

Ramirez, Angelica

Public Comment

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From: Sam Rodriguez <sam@goodfarmersgreatneighbors.com>
Sent: Sunday, May 15, 2022 11:34 PM
To: sbcob; sbcob
Cc: Sam Rodriguez
Subject: Public Comment: CEO Office; Item #3 - 22.00414 - Recommendations: Cannabis Taxation Options
Attachments: May 17th - BOS - Cannabis Taxation Options.docx; impact-of-california-cannabis-taxes-on-legal-market.pdf; California Cannabis Taxes Study News Release May 2022 (2).docx



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Attention: Clerk of the Board

Please accept our letter and two attachments: Reason Foundation Study and Analysis on the Implications of Cannabis Taxes on the Legal Market and its New Release for your review and distribution to County Staff, Chair and County Supervisors.

Respectfully,

Sam

--
Sam Rodriguez
Policy Director
916-849-4300 cell
<https://goodfarmersgreatneighbors.com/>



May 15, 2022

The Honorable Joan Hartman, Chair
Santa Barbara County Board of Supervisors
Das Williams, Supervisor District 1
Gregg Hart, Supervisor District 2
Bob Nelson, Supervisor District 4
Steve Lavagnino, Supervisor District 5

Attention: Clerk of the Board

Topic: County Executive Office; Cannabis Taxation Options: Item 3; 22-00414

On behalf of Good Farmers Great Neighbors, I write to submit the latest news about the **Governor's May Revise Proposal** to include the **elimination of the state cannabis cultivation tax** and other tax relief and streamline measures. As you are aware, these proposals will be deliberated on through the legislative budgetary process for the next 4 – 6 weeks and voted on or before June 30th. We've also included key findings of the only comprehensive analysis on the *"Implications of cannabis taxes on the legal market in California"*, conducted independently by the Reason Foundation. (Please also see attached report)

Good Farmers Great Neighbors is an alliance of primarily outdoor, sun grown cannabis farmers and auxiliary businesses throughout the central coast that advocates for a supportive legal and regulated market. Our network of 'best in class' expertise unites cannabis farmers in the region who are committed to exceeding the required environmental and public health standards and spurring economic growth and community development.

The governor of California unveiled an updated budget proposal on Friday that calls for the **elimination of the state's marijuana cultivation tax** and revised cannabis tax revenue allocations.

Gov. Gavin Newsom's (D) May revised budget would take steps intended to combat the illicit market and make the legal industry more competitive, in large part by **zeroing out the cultivation tax** that marijuana businesses currently incur.

The governor emphasized on Friday that he was specifically committed to exploring ways to minimize the influence of illicit growers and sellers on undercutting legal, licensed businesses.

And while one might assume that removing the cultivation tax would hamper revenue streams



for the state, a **recent analysis from the Reason Foundation** actually found that monthly tax revenue would increase by 123 percent by 2024 if the policy change was enacted.

Eliminating the cultivation tax would allow farmers and licensed cannabis retailers to lower prices, making California's legal marijuana market fare more competitive with illicit markets. <https://t.co/817c6Oj0Nr>

— Reason Foundation (@ReasonFdn) [May 13, 2022](#)

The report said that ending the cultivation tax would mean lower costs for consumers and, therefore, increased legal purchases that would more than offset any revenue losses over time.

Separately, the governor's plan would involve shifting "the point of collection and remittance for excise tax from distribution to retail on January 1, 2023," while maintaining the 15 percent excise tax rate on marijuana sales.

The Report is a roadmap for cannabis tax reform in California, reducing taxes would make legal cannabis products more price-competitive with the illicit/underground economy market.

Key Findings: Reason Foundation - Implications of State Cannabis Taxes on the Legal Market (see attached)

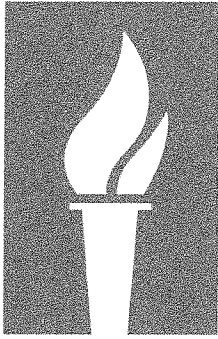
1. Two-Thirds of Total Cannabis Sales are from the Illicit Market
2. Canopy of Square Foot Tax Schemes on Cannabis Cultivation Hurt Farmers
3. Eliminating the Cultivation Tax and Reducing the Excise Tax will generate stable state tax revenues
4. A patchwork of local taxes with no consideration of Federal 280e and other federal and state taxes is pushing legal operators to the brink of a financial cliff

We respectfully urge the Board of Supervisors to consider waiting on any material tax policy changes to the Cannabis Ordinance until there is more certainty from the Governor and State Legislative Leaders later this summer.

Please don't hesitate to contact me at 916-849-4300 or sam@goodfarmersgreatneighbors.com

Respectfully,

Sam Rodriguez
Policy Director
Good Farmers Great Neighbors



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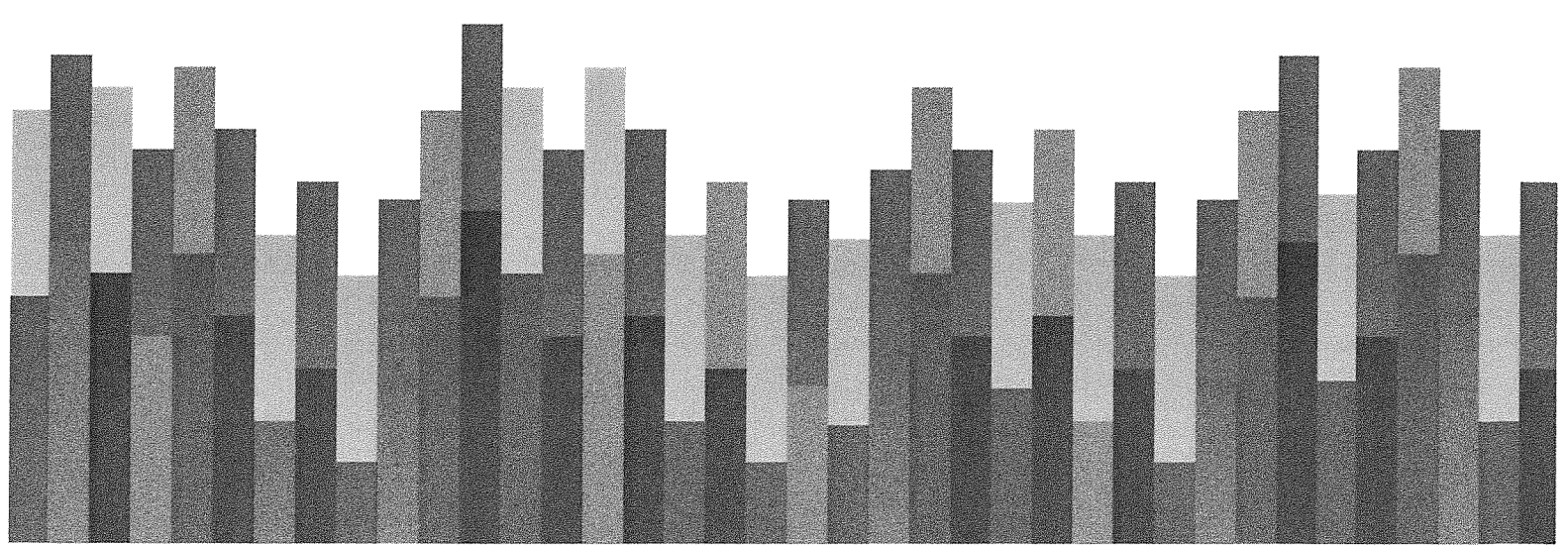


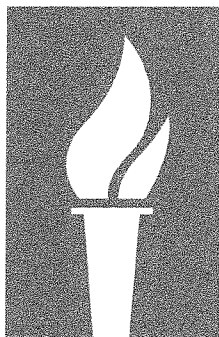
PRECISION ADVOCACY

THE IMPACT OF CALIFORNIA CANNABIS TAXES ON PARTICIPATION WITHIN THE LEGAL MARKET

by Geoff Lawrence

May 2022





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Good Farmers, Great Neighbors (GFGN) is an alliance of mostly outdoor, sun-grown cannabis farmers and auxiliary businesses throughout the central coast that advocates for a supportive legal and regulated market. GFGN's network of 'best in class' expertise unites cannabis farmers in the region who are committed to exceeding the required environmental and public health standards and spurring economic growth and community development.

Contact Sam Rodriguez, Policy Director, Good Farmers, Great Neighbors (916) 849-4300 or sam@goodfarmersgreatneighbors.com



PRECISION ADVOCACY

Precision Advocacy is a Sacramento-based lobbying firm that brings over two decades of experience in state legislative and regulatory development, and public affairs at the state and local levels. Precision's Founding Principal Amy O'Gorman Jenkins is legislative advocate to the California Cannabis Industry Association (CCIA), which was formed to unite the legal cannabis industry to help educate and act as a resource to lawmakers and state regulators. Its unified voice includes over 400 California businesses representing over 600 brands and approximately 15,000 employees. As CCIA's legislative advocate, Amy has spearheaded policy and legislation, including bills to reduce barriers to entry into California's compliant cannabis marketplace, advance critical environmental protections to protect cannabis farmers, bolster enforcement against unlicensed operators, and expand access to social equity grant funding.

Contact Amy O'Gorman Jenkins, President of Precision Advocacy, at (916) 354-5652 or amy@precisionadvocacy.com.

FOREWORD

Back in the days before legal marijuana, I undertook to investigate how it might be legalized, taxed, and regulated. While I was partial to a free-market model (as opposed to government monopoly,) it seemed apparent that marijuana should logically be taxed like other legal intoxicants such as alcohol and tobacco, both to cover the social costs of its abuse, and to offer non-using voters a solid reason to back legalization. There being no better data at the time, I took a clue from the 1893 British Indian Hemp Drugs Report, the most thorough published investigation of an actual, historical legal cannabis regime in British India. The report examined various Indian states' regimes, ranging from laissez-faire to prohibition. It concluded by commending the state of Bengal as having the most successful and effective system. Bengal exacted licensing fees from producers and vendors and imposed a weight-based excise tax on the wholesale crop. With this in mind, I tried to devise the best comparable tax for marijuana in a modern legal market. Like other cannabis policy wonks at the time, I was worried that the retail price of marijuana might precipitously collapse if it were legalized along the same free-market lines as comparable agricultural crops such as parsley, herbs, or tea. In that case, it appeared retail prices could easily fall as low as a dime per joint. This seemed far too small a value to place on a widely treasured and enjoyable, but potentially habit-forming and impairing, crop. Based on back-of-the-envelope numbers, I figured that an excise tax of about \$1.00 per joint or \$50 per ounce would be sufficient to sustain a reasonable retail price for the herb.

When California finally legalized cannabis under Prop. 64, lo and behold, it turned out that I had vastly underestimated the cost of the regulations imposed by the new law. In addition to state and local licensing fees, there were elaborate rules on cultivation, retailing, transportation, manufacture, testing, facility siting, ownership, security, storage, on-site consumption, wholesale distribution, seed-to-sale tracking, waste disposal, labeling, packaging, environmental compliance, water usage, etc. ad nauseam. No way was the price of marijuana in danger of plummeting to pennies per joint; rather, it was becoming costly. Nonetheless, on top of that Prop 64 imposed an ambitious package of cultivation and excise taxes aimed at raising some \$1 billion per year for various state programs, and local governments were authorized to levy even more taxes on their own. The situation was further exacerbated by local dispensary bans and licensing delays, which left the state with half as many adult-use dispensaries as there were medical collectives before Prop. 64 was passed. As a result, California's legal industry has been hard pressed to compete with untaxed, unregulated providers on the underground market. So dire is the current situation that advocates now fear that the cannabis industry in California faces an "existential crisis" in the absence of meaningful tax reform.

The roots of this crisis are amply documented in Reason Foundation's timely new report on cannabis taxes in California. The author has helpfully compiled comprehensive data on cannabis prices, taxes, revenues, licensees, and demand that weren't available in the days before Prop 64. Finding that California lags behind other legal states in licensed cannabis sales, the report estimates that the illegal market accounts for roughly two-thirds of total sales in the state. Based on a survey of various local tax regimes from around the state, it finds that the effective tax rate ranges from \$42 to \$90 per ounce—more than the wholesale production cost of \$35. Analyzing a variety of different tax scenarios, beginning with elimination of the cultivation tax and then progressive reductions in the excise tax, the report provides a helpful roadmap for cannabis tax reform in California. In the end, it projects that even with substantial tax reductions, the state can expect total revenues to rise substantially in the next two years due to increased consumer demand. Substantive tax cuts therefore seem to be a feasible strategy for reducing demand for the illicit market, while still retaining reasonable revenues for the state programs funded in Prop. 64. May this timely report from Reason Foundation prove enlightening to the state's lawmakers.

Dale Gieringer, Ph.D.

Director, California NORML

April 10, 2022

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PART 1

INTRODUCTION

In November 2016, California voters approved Proposition 64 to enact a regulated, adult-use cannabis market in the Golden State. At the time, four other states had already created adult-use cannabis markets, including Alaska, Colorado, Oregon, and Washington. California already had a largely unregulated medical cannabis market in place, following voters' historic passage of Proposition 215 in 1996, which was the first medical marijuana law in the nation to go into effect. Since Proposition 64 required specific regulations to govern inventory tracking, licensing, testing and more, these regulatory provisions would have to extend to the unregulated legacy medical market. If not, market participants could subvert the regulatory intent contained in Proposition 64 simply by remaining in the unregulated medical market.

Realizing this need, California lawmakers responded in early 2017 by passing the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA). MAUCRSA superseded prior legislation from 2015 called the Medical Cannabis Regulation and Safety Act, which sought to create a regulatory structure for the medical market, but never took effect due to passage of Proposition 64 and MAUCRSA. MAUCRSA largely built on the regulatory approach that had been developed within that prior legislation, but also extended it to the newly authorized adult-use market.

The statutory language contained in Proposition 64 and MAUCRSA combine to create the legal framework for California's commercial cannabis industry. Regulations governing the industry must be consistent with these authorizing statutes. Proposition 64 contained important provisions that strongly affect California's commercial cannabis market that

cannot be changed through regulatory action alone. Chiefly, these include imposing two new excise taxes and devolving authority to local governments to regulate or outright ban certain or all types of commercial cannabis activity within their jurisdictions.

Taxes affect both consumers' and producers' decisions in the legal market primarily by introducing a price disparity between legal cannabis products and comparable cannabis products offered through the illicit market. Similarly, local bans on legal sales over extended geographic areas can drive consumers without access to legal products within a reasonable distance of their homes to purchase substitute goods on the illicit market.

“

Taxes affect both consumers' and producers' decisions in the legal market primarily by introducing a price disparity between legal cannabis products and comparable cannabis products offered through the illicit market.

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This analysis develops an empirical model to estimate the degree to which California's tax regime affects participation within its commercial cannabis market, and how participation may change through differing approaches to taxation. Part 2 details the various tax structures currently facing legal cannabis enterprises in California and how those tax structures have performed in yielding public revenue. Part 3 examines the key factors that influence consumer decisions to participate in the legal or illegal market. Part 4 reviews the existing literature on consumer price sensitivity for cannabis products and calculates a price sensitivity for consumers of legal products in California and Oregon. Part 5 uses data calculated in prior sections to model California consumers' expected behavior due to changes in retail price in response to a change in tax policy. Finally, Part 6 concludes with recommendations for improving the performance of California's legal cannabis market.

PART 2

CURRENT TAX STRUCTURE AND PERFORMANCE

Cannabis licensees in California are subject to a wide array of taxes at the federal, state, and local levels. These taxes cascade rapidly into the final price of legal cannabis products, whereas illicit market suppliers generally face no tax burden at all.

2.1

STATE EXCISE TAXES

Proposition 64 imposed a wholesale tax on cannabis cultivation for adult use at an initial rate of \$9.25 per ounce (\$148 per pound) of flower and \$2.75 per ounce (\$44 per pound) of leaves or trim. These tax rates are indexed to inflation and have risen to \$10.08 per ounce (\$161.28 per pound) of flower and \$3 per ounce (\$48 per pound) of leaves for calendar year 2022.¹ The second tax imposed by Proposition 64 is a retail excise tax assessed at 15% of the estimated value of a retail sale to an end-use consumer.²

¹ "Tax Guide for Cannabis Businesses," California Department of Tax and Fee Administration, <https://www.cdtfa.ca.gov/industry/cannabis.htm> (March 17, 2022).

² The calculation and collection of California retail excise taxes is convoluted in that they are not assessed on actual sales and remitted by the retailer making those sales. Instead, the final distributor that transfers the inventory to a retailer is responsible for remitting the tax and calculates this tax based on an assumed markup of 80% from the wholesale price at which the inventory is sold to the retailer. Effectively, this may mean that tax liabilities are claimed and remitted before the ultimate retail sale ever occurs, including in cases where the

In addition to these excise taxes, commercial cannabis sales in California are subject to the general sales and use tax, which varies across jurisdiction but averages 8.82% of the final sales price for 2022 according to data from the Tax Foundation.³ Previous analyses by Reason Foundation have estimated that the combined effect of state-level sales and excise taxes increase the retail price of legal cannabis by \$727 per pound.⁴

2.2

INCOME TAXES

However, legal cannabis businesses pay many taxes in addition to these sales and excise taxes, including both federal and state income tax and locally assessed taxes. Marijuana businesses are penalized on federal income taxes by Internal Revenue Code 280E, which precludes any taxpayer that traffics in a Schedule I or II federally controlled substance from claiming deductions under the “ordinary and necessary” standard that applies to most businesses. Generally, if an expense is considered both ordinary and necessary to carry on the particular trade that a business is engaged in, that expense is deductible from gross income when calculating federal income tax liabilities. For state-licensed cannabis businesses, this is not the case. Instead, cannabis businesses may only deduct the costs directly incurred to purchase or produce inventory.

“
... cannabis businesses effectively pay much higher federal income tax rates than similarly situated businesses in other industries.”

These regulations force cannabis businesses to calculate federal income tax liabilities on a modified gross-receipts basis rather than net income, as many expenses ranging from employee salaries and benefits to rent or legal and accounting expenses may not be

inventory is never sold by the retailer prior to the end of its shelf life. For details, see: Geoffrey Lawrence, “LAO Report: California’s Taxes and Rules Mean Legal Marijuana Can’t Compete with Black Market Prices,” Reason Foundation commentary, January 6, 2020, <https://reason.org/commentary/lao-report-californias-taxes-and-rules-mean-legal-marijuana-cant-compete-with-black-market-prices/>.

³ Janelle Cammenga, “State and Local Sales Tax Rates, 2022,” Tax Foundation, February 3, 2022, <https://taxfoundation.org/2022-sales-taxes/>.

⁴ Geoffrey Lawrence and Spence Purnell, “Marijuana Taxation and Black Market Crowd-Out,” Reason Foundation, 2020, <https://reason.org/wp-content/uploads/marijuana-taxation-black-market-crowd-out.pdf> (March 31, 2022).

eligible for deduction under the Internal Revenue Code. This means cannabis businesses effectively pay much higher federal income tax rates than similarly situated businesses in other industries. A cannabis business filing as a corporation, for instance, will apply the standard 21% corporate income tax rate to a much larger base (approximating its gross margin) than other businesses that apply that rate against net income. In fact, a cannabis business could suffer a financial loss for the tax year and still face significant federal income tax liabilities because net income is not relevant in its calculation of those liabilities.

Fortunately for cannabis licensees in California, lawmakers have amended the California corporate tax code so these businesses can deduct both their costs of purchasing or producing inventory and other “ordinary and necessary” business expenses.⁵ However, licensees must still file and pay state income taxes as any other business in California at the standard rates.⁶ For corporations, that rate is 8.84% of calculated net earnings in 2022.⁷

2.3

LOCAL TAXES

Finally, California cannabis licensees are subject to an array of locally assessed taxes that vary by jurisdiction. The most prominent tax instruments imposed by these entities include an annual tax per square foot of canopy under cultivation and a percentage of gross receipts earned by license types throughout the supply chain. As these taxes are assessed at each stage of production, they cascade to create much higher effective tax rates embedded within the ultimate prices facing consumers. Table 1 provides a summary of local cannabis tax rates charged by California cities and counties with prominent cannabis operations.

⁵ “Assembly Bill 37,” California Legislature, 2019-2020 Session, https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB37. See also “Bill Analysis, AB37,” State of California Franchise Tax Board, <https://www.ftb.ca.gov/tax-pros/law/legislation/2019-2020/AB37.pdf>.

⁶ “Cannabis Industry,” State of California Franchise Tax Board, <https://www.ftb.ca.gov/file/business/industries/cannabis.html>.

⁷ “Business Tax Rates,” State of California Franchise Tax Board, <https://www.ftb.ca.gov/file/business/tax-rates.html>.

TABLE 1: LOCAL CANNABIS TAX RATES, SELECTED COUNTIES AND CITIES						
	Canopy-Indoor	Canopy-Mixed Light	Canopy-Outdoor	Manufacturing	Distribution	Retail
<i>Select Counties</i>						
Contra Costa County	\$7.00/ft. ²	\$4.00/ft. ²	\$2.00/ft. ²	2.5%	2%	4%
Imperial County	\$15.00/ft. ²	\$15.00/ft. ²	\$15.00/ft. ²	5%		8%
Lake County	\$1.00/ft. ²	\$1.00/ft. ²	\$1.00/ft. ²	2.50%	2.50%	4%
Mendocino County	2.5%	2.5%	2.5%	\$2,500	\$2,500	5%
Mono County	\$2.00/ft. ²	\$1.50/ft. ²	\$0.50/ft. ²	2.50%	2%	4%
Monterey County	\$8.00/ft. ²	\$5.00/ft. ²	\$2.50/ft. ²	2.50%	2%	4%
Nevada County	\$10.00/ft. ²	\$10.00/ft. ²	\$10.00/ft. ²	10%	10%	10%
San Diego County	8%	8%	8%	8%	8%	8%
San Luis Obispo County	10%	10%	10%	10%	10%	10%
Santa Barbara County	4%	4%	4%	3%	1%	6%
Santa Cruz County	6%	6%	6%	6%	0%	
Solano County	15%	15%	15%	15%	15%	15%
Sonoma County	\$12.65/ft. ²	\$7.31/ft. ²	\$2.25/ft. ²	3.00%	0%	2%
<i>Select Cities</i>						
Adelanto	5%	5%	5%	5%	5%	5%
Desert Hot Springs	\$10.00/ft. ²	\$10.00/ft. ²	\$10.00/ft. ²			\$10.00/ft. ²
Los Angeles	2%	2%	2%	2%	2%	10%
Merced	\$25.00/ft. ²	\$25.00/ft. ²	\$25.00/ft. ²	\$25.00/ft. ²	10%	
Modesto	2.5%			4%	2.5%	8%
Oakland	up to 5%	up to 5%	up to 5%	up to 5%	up to 4%	up to 5%
Pasadena	\$10.00/ft. ²	\$10.00/ft. ²	\$10.00/ft. ²	4%	4%	6%
Sacramento	4%	4%	4%	4%	4%	4%

Source: Author's calculations based on city and county data.⁸

⁸ "Cannabis Business Tax," Contra Costa County, <https://www.contracosta.ca.gov/7137/Cannabis-Business-Tax>, (March 17, 2022); "Voter's Pamphlet: Measure K," Lake County, <http://www.lakecountyca.gov/Assets/Departments/RegistrarOfVoters/docs/Nov2018ElectionMeasures/Kv2.pdf>, (March 17, 2022); Mono County, "Impartial Analysis by County Counsel: Measure D," https://monocounty.ca.gov/sites/default/files/file_attachments/elections/page/29101/2018_-_cannabis_general_tax_-_impartial_analysis_by_county_counsel.pdf, (March 17, 2022); "Commercial Cannabis Business Tax," County of Monterey, <https://www.co.monterey.ca.us/government/departments-i-z/treasurer-tax-collector/commercial-cannabis-business-tax>, (March 17, 2022); "Resolution No. 18-362," County of Nevada, <https://www.mynevadacounty.com/DocumentCenter/View/24521/Board-of-Supervisors-Resolution-18-362---Cannabis-Business-License-Tax---Measure-for-Election>, (March 17, 2022); "Cannabis Business Tax: Frequently Asked Questions," San Diego County, https://www.sandiego.gov/sites/default/files/tr_cannabis_business_tax_faq.pdf, (March 17, 2022); "Resolution No. 2018-48," County of San Luis Obispo, <https://www.slocounty.ca.gov/Departments/Clerk-Recorder/Forms-Documents/Elections-and-Voting/Past-Elections/Primary-Elections/2018-06-05-Consolidated-Primary/Documents/Measure-B-18-Resolution-Adding-Measure-2018-06.pdf>, (March 17, 2022); "Tax on Cannabis Operations," Santa Barbara County, <https://countyofsb.org/ttcpag/taxcoll/Cannabis.aspx#dates>, (March 17, 2022); "Cannabis Business Tax," County of Santa Cruz, <https://www.co.santa-cruz.ca.us/Departments/TaxCollector/CannabisBusinessTax.aspx>, (March 17, 2022); "County Counsel's Impartial Analysis of Measure C," Solano County, <https://www.solanocounty.com/civicax/filebank/blobdload.aspx?BlobID=25358>, (March 17, 2022); "All Cannabis Tax Rates," Sonoma County, <https://sonomacounty.ca.gov/Cannabis/Taxes/All-Cannabis-Tax-Rates/>, (March 17, 2022); Code of Ordinances, Chapter 3.60, "Cannabis Excise Tax," City of Adelanto, <https://www.ci.adelanto.ca.us/DocumentCenter/View/865/360-Cannabis-Excise-Tax>, (March 17, 2022); "Cannabis Taxes," City of Desert Hot Springs, <https://www.city>

Local taxes assessed as a percentage of a licensee's gross receipts are easy to calculate. However, as with the way the federal income tax is applied to cannabis businesses, they fail to account for a licensee's profitability. In other words, these taxes are assessed against licensees even when they are unprofitable, to the potential further exacerbation of financial losses.

Likewise, taxes based upon square footage used by the licensee fail to account for profitability, and may significantly affect the cost of production on a per-unit basis. Municipalities charging canopy-based taxes do so regardless of productive output. This means a licensee could pay the taxes to remain in good standing with the local licensing agency and never harvest inventory, or harvest very little, making the effective tax rate per pound of yield infinitely high. However, it is possible to estimate the per-unit effect of cultivation taxes assuming cultivation yields correspond to a market average for indoor cultivators operating a full capacity. A survey conducted for the Washington State Liquor and Cannabis Board has determined these market averages.⁹ It estimates the market average for indoor cultivators is 38.6 grams/ft.²/harvest and, for outdoor cultivators, is around 47.2 grams/ft.²/harvest. With 90-day harvest cycles, the same area can host roughly four harvests per year, implying about 154.4 grams/ft.²/year for indoor cultivators and 188.8 grams/ft.²/year for outdoor cultivators. Converting to pounds, these figures correspond to 0.340 pounds/ft.²/year and 0.416 pounds/ft.²/year, respectively. Using the city of Merced as an example, each square foot of canopy is taxed at \$25/ft.²/year, meaning the tax cost equates to \$0.16 per gram for indoor flower, or \$73.45 per pound. On this basis, Table 2 calculates the per-pound equivalents of local canopy-based taxes in California.

ofdhs.org/cannabis-taxes, (March 17, 2022); "Ordinance No. 184501," City of Los Angeles, <http://clkrep.lacity.org>; Chapter 6.32 - Cannabis Business Tax," Mendocino County Municipal Code, https://library.municode.com/ca/mendocino_county/codes/code_of_ordinances?nodid=MECOCO_TIT6BULIRE_CH6.32CABUTA (April 28, 2022). onlinedocs/2017/17-1100-S2_misc_12-23-16.pdf; "Measure Y," City of Merced, <https://www.co.merced.ca.us/DocumentCenter/View/18131>, (March 17, 2022); "Commercial Cannabis Fees and Tax Rates," City of Modesto, <https://www.modestogov.com/2212/Commercial-Cannabis-Fees-and-Tax-Rates>, (March 17, 2022); "2022 Cannabis Business Tax Renewal Notice," City of Oakland, <https://cao-94612.s3.amazonaws.com/documents/2022-Cannabis-Bus-Tax-Renewal-Package.pdf>, (March 17, 2022); "Municipal Code Chapter 5.28: Cannabis Business Tax," City of Pasadena, <https://ww5.cityofpasadena.net/city-clerk/wp-content/uploads/sites/42/2018/03/2018-02-26-CC-PROPOSED-ORD-CANNABIS-BUSINESS-TAX.pdf>, (March 17, 2022); "Cannabis Business Tax," City of Sacramento, <https://www.cityofsacramento.org/Finance/Revenue/Business-Operation-Tax/Cannabis-Business-Tax>, (March 17, 2022); "Ballot Measures: Y," City of Santa Ana, https://www.ocvote.com/fileadmin/user_upload/elections/gen_2018/measures/8518.pdf, (March 17, 2022).

⁹ Jonathan Caulkins, Matthew Cohen, and Luigi Zamarrá, "Estimating Adequate Licensed Square Footage for Production," Prepared by BOTEC Analysis Corporation for Washington State Liquor and Cannabis Board, https://lcb.wa.gov/publications/Marijuana/BOTEC%20reports/5a_Cannabis_Yields-Final.pdf.

	Indoor Annual Yield (lbs/ft/year)	Indoor Canopy Tax: Per-Pound Equivalent	Outdoor Annual Yield (lbs/ft/year)	Outdoor Canopy Tax: Per-Pound Equivalent
Contra Costa County	0.34	\$20.56	0.42	\$16.82
Imperial County	0.34	\$44.07	0.42	\$36.04
Lake County	0.34	\$2.94	0.42	\$2.40
Mono County	0.34	\$5.88	0.42	\$4.81
Monterey County	0.34	\$23.50	0.42	\$19.22
Nevada County	0.34	\$29.38	0.42	\$24.03
Sonoma County	0.34	\$37.16	0.42	\$30.39
Desert Hot Springs	0.34	\$29.38	0.42	\$24.03
Merced	0.34	\$73.45	0.42	\$60.06
Pasadena	0.34	\$29.38	0.42	\$24.03

Source: Author's calculations based on city and county data. See note 8.

This per-pound equivalent of local canopy taxes allows for an assessment of the total tax included in retail prices of legal cannabis by jurisdiction. Additional data points needed for this analysis include the wholesale price of cannabis flower, which New Leaf Data Analytics reports at \$845 per pound for the week ending March 18, 2022.¹⁰ Wholesale marijuana flower is purchased from cultivators by licensed distributors in California, and distributors also assume liability for the state cultivation tax (currently \$161.28 per pound) at the point of transfer. Distributors typically pay for product testing, labeling and retail packaging, plus delivery to a retail dispensary. At the point of transfer to the dispensary, the distributor additionally assumes liability for retail excise taxes, which are paid in advance of the actual retail sale. In March 2022, the average cost to dispensaries per gram of retail cannabis flower was \$3.26 and their average selling price was \$6.84. Stated as pounds, these amounts translate to \$1,479 and \$3,103, respectively.¹¹ Table 1 shows the calculated tax costs per pound for all local cannabis taxes and for state excise taxes. This analysis excludes a per-pound cost of manufacturing excise taxes. Manufacturers create extracts from cannabis flower and the per-pound rate of taxation depends on extraction efficiency and markup rates for which data are elusive and expected to have wide variation. These challenges make it difficult to accurately model the tax-cost of extracts on a per-unit basis or their impact on consumer behavior and so the extracts that manufacturers produce are excluded from the analyses in this study. Table 3 shows the results of this analysis, which demonstrates that the per-pound cost of local and state excise taxes (exclusive of income tax) ranges from \$677 to \$1,441, depending on jurisdiction.

¹⁰ New Leaf Data Analytics, "Cannabis Benchmarks Spot Price Snapshot: March 18, 2022," Available at: <https://premium.cannabisbenchmarks.com/>.

¹¹ Data obtained from Headset Analytics.

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PRECISION ADVOCACY

Study: Eliminating the cultivation tax would double California's monthly cannabis tax revenue
California's high cannabis taxes, as much as \$90 per ounce in some areas, are hurting legal farmers and businesses while the black market continues to capture two-thirds of cannabis sales.

Los Angeles (For Release May 4, 2022) — California could increase legal cannabis sales and bring in 123% more in total monthly cannabis-related tax revenue by 2024 by eliminating its cannabis cultivation tax, according to [a new study](#) published by Reason Foundation, Good Farmers Great Neighbors, and Precision Advocacy.

As a result of its high taxes, California's legal cannabis market has failed to meet expectations and is just one-third the size that would be expected based on its population and adult-usage rates found in surveys by the Substance Abuse and Mental Health Services Administration. Nearly two-thirds of cannabis sales in California are still taking place on the illicit market, the report estimates.

California's state and local taxes on legal cannabis can be as high as \$90 per ounce, or \$1,441 per pound. For comparison, legal cannabis taxes average \$340 per pound in Oregon and \$526 a pound in Colorado. Due to lower taxes and greater access to legal cannabis products, residents in neighboring Oregon spend 378% more per capita on legal cannabis and residents of Colorado spend 335% more per capita on legal cannabis products than Californians spend per capita.

"High cannabis taxes are the biggest reason California's legal cannabis market is struggling. Eliminating the cultivation tax is how the state can start to fix it," says Geoffrey Lawrence, director of drug policy at Reason Foundation and author of the study. "State leaders could double current monthly cannabis tax revenues by 2024 by eliminating the cultivation tax. Lower prices and increased sales of legal cannabis products would increase the government's general sales tax revenue and more than replace losses from the eliminated cultivation tax."

"We are experiencing first-hand a serious price compression in the California supply-chain in part as a result of the illegal market, high taxes and fees and a patchwork of inconsistent local taxes driving legal operators to the brink of a financial cliff," says Amy O'Gorman Jenkins, president of Precision Advocacy and legislative advocate of the California Cannabis Industry Association. "We cannot allow the largest cannabis market in the world to fail. This study provides a roadmap of tax policy solutions for the governor and state legislative leaders to consider immediately."

"Cannabis farmers throughout the state are experiencing the biggest challenges of their time. Many farmers are considering going fallow this year. For example, Busy Bee Organics, one of the first woman-owned, sun-grown farmers in Santa Barbara County, has already declared she's not planting this year," warns Sam Rodriguez, policy director of Good Farmers Great Neighbors, a collective of Santa Barbara County cannabis businesses and leaders. "California's cultivation tax is regressive and has only contributed to more and more uncertainty about the future of the state's cannabis farmland economy and whether it can survive. The immediate elimination of the cultivation tax

would be a first step in the right direction in addressing critical issues impacting the state's entire legal cannabis market from seed to sale."

"The report provides a helpful roadmap for cannabis tax reform in California. In the end, it projects that even with substantial tax reductions, the state can expect total revenues to rise substantially in the next two years due to increased consumer demand. Substantive tax cuts therefore seem to be a feasible strategy for reducing demand for the illicit market, while still retaining reasonable revenues for the state programs funded in Prop. 64," Dale Gieringer, director of California NORML, writes in the study's foreword.

The study also recommends reducing retail excise taxes, which, combined with eliminating the cultivation tax, would help legal cannabis products better compete with the illicit market. It also encourages state leaders to examine revenue-sharing options and other policies that could incentivize California's local governments to stop banning the sale of legal cannabis products in their jurisdictions.

Oregon has one legal cannabis retailer for every 6,145 residents and Colorado has one legal retailer for every 13,838 residents while California has just one legal cannabis retailer for every 29,292 residents, the study finds. And since the vast majority of California localities have banned the sale of cannabis, more than half of the state's legal storefronts are located in just 18 cities.

"California's voters legalized cannabis, but there are massive sections of the state, basically large cannabis deserts, where adults have no access to legal cannabis products and still have to turn to the black market," Lawrence adds.

The full study, "The impact of California's cannabis taxes on participation within the legal market," is available here and here (.pdf).

About

Reason Foundation is a non-profit think tank that advances a free society and promotes free minds and free markets by producing respected public policy research and critically-acclaimed Reason.

Good Farmers, Great Neighbors is an alliance of mostly outdoor, sun-grown cannabis farmers and auxiliary businesses throughout the central coast that advocates for a supportive legal and regulated market.

Precision Advocacy is a Sacramento-based lobbying firm that brings over two decades of experience in state legislative and regulatory development, and public affairs at the state and local levels.

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