

# Excise Tax on Cannabis Operations

## Options Worksheet

Staff recommends the Board receive this report by HdL Consultants, provide direction on the recommended taxation approach, general or special tax measure and making the County's business licensing and land use permitting regulations conditioned on voter approval of the tax measure or provide other direction. Should the Board direct a ballot measure for June 2018 (see below), staff would need this direction now to be able to return in January or February with draft ordinance and ballot measure for consideration, contemporaneous with the adoption of the land use and business license ordinances.

### Cannabis Excise Tax Options

**Taxation Option 1:** After conducting research and reviewing the results of the HdL Study, staff recommends that the Board consider adopting an excise tax on cannabis cultivation, manufacturing and retail in the unincorporated area of the county. If the Board wanted to raise these rates, they would have to return to the voters for approval. The 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:** Staff also believes that the Board could adjust any of the recommended tax rates with a total rate across the supply chain of around 10%. HdL anticipates that whatever taxation structure is chosen, cumulative County tax rates of not more than 10% be applied; otherwise we raise the risk of deterring cannabis operations from entering the regulatory framework. Any local taxes will be in addition to current State taxes of approximately 20%. HdL and law enforcement officials often note that total tax rates in excess of 30% will reduce the number of cannabis operators that participate in the licensing and permitting system.

**Taxation Option 3:** Similar to the counties shown above, the Board could also opt to start at lower rates, such as those recommended in Option 1, which the Board could increase at its discretion to a maximum percentage. The rates shown in Option 1 could be the starting point, and be raised to a maximum of 8%. The process and timing to raise tax rates under this option would be defined in the measure.

**Other Taxation Options:** Should the Board prefer other taxation structures (e.g. per square foot or pound), staff has presented a matrix of options (Attachment B) to assist in that deliberation.

Decision Points		Options for decisions	Response
1	Tax Rate per unit?		
1a	\$ per unit for cultivator licenses?	Square foot of canopy or ounce of product?	

1a.1	\$ per square foot?	All cultivation license types?	
	How much? Different rates for each cultivator type? What square foot counts? Collect annually, each plant cycle, quarterly? Reduction for crop failure?	How much?	
		Different rates?	
		What counts?	
		Collection period?	
		Reduction?	
1a.2	\$ per ounce of product?	All license types or limited license types?	
	How much per ounce? Timeline plants are weighed? Different rates for flowers and leaves?	How much?	
		Timing?	
		Different rates?	
1b	% of gross receipts?	All license types or limited license types?	
2	Establish a higher “not to exceed rate?”	Yes/No	
2a	How much is the higher rate?	Max rate?	
2b	What are the initial base rates?	Initial rates?	
2c	How would the Board authorize an adjustment?	Adjustments?	
3	If 1a is yes, Index Tax Rate for inflation?	Yes/No	
3a	If yes, select period for adjustment and adjustment date.	Annually, date specific	
3b	If yes, % change from a base date	Date	
3	If 1b is yes, establish percentage rate?	Yes/No	
3a	For indoor cultivators, if any?	%	
3b	For mixed light cultivators, if any?	%	
3c	For outdoor cultivators, if any?	%	
3d	For manufacturers, if any?	%	
3e	For distributors, if any?	%	
3f	For retail, if any?	%	
4	Include a Excise Tax on Cannabis Operations “sunset?”	Yes/No	
4a	If yes, select end date.	Date	
5	Difference for medical or non-medical? Rate difference?	Apply difference? Rate differential?	
6	Unincorporated only or Countywide? Recommend Unincorporated only.	Unincorporated/ Countywide?	

7	Frequency of collection by Treasurer-Tax Collector?	Monthly, Quarterly, Semi-Annual, Annual?	
8	Direct Auditor-Controller to prepare a fiscal impact statement which estimates the amount of increased or decreased revenues or costs to the County if the proposed measure is adopted, per Elections Code section 9160(c).	Yes/No	
9	General Tax or Special Tax?	Select One	
9a	If Special Tax, include a "No supplantation" restriction?	Yes/No	
9b	If yes, select a base line year to determine compliance with supplantation restriction	Date (Fiscal Year)	
9c	If Special Tax, continue below		

**If Special Tax, then Specific Purpose Options:**

Decision Points		Options for decisions	Response
1	Should a portion of the tax collected reimburse county departments for the cost of providing, collecting or reporting business license and collecting taxes?	Yes/No	
1a	If yes, specify reimbursement basis	Total actual costs, costs up to a percentage collected	
2	Specific Programs, Projects or Initiatives to be funded?	Various	
2a	If more than one Program, Project or Initiative is specified, how will the funds be divided?	Equal percentage, specific set percentages, other method	