

Some pages revised for 1/23/2018

Taxation of Cannabis Operations: Additional Options and Operational Issues

Santa Barbara County
Board of Supervisors
January 23, 2018



Direction from December

- Further discuss tax rates and return on January 9th
- Hear from Treasurer Tax Collector on collection of cannabis taxes, including frequency of collections

Possible Direction today on . . .

- Tax rates for inclusion in a ballot measure
- Development of a General or Special tax measure for the June 2018 ballot

Presented in December 2017

Tax Measure Options Worksheet

June 2018 or
November 2018?

Tax Basis & Rate

- Square Foot?
- Ounce?
- % Gross Receipts?

Tax Terms & Conditions

- “Not to Exceed?”
- CPI for area or weight tax \$?
- Establish rates by license type?
- Sunset?
- Frequency of collection?
- Direct Auditor preparation of fiscal analysis?

Tax Type

- Medical & Nonmedical the same or different?
- County wide or Unincorporated?
- General?
- Special?
- Special options?

Condition
License/Permits only
with approval of tax?

(3)



Conceptual Consensus on Measure

From Board deliberations on December 14, 2017:

- Measure should be on the June 2018 ballot
- Tax on gross receipts for all operator types;
- No “not to exceed” rate
- No “Sunset” date
- Tax would apply to medical and non-medical cannabis operations
- Tax would only apply to operations in the unincorporated area
- Hear from the Treasurer-Tax-Collector about any issues or concerns related to tax collection, and
- Direction to the Auditor-Controller to prepare a fiscal impact statement for the ballot pamphlet

Tax Measure Options Worksheet

June 2018 or
November 2018?

For direction today

Previous direction

Tax Basis & Rate

- Square Foot?
- Ounce?
- % Gross Receipts?

Tax Terms & Conditions

- ~~“Not to Exceed?”~~
- ~~CPI for area or weight tax \$?~~
- Establish rates by license type?
- Sunset?
- Frequency of collection? **TBD by T-TC**
- Direct Auditor preparation of fiscal analysis?

Tax Type

- Medical & Nonmedical the same or different?
- County wide or Unincorporated
- General?
- Special?
- Special options?

Condition on finding a bank & consider new ban if tax fails

Condition License/Permits only with approval of tax?



Further Board Discussion

On December 14th, the Board also discussed without reaching conceptual consensus the following:

- Licensing and permitting contingent on ability to deposit in a financial institution any cannabis-related revenue
- Board reserves the right to change permitting and licensing if voters fail to approve cannabis operations tax
- Could be developed as a General tax measure
- Development of a vertical integration tax rate cap
- Tax rates that do not exceed 30% when added to state taxes

Presented in December 2017

County Taxation Options

- Taxation Option 1:
 - Excise tax would be based on the gross receipts of each of the cannabis businesses, as follows:
 - Distributors and Nurseries - 2% on gross receipt
 - Outdoor, Indoor cultivators & Mixed Light cultivators - 4% on gross receipts
 - Manufacturers and Retailers - 6% on gross receipt
- Taxation Option 2:
 - Adjust any of the recommended tax rates with a total rate across the supply chain of around 10%
- Taxation Option 3:
 - Opt to start at lower rates, such as Option 1, which the Board could increase at its discretion to a “not to exceed” rate of 8%.
- Other Options:
 - Consider other tax structures, such as per unit taxes

Cannabis Tax Rate Options

Option 1 – Industry

- Phase in taxes over three years
- If a “not to exceed rate, then a maximum gross receipts tax rates cap at 8% for any license type
- Nurseries tax at 1% of gross receipts
- Cultivation tax at 3% of gross receipts
- Manufacturing at 2% of gross receipts
- Distributor tax at 0-1% of gross receipts depending on transport only licenses
- Vertical integration cap of 4%

Option 2 – Revised*

- 1% gross receipts tax on nursery and distributor (*non-transporter*) license types
- 4% gross receipts tax on cultivator *and manufacturer* license types
- 6% gross receipts tax on a retailer
- *Vertical integration cap of 8%*

* Revised version of staff’s recommendation from December 14th after discussion with industry representatives. Revisions in *italics*.

Staff recommends tax rates in Option 2

General or Special Tax

- General tax allows the revenue generated to be used for general purposes
- General tax requires 4/5 vote from Board to place it on the ballot and a majority voter support
- Special tax specifies the spending priorities of the revenue
- Special tax requires a majority vote from the Board to place it on the ballot and 2/3 voter support
- If the Board chooses to proceed with a special tax, the Board will need to identify:
 - Specific uses of any tax revenue
 - Allocation method
 - Consider a mechanism to confirm annual spending

Staff recommends a general tax measure

Banking, Treasury & Accounting

- Uncertainty of federal policies and prosecutorial priorities
- No commitment yet from a bank to accept fee or tax revenue
- Plan is to segregate cannabis-sourced fee and tax revenue from other County revenues
- Segregation causes concerns about disbursements that would require significant changes or duplication of accounting processes
- Staff is evaluating ways to minimize these impacts
- State Treasurer staff is unaware of any other local or state jurisdiction segregating cannabis revenues

Future Public Hearings

- January 24, 2018 - County Planning Commission hearing
- January 30, 2018 – Ballot Measure/Tax Ordinance for Board consideration for June 2018 election or later for November 2018
- February 6, 2018: Board of Supervisors hearing on permitting and licensing ordinances
- March 2018 -June 2019: Coastal Commission certification and Board hearing

Recommended Actions Today

That the Board:

- Consider options for taxation rates and provide direction to staff for inclusion in a June 2018 ballot measure
- Provide direction to staff for:
 - Development of a measure for General revenue purposes; OR
 - Development of a measure for Specific revenue purposes; and conceptual direction on the specific uses and conditions for the revenue;
- Direct staff to return on January 30, 2018 with a taxation ordinance and ballot measure on cannabis-related operations
- Receive a presentation on additional cannabis revenue banking, treasury and accounting issues;
- Provide any other conceptual direction to staff; and
- CEQA findings