

Cannabis Cultivation Taxation Options

Board of Supervisors
May 14, 2024



County Executive Office

Outline

- Board direction and assumptions
- Current challenges/outstanding issues
- Factors Considered in Developing the Rate Options
- Options for alternate methods or changes to the cannabis taxation structure related to cultivation:
 - Option 1: Tax by Square Footage
 - Option 2: Hybrid Tax – gross receipts with a minimum base tax rate
- Schedule to develop and place new tax ordinance on the ballot

Board Direction and Assumptions

- On March 12th Board directed staff to return with options for alternate cannabis tax structure
 1. Tax structure based on a hybrid model (gross receipts and square footage); and
 2. Tax structure by square footage that is more aligned with the rest of the state. Further directed staff to include a minimum and a maximum and method of floatation on the state licensed area.
- **Staff assumptions in developing options:**
 - Maximize revenue without major increases to current rates, and ensure every licensed operator pays a minimum amount of tax
 - Generate enough tax revenue to cover the ongoing uses dedicated to cannabis administration, enforcement, and education
 - Consider the advantage that greenhouse and indoor operations have with respect to number of harvest cycles and quality/value of product being cultivated

Outstanding Issues

- Perceptions of inequity and little or no payment of taxes by some outdoor licensed operators
- Ability of tax revenues to cover the ongoing uses dedicated to cannabis administration, enforcement, and education in the budget
- Transparency of how taxes are reported, collected, and paid
- Staffing resources dedicated to tax reporting, collection, and compliance

CA Counties that Tax by SF

County	
1	Calaveras
2	Contra Costa
3	Del Norte
4	Humboldt
5	Imperial
6	Lake
7	Lassen
8	Mono
9	Monterey
10	Nevada
11	Sonoma

Cultivation Type	Current Ranges
Outdoor	\$0 - \$2.00
Non-Outdoor	\$0 - \$12.50

Information collected from 22 counties that tax cannabis cultivation

Comparison Rates in Select Counties

Various Square Footage Tax Rates			
County	Indoor	Mixed Light	Outdoor
Humboldt	\$-	\$-	\$-
	<i>\$0.10</i>	<i>\$0.20</i>	<i>\$0.30</i>
Lake	\$1.55	\$1.03	\$0.52
Monterey	\$2.13	\$1.46	\$0.71
Sonoma	\$12.50	\$3.00	\$0.75
	<i>\$7.58</i>	<i>\$2.51</i>	<i>\$0.69</i>

Notes:

Humboldt County

Approved tax rate of 10% for 2024 shown in italics, for collection in 2025

Lake County

Froze CPI increase and reduced rates by fifty percent

Monterey County

Original adopted 7/19/2016; adjusted 6 times (downward)

Sonoma County

Considered gross sales receipts; recently adjusted rates for FY 24-25 shown in italics

Considerations for Option Development

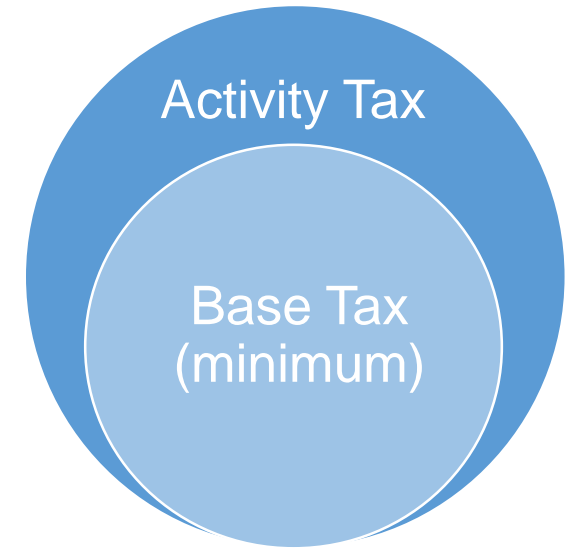
- **Ratio of Outdoor to Non-Outdoor Rate**
 - Typical ratios for outdoor versus non-outdoor are 1:2 or 1:3
 - Higher rates of production and value of products in greenhouses; chose 1:3 in the recommended rates
- **Method for Adjustments to Rate(s)**
 - Cannabis production and prices vary year to year; dependent on market fluctuations
 - Tax rates can be adjusted up or down; staff recommends using CA Dept of Tax and Fee Admin cannabis sales data as the index
- **Creation of Minimum or Base Tax Rate**
 - Used total taxes paid in FY 22-23 divided by the maximum area allowed by State licenses
 - Outdoor rates used as foundation for minimum; calculated the average of reported gross receipts – annual base rate \$0.25/SF

Option 1: Tax Structure for Area by Square Foot

Two-tiered system:

- A base tax using the maximum state licensed area charged by cultivation type
- An activity tax, assessed on a per state license basis, if any activity occurred in the reporting period

Base + Activity = Total Tax
(maximum)



	Base Rate (Minimum)	Activity Rate (charged if license shows activity)	Total = Base + Activity (Maximum)
Outdoor	\$0.25	\$0.25	\$0.50
Non-Outdoor (Greenhouse/Mixed Light/Indoor)	\$0.75	\$0.75	\$1.50

Option 1: Tax Structure for Area by Square Foot

Estimated Annual Revenue from Base Tax (minimum)			
Cultivation Type	Base SF Rate	Square Feet (SF)	<i>Estimated Annual Base SF Tax</i>
Outdoor	\$0.25	12,265,912	\$3,066,478
Non-Outdoor (Greenhouse/Indoor/Mixed-Light)	\$0.75	3,068,800	\$2,301,600
Total			\$5,368,078

57.1%

42.9%

Estimated Annual Revenue from Base + Activity Tax (Using FY 2022-23 data)					
Cultivation Type	<i>Estimated Annual Base SF Tax Revenue</i>	Activity Annual Rate	Estimated Activity SF	Estimated Annual Activity SF Tax Revenue	Total Estimate Due for Annual (Base + Activity)
Outdoor	\$3,066,478	\$0.25	4,892,224	\$1,223,056	\$4,289,534
Non-Outdoor (Greenhouse/Indoor/Mixed-Light)	\$2,301,600	\$0.75	2,608,350	\$1,956,263	\$4,257,863
Total					\$8,547,397

50.2%

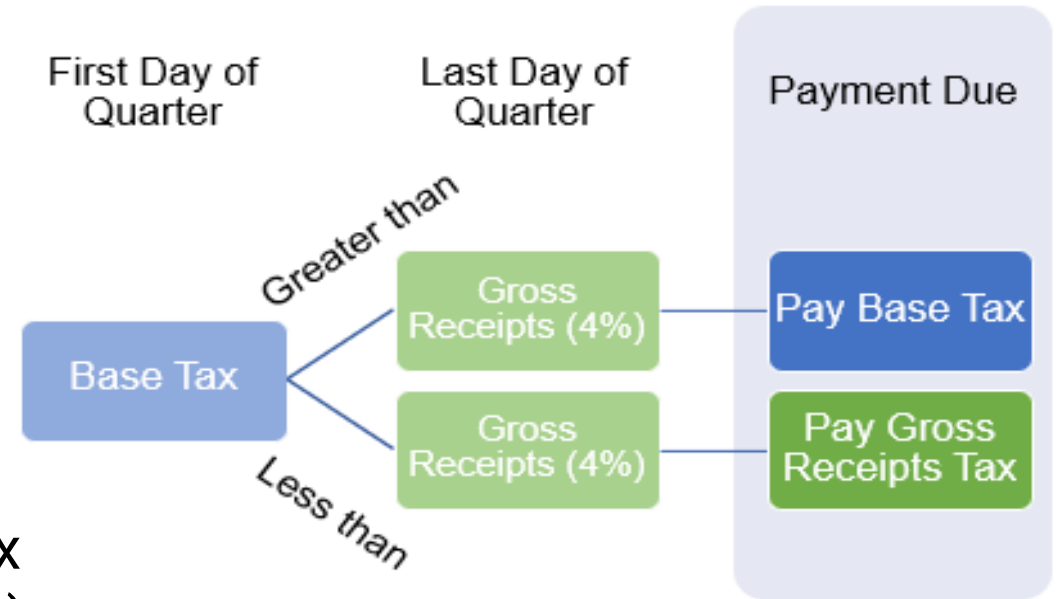
49.8%

Benefits/ Challenges with Option 1

- Provides greater transparency; all information required to bill and verify is available through Metrc and does not rely on reporting from operators
- Establishes a guaranteed minimum tax, tax revenue to the County, and a maximum tax when license activity occurs
- Applies the Activity Tax Rate to the State licensed area in operation, regardless of how much product is being produced or revenue earned, in addition to requiring a base amount
- Limited to maximum tax rate applied regardless of market booms
- Setting rates that the market can bear while maintaining a valuable revenue stream for the County

Option 2: Hybrid Tax Model – Square Footage Base or Gross Receipts

- Cultivators assessed the **greater of** the Base Tax (\$0.25/SF for outdoor; \$0.75/SF for non-outdoor) based on total State licensed area, or the 4% gross receipts tax.
- If it is determined that the base tax is greater than gross receipts; operator pays the base tax. If base tax is less than gross receipts; operator pays gross receipts tax



Option 2: Hybrid Tax Model – Square Footage Base or Gross Receipts

Estimated Annual Revenue from Hybrid Tax Model (FY 2022-23 data)				
Cultivation Type	<i>Estimated Annual Base SF Tax Revenue</i>	<i>Estimated Annual Gross Receipts Tax Revenue</i>	Total Estimate for Annual Hybrid Model	
Outdoor	\$2,907,748	\$371,365	\$3,279,113	41.2%
Non-Outdoor (Greenhouse/Mixed Light/Indoor)	\$706,500	\$3,982,654	\$4,689,154	58.8%
		Total	\$7,968,267	

Benefits/ Challenges with Option 2

- Partially based on market conditions (gross receipts), County and operators share in benefits when market is up
- Similar to Option 1 establishes a guaranteed minimum tax, providing a floor of tax revenue to the County
- Limited transparency; and does not reduce the current administrative burden of verifying and auditing gross receipts
- Setting rates that the market can bear while maintaining a valuable revenue stream for the County

Additional Considerations

- **Adjustments for Vertical Integration**
 - Option 1 and 2 only address cultivation
 - Operators in County that perform all aspects of supply chain (“seed to sale”) have concerns
 - Particularly important for nursery and distribution activities on the same operator parcel
- **Adjustments to Allow Flexibility**
 - Board could change tax rates at its discretion without returning to voters
 - Develop a methodology, such as using the CDTFA data to guide increases or decreases to the tax rates or include an automatic rate adjustment based on Consumer Price Index (CPI); allow Board to waive adjustments

Additional Considerations

- Adjustments to Allow Flexibility (continued)

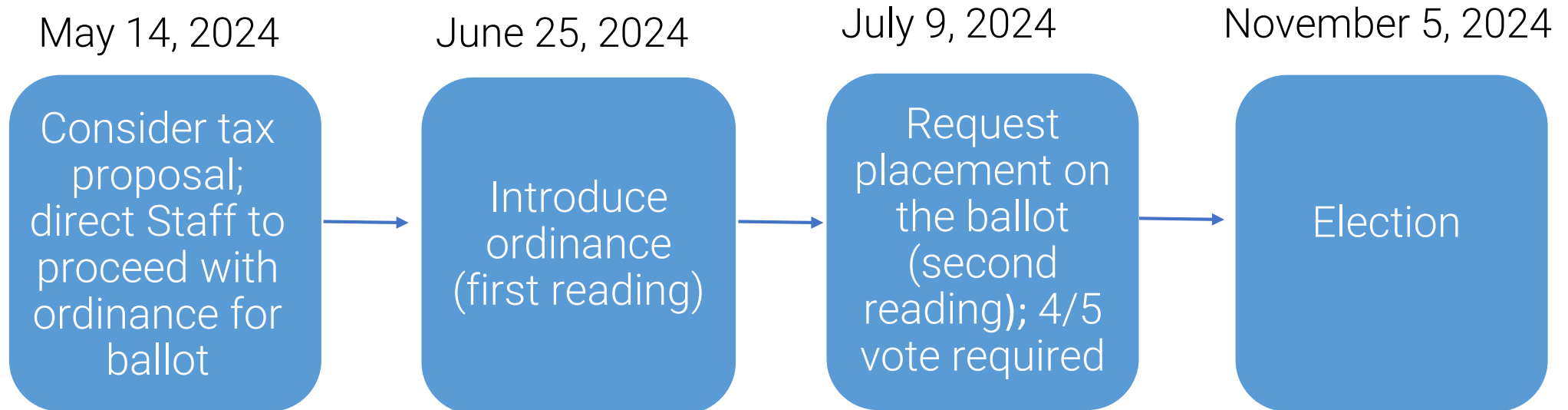
- Consider minimum and maximum ranges in the ballot measure

Staff would recommend the following ranges for the ballot measure:

- Option 1: Total Base and Activity Tax Rate of \$0.05 to \$10.00 for outdoor; and \$0.15 to \$25.00 for non-outdoor
- Option 2: Base Tax Rate of \$0.05 to \$5.00 for outdoor; and \$0.15 to \$15.00 for non-outdoor

Potential November 2024 Ballot Measure

- Changing tax structure requires a ballot measure
- Four-fifths (4/5) vote required by Board of Supervisors to place new ordinance on the ballot
- General tax needs a simple majority of Santa Barbara County (unincorporated) voters to approve for passage
- Tentative Schedule



Current Tax Method (Gross Receipts)

Activity	Percentage of Gross Receipts
Nursery	1%
Distributor	1%
Manufacturing	3%
Cultivation	4%
Retail	6%
Microbusiness	6%

- Gross receipts structure is proportional; linked to revenue generated by the cultivator
- Compliance challenges persist, but first round of audit findings are expected by end of June 2024
- Program now has a substantial amount of data to inform pricing for compliance reviews
- Potential to minimize operator attrition during market lulls

Fiscal Analysis

Options 1 and 2 estimated to generate a base tax amount of approximately \$5.4 M, additional tax revenue estimated at \$2-3 M generated from either the activity tax using the square footage model or gross receipts using the hybrid model

24-25 Estimated Ongoing Uses

(431,500)	CEO: Cannabis Program Administration
(370,000)	P&D: Appeals Costs
(480,900)	TTC: Cannabis Program Admin
(135,000)	TTC: HDL Contract
(1,417,400)	Subtotal Cannabis Program Admin Costs
(3,342,900)	Countywide Enforcement Costs*
(160,000)	Bwell: Cannabis Education
(4,920,300)	Subtotal Cannabis Prog Admin, Enforcement, and Education Costs
(1,572,800)	18% Deferred Maintenance
(301,400)	CoCo: BOS Approved Deputy CoCo
(6,794,500)	Total 24-25 Estimated Ongoing Uses

*Enforcement is for illegal and unregulated market activities. Total includes: Sheriff, DA, P&D, County Counsel, CEO, and Public Health

Recommended **Actions**

- a) Consider two alternative methods for cannabis taxation for cultivation:
 - i. Option 1: Square foot tax rate with a minimum Base Tax Rate and Activity Tax Rate; or
 - ii. Option 2: Hybrid structure of Gross Receipts Tax Rate with a minimum Base Tax Rate based on square footage; and
 - iii. Direct staff to return on June 25, 2024 with a taxation ordinance and ballot measure for cannabis operations for the November 2024 General Election ballot; and
 - iv. Direct staff to incorporate ballot language to allow for flexibility to adjust square footage tax rates at the Board's discretion without returning to the voters; OR
 - b) Take no action and maintain the current gross receipts taxation method; and
 - c) Determine that pursuant to CEQA Guidelines section 15378(b)(5) the above actions are not a project subject to CEQA review because they are administrative activities that will not result in direct or indirect physical changes in the environment.
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Additional Information for Cannabis Tax Discussion **May 14th, 2024**

Fiscal Year 2022-23 Totals

Cultivation Type	Revenue	Percentage
Outdoor	\$992,630	18%
Non-Outdoor	\$4,472,804	82%

Activity Type	Taxes Collected
Cultivation	\$5,465,434
Non-Cultivation	\$294,540

Additional Information for Base Rate Development

- Minimum or Base Tax Rate Using Percentiles

Outdoor = 13 operators

Non-Outdoor = 29 operators

Cultivation Type	55th	70th	80th	90th
Outdoor	\$0.04	\$0.09	\$0.14	\$0.25
Non-Outdoor	\$1.49	\$2.00	\$2.43	\$3.34

No. of operators includes those that reported and paid tax amounts greater than zero in FY 22-23 and are still in operation today