



Legislation Details (With Text)

File #: 2023-0323
Type: Consent Calendar Item **Status:** Agenda Ready
File created: 3/2/2023 **In control:** Auditor-Controller-Treasurer-Tax Collector
On agenda: 5/23/2023 **Final action:**
Title: Cannabis Business Tax Ordinance (Chapter 35 of the Sonoma County Code) Amendment - Second Reading
Sponsors: Auditor-Controller-Treasurer-Tax Collector
Indexes:
Attachments: 1. Summary Report, 2. Attachment A - Cannabis Business Tax Ordinance.pdf

Date	Ver.	Action By	Action	Result
5/23/2023	1	Board of Supervisors	Approved as recommended	Pass

To: Board of Supervisors

Department or Agency Name(s): Auditor-Controller-Treasurer-Tax Collector

Staff Name and Phone Number: Brooke Koop, 707-565-2281

Vote Requirement: Majority

Supervisory 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 May 16, 2023, staff introduced an Ordinance amending the County's Cannabis Business Tax Ordinance, codified in Sonoma County Code Chapter 35, as directed by the Board on February 28, 2023. The Ordinance accomplishes the following:

- Set new cultivation tax rates effective July 1, 2023.
- Amend language for consistency and clarification, including clarifying language regarding the cannabis canopy verification process and the appeals process.

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:

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, your Board adopted the Cannabis

Business Tax Ordinance (“Ordinance”) 6188 to impose a cannabis business tax on commercial cannabis businesses, which established Chapter 35 of the Sonoma County Code. On June 13, 2017, your Board adopted Ordinance 6203, amending Chapter 35, setting cannabis business tax rates within the voter-approved maximum rates and establishing certain regulations. On August 28, 2018, your Board adopted Ordinance 6241, amending Chapter 35, to make administrative changes. On April 19, 2022, your Board adopted Ordinance 6374, amending Chapter 35, to temporarily reduce the cultivation tax rates by 45 percent and make administrative changes.

On February 28, 2023, the Board directed staff to amend the Ordinance to establish new tax rates for cannabis cultivation effective July 1, 2023. This stemmed from a discussion about the pros and cons of transitioning to a gross receipts taxation model from the current square footage taxation model. HdL Companies, a subject matter expert, was engaged to assist in the analysis of the pros and cons of potentially changing the taxation rates. The new tax rates that the Board instructed staff to adopt will maintain the square footage taxation model but will be set based on HdL’s tax rate convertor model, with an annual review. The current rates being adopted are set based upon a gross receipts rate of 2.5%, which equates to the following annual square footage calculation amounts:

Permit Type	Rate Per Square Foot
Outdoor	\$0.75
Mixed-Light	\$3.00
Indoor	\$12.50

Calculating the tax rate in this way allows for control of effective rate changes that are inherent to the current model which have been burdensome on cultivators as the market prices of legal cannabis have dropped.

Because it is difficult to predict when the market price of cannabis will rebound, whether verified and taxable canopy numbers will increase, and what the program update will include, staff have taken a conservative approach to projected cannabis cultivation tax revenue through FY 24-25 in the amount of \$1.8 million annually. Based on that assumption, the recommended cannabis cultivation tax rate, with cannabis tax fund balance, will meet the estimated cannabis tax revenue projections necessary to maintain the annual cannabis program costs through FY 24-25, when the program update is expected to be completed. Staff will continue to track program costs and revenue and will return with program operational adjustments as necessary.

In addition to the new rates, the Ordinance amendments include administrative changes for consistency and clarity. Below are the key proposed changes to the Ordinance:

- Updated reference to Chapter 26 of the Sonoma County code, to refer to correct section for definitions 26-04-020.
- Amended the definitions of “Indoor”, “Personal cannabis cultivation”, and “Treasurer-tax collector” to make non-substantive corrections.
- Amended the cultivation tax rates to the new rates approved by the Board on February 28, 2023 and removed all references to temporary rate reduction.
- Changed the language regarding reporting and remittance of tax, to clarify when cultivation area (cannabis canopy) verifications should be performed and who has authority over this process. Amended language aligns with existing County practice.

- Changed the language regarding tax assessment hearing, application, and determination to align with existing tax-collector review processes in order to streamline cannabis assessment appeals for the operator and tax-collector.
- Changed the language regarding appeal hearing to explicitly reference the Board's option to select the Hearing Officer, in line with current practice, and make the Hearing Officer's decision final.

This ordinance was introduced on May 16, 2023. 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, 2023.

Strategic Plan:

N/A

Prior Board Actions:

02-28-2023: Cannabis Tax Review, Discussion, and Direction to Staff

05-16-2023: Introduction and Waiving of Second Reading of Ordinance Amending Cannabis Business Tax Ordinance

FISCAL SUMMARY

Expenditures	FY 22-23 Adopted	FY23-24 Projected	FY 24-25 Projected
Budgeted Expenses			
Additional Appropriation Requested			
Total Expenditures		\$0	\$0
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other		\$1,800,000	\$1,800,000
Use of Fund Balance			
Contingencies			
Total Sources		\$1,800,000	\$1,800,000

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 23-24 and FY 24-25 is \$1.8 million and will be revised as cannabis cultivation canopy (taxable) is verified. Annual cannabis program costs will be supplemented with cannabis tax fund balance in the amount of approximately \$700,000 each year in FY 23-24 and FY 24-25.

Staffing Impacts: N/A

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