



Lynn Fitch

ATTORNEY GENERAL
OPINIONS AND POLICY

January 23, 2026

The Honorable David McRae
Treasurer, State of Mississippi
Post Office Box 138
Jackson, Mississippi 39205

Re: Excess State Funds from State-Imposed Taxes on Medical Cannabis

Dear Treasurer McRae:

The Office of the Attorney General has received your request for an official opinion.

Question Presented

May excess funds collected from state-imposed taxes on medical cannabis be invested in an SEC-registered money market fund?

Brief Response

Excess funds collected from state-imposed taxes on medical cannabis may be invested in an SEC-registered money market fund if it is determined that such fund meets the requirements set forth in Mississippi Code Annotated Section 27-105-33.

Applicable Law and Discussion

We first note that this opinion addresses considerations under Mississippi law only and does not interpret federal law, rules, or regulations. *See* Miss. Code Ann. § 7-5-25 (authorizing the Attorney General to opine upon prospective matters of state law only).

Under Mississippi law, there are two types of taxes on the sale of medical cannabis: excise tax and sales tax. Section 27-72-1(2)(a) “impose[s], levie[s] and assesse[s] an excise tax on medical cannabis cultivation facilities.” Section 27-72-1(2)(e) specifies that “[a]ll excise taxes collected under the provisions of this subsection shall be deposited into the State General Fund.”

Section 27-72-1(3) compels medical cannabis dispensaries to “collect and remit the sales tax levied in Section 27-65-17(1)(a) from the gross proceeds derived from each retail sale of medical

cannabis.” Section 27-65-17(1)(a) states that “upon every person engaging or continuing within this state in the business of selling any tangible personal property whatsoever there is hereby levied, assessed and shall be collected a tax equal to seven percent (7%) of the gross proceeds of the retail sales of the business.” Section 27-65-75, as amended by 2025 Miss. Laws S.B. 2573, specifies in detail how sales tax revenue should be allocated and distributed to municipalities, entities, and programs. Section 27-65-75(25), as amended by 2025 Miss. Laws S.B. 2573, provides that “[t]he remainder of the amounts collected under the provisions of” the Sales Tax chapter of the Mississippi Code Annotated “shall be paid into the State Treasury to the credit of the General Fund.”

Per these sections, excise taxes and excess sales taxes from the sale of medical cannabis are deposited into the State General Fund. Section 27-105-9 states that “State funds not required for current operation, as determined under Section 27-105-33, shall be deposited in one or more interest-bearing accounts or time certificates of deposit, or otherwise invested under Section 27-105-33.” It is the duty of the State Treasurer and the Executive Director of the Department of Finance and Administration to determine what cash is “in excess of the amount required to meet the current needs and demands of no more than seven (7) business days on such funds.” Miss. Code Ann. § 27-105-33; *see also* MS AG Op., *Bennett* (Dec. 20, 1989). “The State Treasurer is directed to invest all such excess funds pursuant to the statutory scheme or schedule under Section 27-105-33(a)-(c).” MS AG Op., *Bennett* at *1.

If he finds that the excess funds cannot be invested according to Section 27-105-33(a)-(c), the State Treasurer is directed to invest the excess funds in one of the options provided in Section 27-105-33(d). Miss. Code Ann. § 27-105-33(d). One of those options is “United States government agency, United States government instrumentality or United States government-sponsored enterprise obligations, the principal and interest of which are fully guaranteed by the government of the United States.” Miss. Code Ann. § 27-105-33(d)(iii). Section 27-105-33(e) clarifies this subsection by stating that the State Treasurer may invest excess funds in “securities of, or other interests in, any open-end or closed-end management type investment company or investment trust registered under the provisions of 15 USCS Section 80(a)-1 et. seq.,” which are limited to direct obligations issued by the United States or its government agencies, government instrumentalities, or its government-sponsored enterprises.

In summary, where the State Treasurer and Executive Director of the Department of Finance and Administration determine 1) that the taxes from medical cannabis sales are excess funds, and 2) that the excess funds are not required to meet the current needs or demands of no more than seven days on the funds, and the State Treasurer also determines 3) that the excess funds cannot be invested according to Section 27-105-33(a)-(c), then the State Treasurer may invest the excess funds in any of the types of investments stated in Section 27-105-33(d). *See* MS AG Op., *Bennett* at *1. Section 27-105-33(d) authorizes investment in open-end or closed-end management type investment companies registered under 15 USCS Section 80(a)-1 et. seq. with portfolios limited to obligations issued by the United States or its government agencies, government instrumentalities, or government-sponsored enterprises. Miss. Code Ann. § 27-105-33(d); *see also* MS AG Op., *Montgomery* (Aug. 3, 2012).

You ask whether excess funds collected from state-imposed taxes on medical cannabis could be invested in an SEC-registered money market fund. As shown, nothing in Section 27-105-33 prohibits the State Treasurer from investing excess funds from medical cannabis taxes in money market funds. That said, whether said such investment is allowable is ultimately a fact determination to be made by the State Treasurer. Miss. Code Ann. § 27-105-33.¹ If the State Treasurer determines that the subject money market fund meets the requirements set forth in Section 27-105-33(e), including the requirement that the investment company or trust's portfolio be limited to direct obligations issued by the United States or its government agencies, government instrumentalities, or government-sponsored enterprises, then excess funds collected from the sale of medical cannabis may be invested therein.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Kristi D. Kennedy*

Kristi D. Kennedy
Special Assistant Attorney General

OFFICIAL OPINION

¹ While we cannot opine upon policies and procedures, the State Investment Policy Statement for the State General Fund implies that certain money market funds would be included in Section 27-105-33(e). Specifically, the State Investment Policy Statement provides that the State Treasurer's Investment Department staff are authorized to invest in "Stable Net Asset Value Government or Treasury Only Money Market Mutual Funds as defined in § 27-105-33(e)." 38 Miss. Admin. Code Pt. 1, R. 4.1 (Amended Aug. 14, 2023).