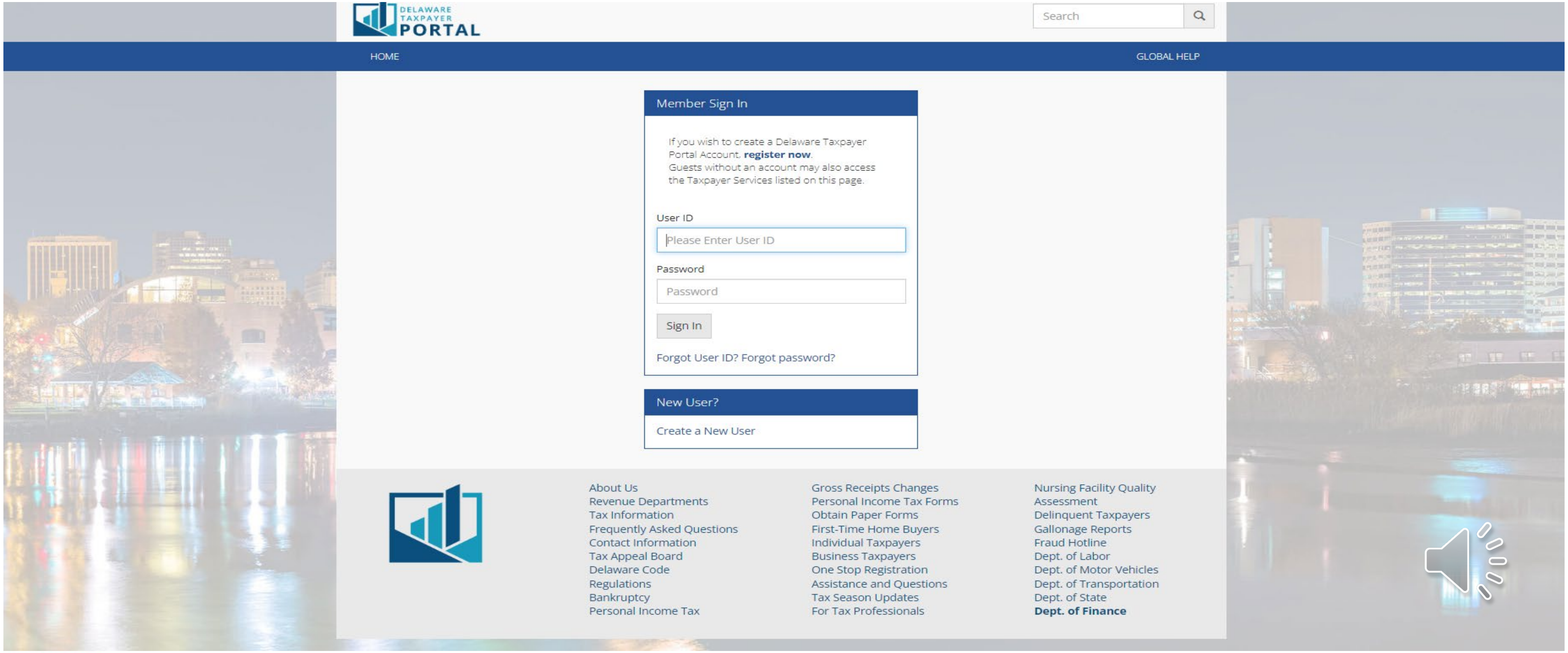
# Navigating Delaware Taxpayer PORTAL

## https://tax.Delaware.gov

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# Navigating Delaware Taxpayer PORTAL

- Create Portal Profile
  - To Complete the registration process and view your authorized accounts, you will need to know your FEIN or SSN and have your Portal Identification Number (PIN), which you should have received in a letter from the Division of Revenue. If you have not received your PIN, please contact us."
- Link Tax Accounts
  - ➢There can be different accounts for the same entity
- Add an Authorized User
- View Correspondence History
- File a Personal Income Tax Return with a Payment
- File an Amended Personal Income Tax Return

# Navigating Delaware Taxpayer PORTAL

- Licenses
  - ➢View Licenses
  - ➢Renew Licenses

- Service Requests
  - ➢Create and Submit a Service Request

- Payment Plans
  - ➢Request a Payment Plan
  - ➢Make a One-Time Payment
  - ➢Manage Auto Pay

# Electronic Payment Only

- All Delaware Gross Receipts, 15% Excise and Withholding payments will only be received via the Delaware Portal (tax.delaware.gov)
- **Cash payment** requests will be politely turned away based on long standing DOR policy.
- Departmental policy will not consider an initial attempt to pay by cash as the effective date for payment of the tax.

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# Questions

- **Is my retail Marijuana establishment subject to Delaware Gross Receipts tax?**
  - A retail marijuana establishment is subject to the 15% excise tax on the sales price of a marijuana product. If your retail establishment sells other products besides marijuana, those products will be subject to DE GRT.
- **How long am I required to keep my documentation?**
  - The State of Delaware requires documents be kept for a minimum of 3 years. However, marijuana is still a controlled substance according to the Federal Government. If you have additional questions, please seek legal counsel.

# Questions

- **Is the Delaware Taxpayer portal Mandatory?**
  - Yes, the Delaware Taxpayer portal is mandatory because GRT, Marijuana Excise tax, and withholding tax filings and payments must be filed electronically. Willfully filing on a paper return comes with a fine of $50.00
- **If I have an investor that not does not own a percentage of the company, do they need to obtain a tax clearance?**
  - If your investor does not own a percentage of your establishment a tax clearance certificate is not required.
- **How do I get my portal pin?**
  - Completing the Delaware One Stop process initiates the portal pin to be mailed. If you no longer have that letter, please contact the marijuana department and we may provide it to you.

# Questions

THANK YOU!!!!