



Legislation Text

File #: 2024-0305, **Version:** 1

To: Board of Supervisors

Department or Agency Name(s): County Administrator's Office

Staff Name and Phone Number: McCall Miller, 707-565-2431

Vote Requirement: Majority

Supervisorial District(s): Countywide

Title:

Cannabis Business Tax Ordinance (Chapter 35 of the Sonoma County Code) Amendment - Second Reading

Recommended Action:

Adopt an Ordinance amending the Cannabis Business Tax Ordinance (Chapter 35 of the Sonoma County Code) - Second Reading, Ready for Adoption.

Executive Summary:

On April 16, 2024, staff introduced an Ordinance amending the County's Cannabis Business Tax Ordinance, codified in Sonoma County Code Chapter 35. The Ordinance accomplishes the following:

- Set new cannabis business tax rates effective July 1, 2024
- Amends language for consistency and clarity with other taxes administered by the Tax Collector

Under California law, this ordinance is required to be read at two separate board meetings before it is adopted. This item is the second reading of the ordinance and will complete the adoption process.

Discussion:

History

The Cannabis Business Tax (Measure A) was passed by voters in the March 7, 2017 special election with 71% voter approval. Measure A laid out a framework for taxation that set maximum allowable rates for all operator types and granted authority to the County to, among other things, set lower rates, tax certain operator types, and establish various tax administration policies.

- On December 13, 2016, Ordinance 6188 imposed a cannabis business tax on commercial cannabis businesses, which established Chapter 35.
- On June 13, 2017, Ordinance 6203, amended Chapter 35, setting cannabis business tax rates within the voter-approved maximum rates, and establishing certain regulations.
- On August 28, 2018, Ordinance 6241, amended Chapter 35, to make administrative changes.
- On April 19, 2022, Ordinance 6374, amended Chapter 35, to temporarily reduce the cultivation tax rates by 45 percent and make administrative changes.
- On May 23, 2023, Ordinance 6433, amended Chapter 35, setting the cannabis cultivation tax rates as follows, using the tax rate convertor model (2.5% gross receipts converted to square footage tax), for FY 23-24.

On April 16, 2024, an Ordinance was introduced amending the cannabis business tax rates as follows:

Permit Type	Tax Rate
Outdoor Cultivation	\$0.69 per square foot
Mixed-Light Cultivation	\$2.51 per square foot
Indoor Cultivation	\$7.58 per square foot
Retail (Dispensary)	3% of gross receipts
Manufacturing	1.5% of gross receipts

Although it is difficult to predict numerous factors related to the cannabis industry that impact tax rates, including when the market price of cannabis will rebound, whether verified and taxable canopy numbers will increase, and what the Cannabis program update will include, staff has taken a conservative approach. Based on current assumptions, the projected tax revenue at the recommended adjusted rates and year-end estimated FY 23-24 fund balance will meet the projected annual cannabis program escalated costs through FY 26-27. Staff will continue to track program costs and revenue and will return with program operational adjustments as necessary.

Administrative Changes

In addition to the new rates, the Ordinance amendments include administrative changes for consistency and clarity with other taxes administered by the Tax Collector. Below are the key proposed changes to the Ordinance, with a redlined version of the existing Ordinance attached (Attachment A).

- Amends the language regarding a restriction on the waiver of penalties and interest;
- Amends the language regarding the date from which the County will provide a refund if a County error attributes to an overpayment; and
- Changes minor typographic errors.

This ordinance was introduced on April 16, 2024. This item constitutes the second reading of the ordinance and asks for final adoption of the ordinance. If approved the new ordinance and the new tax rate will take effect on July 1, 2024.

Strategic Plan:

N/A

Racial Equity:

Was this item identified as an opportunity to apply the Racial Equity Toolkit?

No

Prior Board Actions:

April 16, 2024 - Introduction and Waiving of Second Reading of Ordinance Amending Cannabis Business Tax Ordinance

FISCAL SUMMARY

Expenditures	FY23-24 Adopted	FY24-25 Projected	FY25-26 Projected
Budgeted Expenses			
Additional Appropriation Requested			
Total Expenditures		\$0	\$0
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other		\$1,400,000	\$1,400,000
Use of Fund Balance		\$320,000	\$365,000
General Fund Contingencies			
Total Sources		\$1,720,000	\$1,765,000

Narrative Explanation of Fiscal Impacts:

There are no new expenditures related to the implementation of the new tax rate as the taxation methodology is unchanged. Projected cannabis tax revenue for FY 24-25 and FY 25-26 is \$1.4 million and will be revised as cannabis cultivation canopy (taxable) is verified and as operators provide gross receipt information. Annual cannabis program costs will be supplemented with cannabis tax fund balance in the amount of approximately \$320,000 in FY 24-25 and \$365,000 in FY 25-26, which, due to program adjustments is less than the previously \$700,000 projected shortfall.

Narrative Explanation of Staffing Impacts (If Required):

N/A

Attachments:

Attachment A - Cannabis Business Tax Ordinance

Related Items “On File” with the Clerk of the Board:

None