



**Cannabis ad hoc Advisory Committee  
8/27/19**

**TAX RATES FOR COMMERCIAL CANNABIS AND WHERE  
THE PROGRAM RESIDES**



# Presentation Overview

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- Today's presentation is about tax rates and where should the program reside
- Commercial cannabis ballot measure on taxes
- What other counties are doing
- Tax recommendation
- Where does the program reside
- Next steps



# State Taxes Are Based on License Type

- **Cultivation**
  - Indoor - specialty small; non-specialty small, medium, or large
  - Outdoor - specialty small; non-specialty small, medium, or large
  - Mixed-Light - specialty small; non-specialty small, medium, or large
  - Specialty cottage - small; outdoor; indoor; or mixed-light
  - Nursery (cloning and seed propagation)
  - Processing (only trimming, drying, curing, grading, or packaging)
- **Manufacturer**
- **Testing Laboratory**
- **Retailer** (Storefront/Public and Nonstorefront/Not Public)
- **Distributor** (transports, arranges for testing, and conducts quality control)
- **Distributor transport** (transports between licensed cultivators, manufactures, and distributors, but not to licensed retailers)
- **Microbusiness**
- **Cannabis Event Organizer**
- **Temporary Cannabis Event**



# El Dorado County Tax Enacted By Voters Through Ballot Measure N

- Is a general tax, which means it can be used for general revenue purposes.
- Taxes were enacted for any potential commercial cannabis activity so that taxes are in place for any ballot measure that passed and for any commercial cannabis activity the Board of Supervisors may authorize in the future, such as testing laboratories.
- Taxes set a range within which the Board of Supervisors may set the rate by ordinance or resolution.
  - This allows for flexibility and the Board of Supervisors to consider the market and funding needs for the County and make adjustments as circumstances change.
- Taxes will be administered by the County Treasurer-Tax Collector. Measure N established the procedures for calculation, collection, and enforcement, including imposition of liens for unpaid taxes.
- **If the cannabis tax is challenged or invalidated for any reason, the ordinances authorizing specific commercial cannabis activities would automatically expire.**



# Tax Ballot Measure: Ranges for Rates for Cultivation

County elects whether to impose the tax based on either canopy square footage or gross receipts.

<b>Cultivation</b>	<b>Square Footage - Minimum</b>	<b>Square Footage - Maximum</b>	<b>OR</b>	<b>Gross Receipts - Minimum</b>	<b>Gross Receipts - Maximum</b>
Nursery	\$1.00	\$30.00		1%	15%
Outdoor (specialty cottage)	\$1.00	\$30.00		1%	15%
Outdoor (specialty)	\$1.00	\$30.00		1%	15%
Outdoor (small)	\$1.00	\$30.00		1%	15%
Outdoor (medium)	\$1.00	\$30.00		1%	15%
Outdoor (large)	\$1.00	\$30.00		1%	15%
Indoor (specialty cottage)	\$1.00	\$30.00		1%	15%
Indoor (specialty)	\$1.00	\$30.00		1%	15%
Indoor (small)	\$1.00	\$30.00		1%	15%
Indoor (medium)	\$1.00	\$30.00		1%	15%
Indoor (large)	\$1.00	\$30.00		1%	15%
Mixed-Light (specialty cottage)	\$1.00	\$30.00		1%	15%
Mixed-Light (specialty)	\$1.00	\$30.00		1%	15%
Mixed-Light (small)	\$1.00	\$30.00		1%	15%
Mixed Light (medium)	\$1.00	\$30.00	1%	15%	
Mixed-Light (large)	\$1.00	\$30.00	1%	15%	



# Tax Ballot Measure: Ranges for Rates for Other Uses

Calculated based on gross receipts:

<b>Distribution</b>	<b>Minimum</b>	<b>Maximum</b>
Distributor	0%	10%
Distributor (Transportation-Only)	0%	10%

<b>Manufacturing</b>	<b>Minimum</b>	<b>Maximum</b>
Manufacturing (Level 1)	2.5%	10%
Manufacturing (Level 2)	2.5%	10%

<b>Retailer</b>	<b>Minimum</b>	<b>Maximum</b>
Retailer (Delivery-Only)	0.5%	10%
Retailer	4%	10%

<b>Testing Laboratory</b>	<b>Minimum</b>	<b>Maximum</b>
Testing Laboratory	0.5%	5%



# What Are Other Counties Doing

- Looked at 58 California counties and two cities
- Who Has Passed a Tax Measure
  - El Dorado County – Has passed a tax measure
  - Yes – 21
  - Unsuccessful – 2
  - Have not attempted - 36
- Where are these counties?
  - Mostly coastal or in the costal mountain range
  - Imperial, Inyo, Mono, Nevada, Yolo, Stanislaus counties are the exceptions
  - 6 counties have passed measures but do not allow for commercial activity



# Things to Think About – Conversations

- If your goal is to decrease the black market, create a flexible tax rate.
  - The new market will be volatile and a flexible rate will help decrease the potential for the black market
  - Current market is new and closed – unknown what will happen
- Gross receipt tax rate is preferable
  - Less administrative cost for the market
  - Harder to track due to cash than per sq. foot cost
- Cost of regulated program vs. cleaning up illegal grows
  - Fees go towards cost of running regulated program
  - Taxes can help fund program against illegal grows
  - Stanislaus County estimates to enforce a full ban would cost \$3.1 million annually





# States Taking the Taxes

- Recreational cannabis state taxes – as of 4/2018
  - Alaska - \$50 oz
  - California – 15% sales tax, \$9.25/oz flowers and \$2.75 oz leaves on cultivation tax
  - Colorado – 15% excise tax on sale of cannabis from a cultivator to a retailer and 15% sales tax from retailer to customer
  - Massachusetts – 10.75% sales tax
  - Nevada – 15% excise tax on sale of cannabis from a cultivator to a distributor and 10% sales tax paid by consumers
  - Oregon – 17% sales tax
  - Washington – 37% sales tax



# Local Example in Colorado

- A majority of cannabis revenue goes to states
  - Ex. In 2016, Colorado took in \$193.6 million in taxes on cannabis
    - Colorado's 2016 tax structure was 10% retail sales tax and 2.9% state sales tax – it changed in 2017
  - During the same time period, Pueblo County (pop. 161,000) took in approximately \$1,006,000 in revenue with a 2% sales tax on 284 active licenses

Source: Colorado Department of Revenue



# Local Taxes on Cannabis in CA

- Cultivation rates in counties are currently in between \$1 to \$15 per square foot and 2.5% and 5% on gross receipts
- Manufacturing rates in counties are currently in between 2.5% and 5% on gross receipts
- Retail rates in counties are currently in between 0% and 8% on gross receipts
- Distributor rates in counties are currently in between 0.0% and 7% on gross receipts
- Testing lab rates in counties are currently in between 0.0% and 7%



# Local Tax Recommendations

- Outdoor cultivation rates have a median of \$2 per sq. foot and 4% on gross receipts and in the Sacramento region it is the same
  - Recommendation - \$2 per sq. foot
- Mixed light cultivation rates have a median of \$4 per sq. foot and 4% on gross receipts and in the Sacramento region it is the same
  - Recommendation - \$4 per sq. foot
- Indoor cultivation rates have a median of \$7 per sq. foot and 4% on gross receipts and in the Sacramento region it is the same
  - Recommendation - \$7 per sq. foot



# Local Tax Recommendations

- Nurseries rates have a median of \$1 per sq. foot and 4.5% on gross receipts and in the Sacramento region it is the same per square foot and 4% on gross receipts
  - Recommendation 4%
- Manufacturing 1 rates have a median of 3% on gross receipts and 2.5% on gross receipts in the Sacramento region
  - Recommendation 2.5%
  - Recommendation for Manufacturing 2 – 0.0%
- Retail rates have a median of 4% on gross receipts and the same in the Sacramento region
  - Recommendation 4%



# Local Tax Recommendations

- Distributor rates have a median of 2.5% on gross receipts and 2.25% on gross receipts in the Sacramento region
  - Recommendation 2.0%
- Testing lab rates have a median of 2.25% on gross receipts and 2.5% on gross receipts in the Sacramento region
  - Recommendation .5%



# Where Should the Program Reside?

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- Planning and Building
  - Benefit – All program in one department
  - Benefit – Experts in development process and coordinating it
  - Disadvantage – The department has taken on many new responsibilities since the ordinances went to the voters
  - Disadvantage – Leadership is new to the process



# Where Should the Program Reside?

- Chief Administrative Office
  - Benefit – Department coordinates activities in the County on a regular basis
  - Benefit – Department has been coordinating different cannabis topics over the last three years
  - Disadvantage – Primary mission of the department is managing the County's budget and objectively administering all county programs and adding responsibility for a new program will impact its primary functions





# Where Should the Program Reside?

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- Agriculture/Weights and Measures
  - Benefit – Will be working closely on the cultivation of cannabis
  - Benefit – Will make visits to some other cannabis business types due to weights and measures responsibilities
  - Disadvantage – Does not coordinate operations between departments like Planning and Building and CAO
  - Disadvantage – Does not have the staffing or expertise on many cannabis topics outside of cultivation



# Where Should the Program Reside?

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- New Department
  - Benefit – Can focus on all cannabis topics in one department
  - Benefit – Could take programs that have a community focus and coordinate with other County departments
  - Disadvantage – Sense of growing government with new department
  - Disadvantage – Would take time to get department's administrative procedures organized



# Next Steps:

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- 9/10 – Commercial Cannabis fee item
- Next month – New staff recommendations for program, and two RFPs
- Next month – Ad hoc – Pre application and application processes