

Medical Cannabis Tax Measure

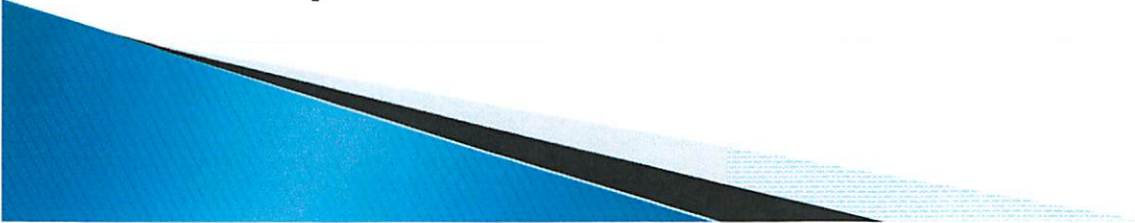


Who gets taxed?

- ▶ The proposals in this presentation would impact permit holders who cultivate, process and dispense medical cannabis and end users of medical cannabis (directly or indirectly).
- ▶ If you are not involved in marijuana, you do not pay a tax.



Current Medical Marijuana Revenues

- ▶ Current taxes are derived from the State Sales Tax.
 - ▶ Primary beneficiary is the State.
 - ▶ Communities with dispensaries also collect some of the total sales tax.
 - ▶ Rio Dell does not have a dispensary, thus does not directly benefit from Medical Marijuana.
 - ▶ City still bears regulatory costs and responsibilities.
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State Tax Proposals

Both bills require a 2/3rds vote majority to pass. Uphill battle.

If the goal is to end the cannabis black market, taxes must be set competitively and reasonably.

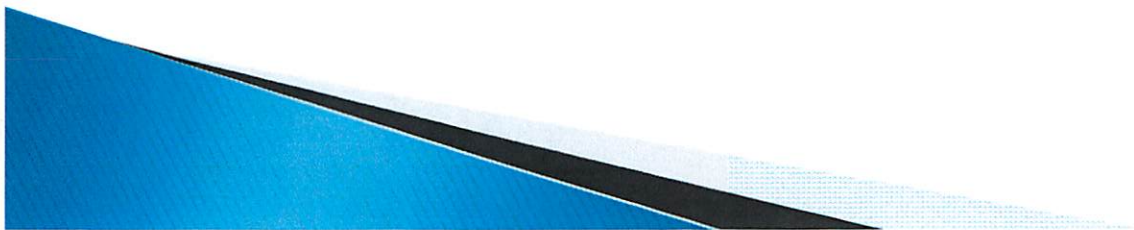
SB 987 criticized as a simple “sin tax” however, we are still talking about medical cannabis.

AB 2243 seen as more industry friendly.

- SB 987 by Sen. McGuire (Healdsburg) would impose a 15% excise tax on retail purchases of medical marijuana, above and beyond the current 7.5+% sales tax plus various local business taxes assessed by some localities.
- AB 2243 by Asm. Wood (Healdsburg) would impose a cultivation tax of \$9.25 per ounce on medical marijuana flowers, \$2.75 per ounce on leaves, and \$1.25 on each immature plant sold to licensed distributors in the state.

California Control, Regulate and Tax Adult Use of Marijuana Initiative (2016) aka “Adult Use of Marijuana Act”

- ▶ 15% sales tax + \$9.25 per ounce of flower and \$2.75 per ounce of leaves.
- ▶ Restricts Corporate / Large Scale Licensee's
- ▶ Allows local governments to tax.
- ▶ Considered the leading marijuana legalization ballot measure.



Other Regulatory Fees

- ▶ Regulatory Fees established by: Bureau of Medical Marijuana, California Department of Public Health, California Department of Food and Agriculture, State Water Resources Control Board, Department of Pesticide Regulation etc.
- ▶ Possible extension of County tax on the municipalities (unlikely).



What can we conclude?

- ▶ Proposals guarantee State will take the lions share of all new cannabis revenues.
- ▶ Under MMRSA local governments will take on a high regulatory burden under dual permitting.
- ▶ If no tax is levied, we will still be taking on a high regulatory burden.



General or Specific Tax?

- ▶ General Tax requires 4/5 Council vote to place on ballot.
- ▶ General Taxes require a simple voter majority to pass (50% +1) to enact.
- ▶ General taxes may be used by the Council for any lawful purpose.
- ▶ More Likely to achieve voter approval.
- ▶ Special taxes require simple majority to place on ballot.
- ▶ Special/Specific taxes requires 2/3rds voter approval.
- ▶ Special taxes are used for a specific purpose as outlined in the ballot initiative.
- ▶ Less likely to achieve voter approval.

Election Rules

- ▶ General tax elections must be consolidated with a regular election of the governing body
 - Exception: general taxes may be voted on at a special election if the governing body unanimously declares an emergency.
- ▶ Special taxes may be on the ballot for a regular or special election.



Tax Options – Business Tax (Gross Receipts)

- ▶ Flat Rate, percentage based.
- ▶ Simple straight forward ordinance language.
- ▶ Can start with an initial rate, which then can be increased by the Council.
- ▶ Oakland uses this model.



Tax options – Business Tax (Gross Receipts)

- ▶ Pro
 - ▶ Simple, straightforward
 - ▶ Proportional, if business does well, taxes rise.
- ▶ Con
 - ▶ If price plummets, revenue plummets.
 - ▶ Administered by 3rd Party.

Tax Options – Square Foot Tax

- ▶ Square footage multiplied by the tax rate.
- ▶ Could be administered by staff.
- ▶ Needs explicit definitions. Tax an Entire Building? Tax just the Canopy? What about stacking? Larger taxes for larger cultivation (Type 1 / 1A vs. 2 / 2A vs. 3 / 3A vs. type 4 permits)? Once per year or once per cycle?
- ▶ Humboldt County headed in this direction, Desert Hot Springs has already adopted a tax.



Tax Options – Square Foot Tax

- ▶ Pro
- ▶ Simple
- ▶ Reliable estimates of revenue.
- ▶ Revenue can be collected by staff.

- ▶ Con
- ▶ Not straightforward:
Canopy Vs. Building space? Stacking?
Tax per cycle? A lot needs to be spelled out in an ordinance.

Tax Options – Excise Tax

- ▶ Very Specific Tax on a product. Typically used as a luxury tax or sin tax (cigarettes, alcohol).
- ▶ Specific dollar amount on a unit. example: \$7.50 per ounce of flowers.



Tax Options – Excise Tax

- ▶ Pro
- ▶ Clear specific dollar values.
- ▶ Stakeholders know exact tax amount.
- ▶ Con
- ▶ Will be affected over time by inflation.
- ▶ Will need third party to administer.

Other Ballot Measures Across the State – Desert Hot Springs

- ▶ City of Desert Hot Springs – \$25 per square foot for the first 3,000 square feet, and then \$10 per square foot for the remaining space utilized in connection with the cultivation of marijuana for medical or recreational use to fund general city services.
- ▶ Passed as Measure HH in November 2014.
- ▶ Dramatic increase in vacant land values.



Other Ballot Measures Across the State – Oakland

- ▶ City of Oakland – Tax on medical marijuana dispensaries, growers and processors of 5%. Recreational Marijuana taxed at 10%.
- ▶ Simple Tax Ordinance Language.
- ▶ Passed as Measure V in November 2010.



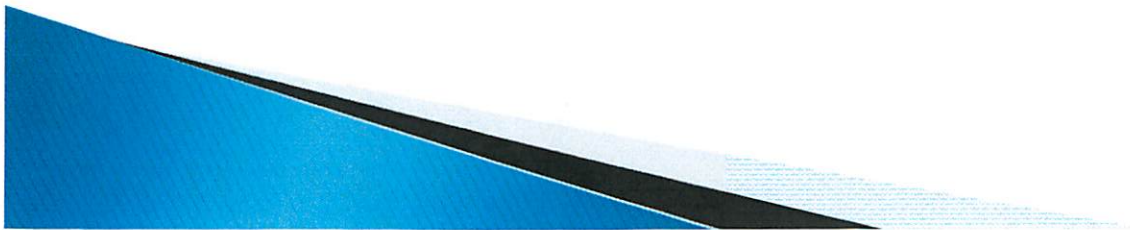
Other Ballot Measures Across the State – Long Beach

- ▶ Sales tax starting at 6%, with a maximum rate of 10%, on all medical marijuana sales. It also authorized an annual tax of at least \$15 – with a potential maximum of \$50 – per square foot for pot plant cultivation spaces in marijuana dispensaries.
- ▶ Passed as Measure A, April 2014.
- ▶ Prior 2010 vote on higher tax level for recreational marijuana failed.



Other Ballot Measures Across the State – Humboldt County

- ▶ Still in development, the County is looking into a cultivation tax based on square feet.
- ▶ Amount not determined yet.
- ▶ County likely to collect.
- ▶ While there is no shortage of cultivators, the problem will be compliance – getting cultivators to become above-board.



Other Ballot Measures Across the State – Shasta Lake

- ▶ 6 to 10 percent sales tax on the gross receipts of medical marijuana. The tax was designed to start at 6 percent, but it could be increased to up to 10 percent, according to the city council's discretion.
- ▶ Approved as Measure C, November 2014.



Other Ballot Measures Across the State – Vallejo

- ▶ Business tax of “marijuana businesses at a rate of up to 10 percent”
- ▶ Council can amend rate up to a total of ten percent by ordinance.
- ▶ Further allows the Council to: “establish differing tax rates for different categories of marijuana businesses, as defined [by] ordinance.”
- ▶ Vallejo method allows highest degree of flexibility.



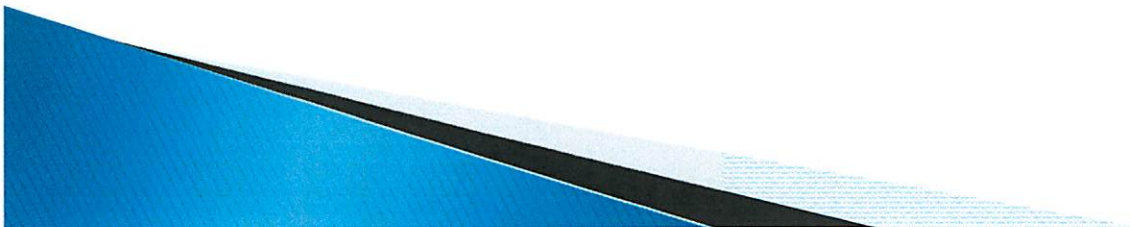
Points of Taxation - Medical Cannabis MMRSA

**All figures provided are for illustrative purposes only.*

State Permit	Type #	Tax Options			
		Business Tax	Specific Excise Tax	Square Foot	Excise Sales
Cultivation					
Nursery	4	5% Gross Sales	\$.50 Cents per plant	TBD	TBD
Specialty Outdoor	1	5% Gross Sales	N/A	\$2.00 per square foot	N/A
Specialty Indoor	1A	5% Gross Sales	N/A	\$2.00 per square foot	N/A
Specialty Mixed-Light	1B	5% Gross Sales	N/A	\$2.00 per square foot	N/A
Small Outdoor	2	5% Gross Sales	N/A	\$2.00 per square foot	N/A
Small Indoor	2A	5% Gross Sales	N/A	\$2.00 per square foot	N/A
Small Mixed-Light	2B	5% Gross Sales	N/A	\$2.00 per square foot	N/A
Outdoor	3	5% Gross Sales	N/A	\$2.00 per square foot	N/A
Indoor	3A	5% Gross Sales	N/A	\$2.00 per square foot	N/A
Mixed Light	3B	5% Gross Sales	N/A	\$2.00 per square foot	N/A
Processing					
Manufacturing Level 1	6	5% Gross Sales	Flowers: \$1.00 per ounce; Leaves: \$.25 per ounce; \$.10 per package; Extraction \$.50 per gram; Edibles \$.08 per item	TBD	N/A
Manufacturing Level 2	7	5% Gross Sales	Flowers: \$1.00 per ounce; Leaves: \$.25 per ounce; \$.10 per package; Extraction \$.50 per gram; Edibles \$.08 per item	TBD	N/A
Testing	8	5% Gross Sales	\$2.50 per test	TBD	N/A
Sales					
Dispensary	10	5% Gross Sales	N/A	TBD	TBD
Dispensary; 3 Retail Sites	10A	5% Gross Sales	N/A	TBD	TBD
Distribution	11	N/A	N/A	N/A	N/A
Transporter	12	N/A	N/A	N/A	N/A

Ballot Measure Calendar

- ▶ July 5th 2016 target date for Resolution and Ordinance adoption. This allows time to submit items to the County for processing.
- ▶ June 7th, 14th, 21st, 28th all Tuesday's before the July 5th Target.
- ▶ 1st Reading presentation at special meeting on June 14th. Follow up on June 21st.



Policy Questions for the Council

- ▶ General Tax or Specific Tax?
- ▶ Type of Tax: Business Tax, Excise Tax, Square Foot Tax, or a mix?
- ▶ Flexibility of the tax?
- ▶ What tax level?
- ▶ Duration of the tax?
- ▶ What are we taxing? “Medical Only” or “Medical and Recreational” or just “Cannabis”

