

HANNAH L. NELSON

Attorney At Law

31452 Airport Road, Fort Bragg, CA 95437

Tel: (707) 962-9091

hannahnelson@hannahnelson.net

Fax: (888) 761-5720

Mendocino County Board Of Supervisors
501 Low Gap Road, Room 1010
Ukiah, CA 95482

July 18, 2016

Re: Proposed Cannabis Business Tax Proposal

Honorable Supervisors:

I strongly believe that this tax proposal is **premature**. Not only does it contain provisions that should be further discussed, it sends a message to the lawful cannabis community that you are willing to pay a consultant to write a tax proposal and you are willing to spend time debating the merits of the tax proposal **BEFORE** you are willing to even meet for free with stakeholders to come up with regulations that apply to cultivators in the coastal zone and all other cannabis endeavors (manufacturing of edibles, transportation, etc.). What's worse is that the tax proposal applies to all of those activities that you were not yet willing to deal with a regulatory structure for.

Specific objections I have to this particular proposal include:

1. The "blurb" for the voters is misleading and incomplete. We all know that most voters do not read the entire text of a proposed ordinance but only read the "blurb." **This language fails to state critical information that could be decisive in a voter's decision** such as a failure to mention that these cannabis activities are not yet offered permits; that they are subject to all regular business taxes as well; that the practical result could be that a product is taxed 4-6 times before reaching a consumer; that no notice is required before a tax is due; that the tax on cultivation applies to a total area permitted irrespective of whether the crop failed or the person chose to not cultivate the entire area they were allowed to; that the taxes (not just the reporting on them) are due quarterly, despite the fact that the outdoor farmer may not have income throughout the quarter.
2. This proposed ordinance has **taxation for categories not allowed** in the proposed regulatory scheme (over 10,000 square feet of cultivation besides nurseries) and is **conflicting as to whether nurseries are taxed according to square footage or according to gross receipts**.
3. The price index for automatic increases uses URBAN consumers.
4. The tax **does not take into account crop or product failure**. It should be a yield or income-based tax.
5. The **penalties are outrageous**, especially given the short time frames for payment: The tax is due on the last day of the month immediately after the quarter the tax is for and penalties of 25% immediately get imposed as well as a 1½ % compounded interest. Then, after one month of delinquency, and ADDITIONAL 25% penalty is added and the interest continues to compound. Contrary to what staff tried to argue, **this is NOT like a business license fee, which is a once per year flat fee of a fairly nominal amount**. Rather this is a continual tax based on quantity or revenue. Calling it a license tax does not change the fact that it is nothing like a one

Personal & Business Consulting & Legal Services
Real Estate, Partnerships, Estate Planning, Small Business

time license (application) fee, which these cannabis activities are also subjected to on multiple levels.

6. Audit provisions allow for **audit of evidence of gross receipts even though cultivators will be taxed on square footage.**
7. The **Due Process provisions are draconian and do not constitute adequate due process for such significant ramifications.** Despite the fact that the Government Committee gave direction to Staff to increase some of the time frames and notice requirements, nothing has been changed since this proposal was before that Committee last week. The offending provisions include: No Notice Requirement (no bill or notice need be sent by the County); Any notices sent (regarding delinquency or notice of a hearing on an appeal) runs from when the notice is mailed by the County not by when it is received or some other period of time after mailing; there is NO grace period before a tax is delinquent; no tax will be prorated or adjusted for crop failure or unused cultivation area; an appellant must ask for a hearing within 10 days of notice of delinquency or other determination but time runs from mail date; appellant is only given 5 days notice of when hearing is going to be after County decides when hearing is; the tax payer's right to a refund of an error has been made by the County is limited to 1 year's worth of tax regardless of whether the error by the County was over multiple years.

Please convene stakeholder meetings to come up with tax provisions that will encourage participation in the regulatory scheme and propose a sensible taxation policy AFTER you have attended to the outstanding regulatory issues for this industry.

Hannah L. Nelson