

CHAPTER 6.32 CANNABIS BUSINESS TAX

Sec. 6.32.010 Title.

This ordinance shall be entitled as the "Cannabis Business Tax". This ordinance shall be applicable in the unincorporated territory of the County of Mendocino, which shall be referred to herein as "County."

(Ord. No. 4361, § 1, 8-2-2016)

Sec. 6.32.020 General Tax.

The Cannabis Business Tax is enacted solely for general governmental purposes for the County and not for specific purposes. All of the proceeds from the tax imposed by this Chapter shall be placed in the County's general fund and used for purposes consistent with general fund expenditures of the County.

(Ord. No. 4361, § 1, 8-2-2016)

Sec. 6.32.030 Purpose of the Ordinance.

This ordinance is adopted to achieve the following purposes, among others, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

- A. To impose a tax on the privilege of cultivating, manufacturing, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing cannabis and/or cannabis products and accessories by commercial cannabis businesses in the unincorporated area of the County, pursuant to the state Medicinal and Adult-Use Cannabis Regulation and Safety Act, specifically California Revenue and Taxation Code section 34021.5 (which supersedes California Business and Professions Code section 19348);
- B. To impose a tax on lawful commercial cannabis business in accordance with the authority granted by California Revenue and Taxation Code section 7284 to impose a business license tax;
- C. To specify the type of tax and rate of tax to be levied and the method of collection; and
- D. To comply with all requirements for imposition of a general tax, such tax to become operative only if submitted to the electorate and approved by a majority vote of the voters voting in an election on the issue.

(Ord. No. 4361, § 1, 8-2-2016; Ord. No. 4412, § 1, 7-10-2018)

Sec. 6.32.040 Definitions.

The following words and phrases shall have the meanings set forth below when used in this Chapter:

- A. "Business" shall include all activities engaged in or caused to be engaged in within the unincorporated area of the County, including any commercial or industrial enterprise, trade, profession, occupation, vocation, calling, or livelihood, whether or not carried on for gain or profit, but shall not include the services rendered by an employee to his or her employer.

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- B. "Calendar year" means January 1 through December 31 of the same year.
- C. "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" also means marijuana as defined by Section 11018 of the California Health and Safety Code and is not limited to medical cannabis.
- D. "Cannabis product" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product. "Cannabis product" also means marijuana products as defined by Section 11018.1 of the California Health and Safety Code and is not limited to medical cannabis products.
- E. "Canopy" means all areas occupied by any portion of a cannabis plant, inclusive of all vertical planes, whether contiguous or noncontiguous on any one site.
- F. "Commercial cannabis business" means any commercial business activity relating to cannabis, including but not limited to cultivating, transporting, distributing, manufacturing, compounding, converting, processing, preparing, storing, packaging, delivering, and selling (wholesale and/or retail sales) of cannabis and any ancillary products and accessories in the unincorporated area of the County, whether or not carried on for gain or profit.
- G. "Cannabis business tax," "business tax," or "commercial cannabis tax" means the tax due pursuant to this Chapter for engaging in commercial cannabis business in the unincorporated area of the County.
- H. "Commercial cannabis cultivation" means cultivation conducted by, for, or as part of a commercial cannabis business.
- I. "County permit" means a permit issued by the County to a person to authorize that person to operate or engage in a commercial cannabis business. The term "County permit" includes a commercial cannabis permit issued pursuant to Chapter 10A.17 and/or any other subsequent or additional Chapter of the Mendocino County Code which may be adopted or amended from time to time which authorizes any cannabis regulatory activity.
- J. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- K. "Delivery" means the commercial transfer of cannabis or cannabis products from a dispensary to a retail customer at a separate location.
- L. "Dispensary" means a facility where cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers cannabis or cannabis products as part of a retail sale.
- M. "Distributor" or "distribution" or "distribution facility" means a person or facility involved in the procurement, sale, and/or transport of cannabis and cannabis products between permitted or licensed entities.
- N. "Employee" means each and every person engaged in the operation or conduct of any business, whether as owner, member of the owner's family, partner, associate, agent, manager or solicitor, and each and every other person employed or working in such business for a wage, salary, commission, barter or any other form of compensation.
- O. "Engaged in business" means the commencing, conducting, operating, managing or carrying on of a cannabis business and the exercise of corporate or franchise powers, whether done as owner, or by means of an officer, agent, manager, employee, or otherwise, whether operating from a fixed location

in the unincorporated area of the County or coming into the unincorporated area of the County from an outside location to engage in such activities. A person shall be deemed engaged in business within the County if:

1. Such person or person's employee maintains a fixed place of business within the unincorporated area of the County for the benefit or partial benefit of such person;
2. Such person or person's employee owns or leases real property within the unincorporated area of the County for business purposes;
3. Such person or person's employee regularly maintains a stock of tangible personal property in the unincorporated area of the County for sale in the ordinary course of business;
4. Such person or person's employee regularly conducts solicitation of business within the unincorporated area of the County;
5. Such person or person's employee performs work or renders services in the unincorporated area of the County; and
6. Such person or person's employee utilizes the streets within the unincorporated area of County in connection with the operation of motor vehicles for business purposes.

The foregoing specified activities shall not be a limitation on the meaning of "engaged in business."

P. "Evidence of doing business" means evidence such as, without limitation, use of signs, circulars, cards or any other advertising media, including the use of internet or telephone solicitation, or representation to a government agency or to the public that such person is engaged in a cannabis business in the unincorporated area of the County.

Q. "Gross Receipts," except as otherwise specifically provided, means the total amount actually received from all sales; the total amount or compensation actually received for the performance of any act or service, of whatever nature it may be, for which a charge is made, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, wares or merchandise. Included in "gross receipts" shall be all receipts, cash, and property of any kind or nature, without any deduction there from on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever, except that the following shall be excluded therefrom:

1. Cash discounts where allowed and taken on sales;
2. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
3. Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or return of refundable deposits previously included in gross receipts;
4. Receipts from investments where the holder of the investment receives only interest and/or dividends, royalties, annuities and gains from the sale or exchange of stock or securities solely for a person's own account, not derived in the ordinary course of a business;
5. Receipts derived from the occasional sale of used, obsolete or surplus trade fixtures, machinery or other equipment used by the taxpayer in the regular course of the taxpayer's business;
6. Cash value of sales, trades or transactions between departments or units of the same business;
7. Transactions between a partnership and its partners;
8. Receipts from services or sales in transactions between affiliated corporations. An affiliated corporation is a corporation:

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- a. The voting and non-voting stock of which is owned at least eighty percent by such other corporation with which such transaction is had; or
 - b. Which owns at least eighty percent of the voting and non-voting stock of such other corporation; or
 - c. At least eighty percent of the voting and non-voting stock of which is owned by a common parent corporation which also has such ownership of the corporation with which such transaction is had.
 - 9. Transactions between a limited liability company and its member(s), provided the limited liability company has elected to file as a Subchapter K entity under the Internal Revenue Code and that such transaction(s) shall be treated the same as between a partnership and its partner(s) as specified in Subsection (9) above;
 - 10. Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded when in excess of one dollar;
 - 11. Amounts collected for others where the business is acting as an agent or trustee and to the extent that such amounts are paid to those for whom collected. These agents or trustees must provide the finance department with the names and the addresses of the others and the amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustees.
 - R. "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or re-labels its container, that holds a valid County permit.
 - S. "Nursery" means a person that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.
 - T. "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, whether organized as a nonprofit or for-profit entity, and includes the plural as well as the singular number.
 - U. "Personal cannabis cultivation" means cultivation by a person consistent with the provisions of California law and the Mendocino County Code exclusively for the persons' own use, whether for medical or nonmedical uses, where the person does not provide, donate, sell or distribute cannabis to any other person. "Personal cannabis cultivation" also includes cultivation by a primary caregiver who cultivates consistent with the provisions of California law and the Mendocino County Code exclusively for the personal medical use of a person with an identification card or a qualified patient for whom the person is the primary caregiver and who does not receive remuneration for these activities except in full compliance with California law.
 - V. "Processing" means to harvest, dry, cure, grade, trim, or package for transport commercial cannabis.
 - W. "Sale" means and includes any sale, exchange, or barter of cannabis or cannabis products.
 - X. "State" means the State of California.
 - Y. "State license," "license," or "registration" means a state license issued pursuant to California Business & Professions Code section 26000, et seq. or other applicable state law.
 - Z. "Testing laboratory" means a facility, entity, or site in the state that offers or performs testing of cannabis or cannabis products and that is both of the following:

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1. Accredited by an accrediting body that is independent from all other persons involved in the cannabis industry in the state; and
 2. Registered with the California State Department of Public Health.
- AA. "Transport" means the transfer of cannabis or cannabis products from the permitted business location of one permittee or licensee to the permitted business location of another permittee or licensee, for the purposes of conducting commercial cannabis activity authorized pursuant to state law.
- BB. "Transporter" means a person issued all required state and County permits to transport cannabis or cannabis products between permitted facilities.
- CC. "Treasurer-Tax Collector" means the Treasurer-Tax Collector of the County of Mendocino, his or her deputies or any other County officer charged with the administration of the provisions of this Chapter.

(Ord. No. 4361, § 1, 8-2-2016; Ord. No. 4412, § 2, 7-10-2018)

Sec. 6.32.050 Tax Imposed.

- A. There is established and imposed a cannabis business tax at the rates set forth in this Chapter. Every person who is engaged in commercial cannabis cultivation in the unincorporated area of the County shall pay an annual cannabis business tax.
- B. Tax on commercial cannabis cultivation excluding nurseries.
1. Every person who cultivates commercial cannabis in the unincorporated area of the County shall pay an annual commercial cannabis business tax. The initial tax rate effective January 1, 2017 through December 31, 2020 , shall be set at two and one half percent (2.5%) of the gross receipts per calendar year; provided, however, that cultivators shall pay not less than the following amounts:
 - a. Persons cultivating pursuant to a cultivation permit applied for or issued pursuant to Chapter 10A.17 that authorizes the cultivation of a maximum of two thousand five hundred (2,500) square feet of cannabis (including, but not limited to, Type C, Type C-A or Type C-B cultivation permits) shall pay a tax of no less than one thousand two hundred fifty dollars (\$1,250) per calendar year.
 - b. Persons cultivating pursuant to a cultivation permit applied for or issued pursuant to Chapter 10A.17 that authorizes the cultivation of over two thousand five hundred (2,500) square feet and up to five thousand (5,000) square feet of cannabis (including, but not limited to, Type 1, Type 1A and Type 1B cultivation permits) shall pay a tax of no less than two thousand five hundred dollars (\$2,500) per calendar year.
 - c. Persons cultivating pursuant to a cultivation permit applied for or issued pursuant to Chapter 10A.17 that authorizes the cultivation of over five thousand (5,000) square feet of cannabis (including, but not limited to, Type 2, Type 2A and Type 2B cultivation permits) shall pay a tax of no less than five thousand dollars (\$5,000) per calendar year.
 - d. Persons who file a Notice of Non-Cultivation with the Department of Agriculture pursuant to Chapter 10A.17 shall not be required to pay the minimum payment amounts required by this paragraph B.1 for either (1) the calendar year in which the Notice of Non-Cultivation is filed or (2) the calendar year in which the Notice of Non-Cultivation terminates, at the election of the Person, which election shall be made at the time of the filing of the Notice of Non-Cultivation; for Persons who do not make an election, the Treasurer-Tax Collector shall select the first of the two calendar years.

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- e. Payment of the minimum payment amounts required by this paragraph B.1. shall be effective starting January 1, 2018.
 - 2. As of July 1, 2020, such tax rate may be increased in two and one half percent (2.5%) increments, not to exceed the maximum tax rate of ten percent (10%) per calendar year on gross receipts. Incremental increases in the tax rate shall occur January 1 following an approval by the Board of Supervisors at a regularly scheduled meeting of the Board of Supervisors, and occur not more than once per calendar year.
- C. Tax on commercial cannabis dispensaries.
- 1. Every person who is engaged in business as a dispensary in the unincorporated area of the County shall pay an annual commercial cannabis business tax. The initial tax rate effective January 1, 2017 through December 31, 2020 shall be set at five percent (5%) of the gross receipts per calendar year.
 - 2. As of July 1, 2020, such tax rate may be increased in two and one half percent (2.5%) increments, not to exceed the maximum tax rate of ten percent (10%) per calendar year on gross receipts. Incremental increases in the tax rate shall occur January 1 following an approval by the Board of Supervisors at a regularly scheduled meeting of the Board of Supervisors, and occur not more than once per calendar year.
- D. Tax on all other commercial cannabis businesses.
- 1. Every person who is engaged in business as a distributor, delivery service manufacturer, processor, nursery, testing laboratory, and transporter in the unincorporated area of the County shall pay an annual commercial cannabis business tax. The initial tax rate effective January 1, 2017 through December 31, 2020 , shall be set at a flat rate of two thousand five hundred dollars (\$2,500) per calendar year.
 - 2. Beginning on July 1, 2020, and on July 1 of each succeeding year thereafter, the amount of the tax imposed the following January 1 by this paragraph D of this Section shall be adjusted up to the equivalent to the most recent change in the State Department of Industrial Relations (or successor agency) in the Consumer Price Index (CPI) for all urban consumers (California). However, no CPI adjustment resulting in a decrease of any tax imposed by this paragraph D shall be made.

(Ord. No. 4361, § 1, 8-2-2016; Ord. No. 4412, § 3, 7-10-2018)

Sec. 6.32.060 Reporting and Remittance of Tax.

The commercial cannabis business tax imposed by this Chapter shall be imposed on a calendar year basis and shall be due and payable in quarterly installments as follows:

- A. Each person owing a commercial cannabis business tax shall, on or before the last day of the month following the close of each calendar year quarter, prepare and submit a tax statement on the form prescribed by the Treasurer-Tax Collector and remit to the Treasurer-Tax Collector by the tax due. Each business shall pay on or before the last day of the month following the close of each calendar quarter.
- B. All tax statements shall be completed on forms prescribed by the Treasurer-Tax Collector.
- C. Tax statements and payments for all outstanding taxes owed the County are immediately due to the Treasurer-Tax Collector upon cessation of business for any reason.
- D. The Treasurer-Tax Collector may, at his or her discretion, establish shorter reporting and payment periods for any taxpayer as the Treasurer-Tax Collector deems necessary to insure collection of the tax.

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- E. The Treasurer-Tax Collector may, as part of administering the tax and in his or her discretion, modify the form of payment and take such other administrative actions as needed to facilitate collection of the tax.

(Ord. No. 4361, § 1, 8-2-2016; Ord. No. 4412, § 4, 7-10-2018)

Sec. 6.32.070 Payments and Communications — Timely Remittance.

Whenever any payment, statement, report, request or other communication is due, it must be remitted to the Treasurer-Tax Collector on or before the final due date. A postmark will be accepted as timely received. If the due date falls on Saturday, Sunday or a holiday, the due date shall be the next regular business day on which the County is open to the public.

(Ord. No. 4361, § 1, 8-2-2016)

Sec. 6.32.080 Payment — When Taxes Deemed Delinquent.

Unless otherwise specifically provided for under other provisions of this Chapter, the taxes required to be paid pursuant to this Chapter shall be deemed delinquent if not remitted to the Treasurer-Tax Collector on or before the due date as specified in Sections 6.32.060 and 6.32.070.

(Ord. No. 4361, § 1, 8-2-2016; Ord. No. 4412, § 5, 7-10-2018)

Sec. 6.32.090 Notice Not Required by the County.

The Treasurer-Tax Collector is not required to send a delinquency or other notice or bill to any person subject to the provisions of this Chapter. Failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this Chapter.

(Ord. No. 4361, § 1, 8-2-2016)

Sec. 6.32.100 Penalties and Interest.

- A. Any person who fails or refuses to pay any commercial cannabis business tax required to be paid pursuant to this Chapter on or before the due date shall pay penalties and interest as follows:
1. A penalty equal to ten percent (10%) of the amount of the tax, in addition to the amount of the tax, plus interest on the unpaid tax calculated from the due date of the tax at the rate of one and one-half percent (1.5%) per month; and
 2. If the tax remains unpaid for a period exceeding one calendar month beyond the due date, an additional penalty equal to twenty-five percent (25%) of the amount of the tax, plus interest at the rate of one and one-half percent (1.5%) per month on the unpaid tax.
 3. Interest shall be applied at the rate of one and one-half percent (1.5%) per month on the first day of the month for the full month, and will continue to accrue monthly on the unpaid tax until the balance is paid in full.
- B. Whenever a check or electronic payment is submitted in payment of a commercial cannabis business tax and the payment is subsequently returned unpaid by the bank for any reason, the taxpayer will be liable for the tax amount due plus any fees, penalties and interest applicable as provided for in this Section, and any other amount allowed under state law.

(Ord. No. 4361, § 1, 8-2-2016; Ord. No. 4412, § 6, 7-10-2018)

Sec. 6.32.110 Refunds and Credits.

- A. No refund shall be made of any tax collected pursuant to this Chapter, except as provided in Section 6.32.120.
- B. No refund of any tax collected pursuant to this Chapter shall be made because of the discontinuation, dissolution, or other termination of a business.

(Ord. No. 4361, § 1, 8-2-2016)

Sec. 6.32.120 Refunds and Procedures.

- A. Whenever the amount of any commercial cannabis business tax, penalty or interest has been overpaid, paid more than once, or has been erroneously collected or received by the County under this Chapter, it may be refunded to the claimant who paid the tax provided that a written claim for refund is filed with the Treasurer-Tax Collector within one (1) year of the date the tax was originally due and payable.
- B. The Treasurer-Tax Collector, his or her deputies or any other County officer charged with the administration of this Chapter shall have the right to examine and audit all the books and business records of the claimant in order to determine the eligibility of the claimant to the claimed refund. No claim for refund shall be allowed if the claimant refuses to allow such examination of claimant's books and business records after request by the Treasurer-Tax Collector to do so.
- C. In the event that the commercial cannabis business tax was erroneously paid and the error is attributable to the County, the County shall refund the amount of tax erroneously paid up to one (1) year from when the error was identified.

(Ord. No. 4361, § 1, 8-2-2016)

Sec. 6.32.130 Exemptions from the Tax.

The provisions of this Chapter shall not apply to personal cannabis cultivation.

(Ord. No. 4361, § 1, 8-2-2016; Ord. No. 4412, § 7, 7-10-2018)

Sec. 6.32.140 Administration of the Tax.

- A. It shall be the duty of the Treasurer-Tax Collector to collect the taxes, penalties, fees, and perform the duties required by this Chapter.
- B. For purposes of administration and enforcement of this Chapter generally, the Treasurer-Tax Collector may from time to time promulgate such administrative rules and procedures consistent with the purpose, intent, and express terms of this Chapter as he or she deems necessary to implement or clarify such provisions or aid in enforcement.
- C. The Treasurer-Tax Collector may take such administrative actions as needed to administer the tax, including but not limited to:
 - 1. Provide to all commercial cannabis business taxpayers forms for the reporting of the tax;
 - 2. Increase tax rates in accordance with this Chapter;

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3. Provide information to any taxpayer concerning the provisions of this Chapter;
 4. Receive and record all taxes remitted to the County as provided in this Chapter;
 5. Maintain records of taxpayer reports and taxes collected pursuant to this Chapter;
 6. Assess penalties and interest to taxpayers pursuant to this Chapter; and
 7. Determine amounts owed and enforce collection pursuant to this Chapter.

(Ord. No. 4361, § 1, 8-2-2016)

Sec. 6.32.150 Appeal Procedure.

Any taxpayer aggrieved by any decision of the Treasurer-Tax Collector with respect to the amount of tax, interest, penalties and fees, if any, due under this Chapter may appeal to the Board of Supervisors by filing a notice of appeal with the Clerk of the Board of Supervisors within 15 days of the serving or mailing of the determination of tax due. The Board of Supervisors may, by resolution, delegate the authority to hear such appeals, and may establish a fee for appeal applications and proceedings. The Clerk, or such other person as may be designated by the Board of Supervisors, shall fix a time and place for hearing such appeal, and shall give notice in writing to such operator at the last known place of address. The finding of the appeal body shall be final and conclusive and shall be served upon the appellant in the manner prescribed by this chapter for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of the notice.

(Ord. No. 4361, § 1, 8-2-2016; Ord. No. 4432 , § 1, 7-9-2019)

Sec. 6.32.160 Enforcement — Action to Collect.

- A. Any taxes, penalties and/or fees required to be paid under the provisions of this Chapter shall be deemed a debt owed to the County. Any person owing money to the County under the provisions of this Chapter shall be liable in an action brought in the name of the County for the recovery of such debt. The provisions of this Section shall not be deemed a limitation upon the right of the County to bring any other action including criminal, civil and equitable actions, based upon the failure to pay the tax, penalties and/or fees imposed by this Chapter or the failure to comply with any of the provisions of this Chapter.
- B. In addition to any other remedies available under federal, state, or local law, if any amount required to be paid to the County under this Chapter is not paid when due, the Treasurer-Tax Collector may, within three (3) years after the amount is due record a certificate of lien specifying the amount of taxes, fees and penalties due, and the name and address of the individual or business as it appears on the records of Treasurer-Tax Collector. The lien shall also specify that the Treasurer-Tax Collector has complied with all provisions of this Chapter in the determination of the amount required to be paid. From the time of the filing for record, the amount required to be paid, together with penalties thereon, constitutes a lien upon all real property in the County owned by the individual or business, or subsequently acquired by the individual or business before the lien expires. The lien has the force, effect, and priority of a judgment lien and shall continue for ten (10) years from the date of filing of the certificate unless sooner released or otherwise discharged.
- C. At any time within three (3) years after any individual or business is delinquent in the payment of any amount herein required to be paid or within three (3) years after the last recording of a certificate of lien under Subsection B of this Section, the Treasurer-Tax Collector may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the County under this Chapter. The warrant shall be directed to the Sheriff and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution. The Treasurer-Tax Collector may pay or advance to the Sheriff, the same

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fees, commissions and expenses for service provided by law for similar services pursuant to a writ of execution. The Treasurer-Tax Collector shall approve the fees for publication in the newspaper of any required notice.

- D. At any time within three (3) years after recording a lien against any individual or business, if the lien is not discharged and released in full, the Treasurer-Tax Collector may forthwith seize any asset or property, real or personal (including bank account), of the operator and sell at public auction the asset or property, or a sufficient part of it to pay the amount due together with any penalties and interest imposed for the delinquency and any cost incurred on account of the seizure and sale. Assets or property of the business subject to seizure and sale subject to this Chapter shall not include any assets or property which is exempt from execution under the provisions of Code of Civil Procedure.

(Ord. No. 4361, § 1, 8-2-2016; Ord. No. 4412, § 8, 7-10-2018)

Sec. 6.32.170 Apportionment.

If a business subject to the tax is operating both within and outside the unincorporated County, it is the intent of the County to apply the cannabis business tax so that the measure of the tax fairly reflects the proportion of the taxed activity actually carried on in the County. For purposes of apportionment as may be required by law, the Treasurer-Tax Collector may promulgate administrative procedures for apportionment in accordance with state law.

(Ord. No. 4361, § 1, 8-2-2016)

Sec. 6.32.180 Constitutionality and Legality.

This tax is intended to be applied in a manner consistent with the United States and California Constitutions and state law. None of the tax provided for by this Chapter shall be applied in a manner that causes an undue burden upon interstate commerce, a violation of the equal protection and due process clauses of the Constitutions of the United States or the State of California or a violation of any other provision of the California Constitution or state law.

(Ord. No. 4361, § 1, 8-2-2016)

Sec. 6.32.190 Audit and Examination of Records and Equipment.

- A. The Treasurer-Tax Collector or his or her designee shall have the power to audit and examine all books and records of persons engaged in cannabis businesses, including both state and federal income tax returns, California sales tax returns, or other evidence documenting the gross receipts of persons engaged in cannabis businesses, and, where necessary, all equipment, of any person engaged in cannabis businesses in the County, for the purpose of ascertaining the amount of commercial cannabis tax, if any, required to be paid by the provisions hereof, and for the purpose of verifying any statements or any item thereof when filed by any person pursuant to this Chapter.
- B. It shall be the duty of every person liable for the collection and payment to the County of any tax imposed by this Chapter to keep and preserve, for a period of at least three (3) years, all records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the County, which records the Treasurer-Tax Collector or his/her designee shall have the right to inspect at all reasonable times.

(Ord. No. 4361, § 1, 8-2-2016)

Sec. 6.32.200 Other Licenses, Permits, Taxes, Fees or Charges.

Nothing contained in Chapter 6.32 shall be deemed to repeal, amend, be in lieu of, replace or in any way affect any requirements for any permit or license required by, under or by virtue of any provision of any other title or chapter of this code or any other ordinance or resolution of the county, nor be deemed to repeal, amend, be in lieu of, replace or in any way affect any tax, fee or other charge imposed, assessed or required by, under or by virtue of any other title or chapter of this code or any other ordinance or resolution of the county. Any references made or contained in any other title or chapter of this code to any licenses, license taxes, fees, or charges, or to any schedule of license fees, shall be deemed to refer to the licenses, license taxes, fees or charges, or schedule of license fees, provided for in other titles or chapters of this code.

(Ord. No. 4361, § 1, 8-2-2016)

Sec. 6.32.210 Payment of Tax Does Not Authorize Unlawful Business.

- A. The payment of a commercial cannabis business tax required by this Chapter, and its acceptance by the County, shall not entitle any person to carry on any cannabis business unless the person has complied with all of the requirements of this Code and all other applicable state laws.
- B. No tax paid under the provisions of this Chapter shall be construed as authorizing the conduct or continuance of any illegal or unlawful business, or any business in violation of any local or state law.

(Ord. No. 4361, § 1, 8-2-2016)

Sec. 6.32.220 Deficiency Determinations.

If the Treasurer-Tax Collector is not satisfied that any statement filed as required under the provisions of this Chapter is correct, or that the amount of tax is correctly computed, he or she may compute and determine the amount to be paid and make a deficiency determination upon the basis of the facts contained in the statement or upon the basis of any information in his or her possession or that may come into his or her possession within three (3) years of the date the tax was originally due and payable. One (1) or more deficiency determinations of the amount of tax due for a period or periods may be made. When a person discontinues engaging in a business, a deficiency determination may be made at any time within three (3) years thereafter as to any liability arising from engaging in such business whether or not a deficiency determination is issued prior to the date the tax would otherwise be due. Whenever a deficiency determination is made, a notice shall be given to the person concerned in the same manner as notices of assessment are given under Section 6.32.240.

(Ord. No. 4361, § 1, 8-2-2016)

Sec. 6.32.230 Failure to Report—Nonpayment, Fraud.

- A. Under any of the following circumstances, the Treasurer-Tax Collector may make and give notice of an assessment of the amount of tax owed by a person under this Chapter at any time:
 - 1. If the person has not filed a complete statement required under the provisions of this Chapter;
 - 2. If the person has not paid the tax due under the provisions of this Chapter;
 - 3. If the person has not, after demand by the Treasurer-Tax Collector, filed a corrected statement, or furnished to the Treasurer-Tax Collector adequate substantiation of the information contained in a statement already filed, or paid any additional amount of tax due under the provisions of this Chapter;
or

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4. If the Treasurer-Tax Collector determines that the nonpayment of any business tax due under this Chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to penalties and interest otherwise stated in this Chapter and any other penalties allowed by law.
- B. The notice of assessment shall separately set forth the amount of any tax known by the Treasurer-Tax Collector to be due or estimated by the Treasurer-Tax Collector, after consideration of all information within the Treasurer-Tax Collector's knowledge concerning the business and activities of the person assessed, to be due under each applicable section of this Chapter, and shall include the amount of any penalties or interest accrued on each amount to the date of the notice of assessment.

(Ord. No. 4361, § 1, 8-2-2016)

Sec. 6.32.240 Tax Assessment — Notice Requirements.

The notice of assessment shall be served upon the person either by personal delivery, or by a deposit of the notice in the United States mail, postage prepaid thereon, addressed to the person at the address of the location of the business or to such other address as he or she shall register with the Treasurer-Tax Collector for the purpose of receiving notices provided under this Chapter; or, should the person have no address registered with the Treasurer-Tax Collector for such purpose, then to such person's last known address. For the purposes of this Section, a service by mail is complete at the time of deposit in the United States mail.

(Ord. No. 4361, § 1, 8-2-2016)

Sec. 6.32.250 Tax Assessment — Hearing, Application and Determination.

Within thirty days (30) days after the date of service the person may apply in writing to the Treasurer-Tax Collector for a hearing on the assessment. If application for a hearing before the County is not made within the time herein prescribed, the tax assessed by the Treasurer-Tax Collector shall become final and conclusive. Within thirty (30) days of the receipt of any such application for hearing, the Treasurer-Tax Collector shall cause the matter to be set for hearing before him or her no later than thirty-five (35) days after the receipt of the application, unless a later date is agreed to by the Treasurer-Tax Collector and the person requesting the hearing. Notice of such hearing shall be given by the Treasurer-Tax Collector to the person requesting such hearing no later than five (5) days prior to such hearing. At such hearing said applicant may appear and offer evidence why the assessment as made by the Treasurer-Tax Collector should not be confirmed and fixed as the tax due. After such hearing the Treasurer-Tax Collector shall determine and reassess the proper tax to be charged and shall give written notice to the person in the manner prescribed in Section 6.32.240 for giving notice of assessment.

(Ord. No. 4361, § 1, 8-2-2016)

Sec. 6.32.260 Conviction for Chapter Violation — Taxes Not Waived.

The conviction and punishment of any person for failure to pay the required tax shall not excuse or exempt such person from any civil action for the tax debt unpaid at the time of such conviction. No civil action shall prevent a criminal prosecution for any violation of the provisions of this Chapter or of any state law requiring the payment of all taxes.

(Ord. No. 4361, § 1, 8-2-2016)

Sec. 6.32.270 Violation Deemed Misdemeanor.

Any person violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and shall be punishable therefore as provided in Chapter 1.04.110 of this Code.

(Ord. No. 4361, § 1, 8-2-2016)

Sec. 6.32.280 Severability.

If any provision of this Chapter, or its application to any person or circumstance, is determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Chapter or the application of this Chapter to any other person or circumstance and, to that end, the provisions hereof are severable.

(Ord. No. 4361, § 1, 8-2-2016)

Sec. 6.32.290 Remedies Cumulative.

All remedies and penalties prescribed by this Chapter or which are available under Chapter 1 of the County Code and any other provision of law or equity are cumulative. The use of one (1) or more remedies by the County shall not bar the use of any other remedy for the purpose of enforcing the provisions of this Chapter.

(Ord. No. 4361, § 1, 8-2-2016)

Sec. 6.32.300 Amendment or Repeal.

The Board of Supervisors of the County of Mendocino is authorized to repeal this Chapter 6.32 without a vote of the people to the extent allowed by law. The Board of Supervisors of the County of Mendocino is further authorized to amend this Chapter 6.32 in any manner that does not increase the tax rate above the maximum rate specified for each category of business or in a manner that otherwise constitutes a tax increase for which voter approval is required by Article XIII C of the California Constitution. The people of the County of Mendocino affirm that the following actions shall not constitute an increase of the rate of a tax:

- A. The restoration of the rate of the tax to a rate that is no higher than that set by this Chapter, if the Board of Supervisors has acted to reduce the rate of the tax;
- B. An action that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as the interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this Chapter; or
- C. The collection of the tax imposed by this Chapter, even if the County had, for some period of time, failed to collect the tax.

(Ord. No. 4361, § 1, 8-2-2016; Ord. No. 4412, § 9, 7-10-2018)