



MENDOCINO COUNTY TREASURER-TAX COLLECTOR
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Date: March 27, 2018
To: Honorable Board of Supervisors
From: Shari L. Schapmire, Treasurer-Tax Collector
Subject: Discussion and Further Direction Regarding Possible Amendments to the Cannabis Business Tax Ordinance (Chapter 6.32)

On February 27, 2018, staff requested Board direction and clarification on multiple items relating to the Cannabis Business Tax; the staff report utilized to originally address the discussion items is attached for your reference.

Board Direction Provided on February 27, 2018: The Board provided direction on the following items where the amendments have now been included on the red-line version of Chapter 6.32 - Cannabis Business Tax:

1. "Growing cycle" has now been eliminated from tax imposed in §6.32.050, B(1)(a), B(1)(b), and B(1)(c). "Growing cycle" has now been eliminated from definitions in §6.32.040(R).
2. "Fiscal year" has now been changed to "calendar year" in all instances referenced in §6.32.050 and §6.32.060. "Fiscal year" has now been eliminated from definitions in §6.32.040. "Calendar Year" has now been added to definitions in §6.32.040.
3. All minimum tax requirements mandated in §6.32.050(b) are imposed beginning January 1, 2018.
4. With the Board direction provided above, the following questions addressed in the staff report, dated February 27, 2018, are no longer applicable:
 - Imposition of minimum amount due requirements on perpetual grows where cannabis is planted throughout the year in two to four week increments (Staff Report - February 27, 2018 - Question #1);
 - Imposition of minimum amount due requirements on growing cycles covering two fiscal years (Staff Report - February 27, 2018 - Question #2); and

- Imposition of minimum amount due requirements on cultivators who were affected by the Redwood Complex Fire, but were not situated in one of the evacuation zones (Staff Report - February 27, 2018 - Question #6).
5. The Board approved the recommended amendments to §6.32.040(Q), definition of “Gross receipts.”
 6. The Board approved the recommended amendments to §6.32.050(D) to add “processor” to the list of commercial cannabis business types imposed with an annual cannabis business tax. The definition of “processor” has also been added to §6.32.040.

Calculation of Minimum Annual Tax Requirements on Commercial Cannabis Cultivation:

Subsequent to the imposition of the Tax Ordinance, an analysis of the wording of §6.32.050 by the County Counsel’s Office found that the minimum annual payments were to be based on the square footage being cultivated and not the permit type applied for through the County’s cultivation permit program. At and following the February 27, 2018, Board of Supervisors meeting, the ordinance was further reviewed to consider the impact of the definition of “square foot” in §6.32.040, which specifically refers to the maximum amount of canopy space authorized by a County permit. “County permit” is also a defined term of Chapter 6.32, and specifically references permits issued pursuant to Chapter 10A.17. Based on these defined terms, the cultivation types and sizes authorized by Chapter 10A.17, and how the square footage numbers in §6.32.050 line up with the permit types of Chapter 10A.17, the tax should be calculated based on the permit size applied for. County Counsel’s Office has made proposed changes to the ordinance to more simply refer to the cannabis cultivation permit types in §6.32.050.

Issues Remaining for Board Consideration: Further discussion and direction is being requested on the following items:

7. Imposition of minimum amount due requirements on cultivators who currently have no product and plan to wait until next year to plant (Staff Report - February 27, 2018 - Question #3);

Staff Recommendation: Defer to Board Direction

8. Imposition of minimum amount due requirements in the event of partial or complete crop failure (Staff Report - February 27, 2018 - Question #4);

Staff Recommendation: Defer to Board Direction

9. Imposition of minimum amount due requirements in the event of crop eradication by law enforcement (Staff Report - February 27, 2018 - Question #5).

Staff Recommendation: Minimum amount due per calendar year to continue to be imposed.