



Legislation Text

File #: 2019-1665, **Version:** 1

To: County of Sonoma Board of Supervisors
Department or Agency Name(s): Auditor-Controller-Treasurer-Tax Collector
Staff Name and Phone Number: Brooke Koop, 565-3232
Vote Requirement: Majority
Supervisory District(s): Fifth District

Title:

9:00 A.M. - Cannabis Tax Appeal to the Board of Supervisors for July 2017 - June 2018 Reporting Period

Recommended Action:

Conduct a hearing to consider waiving Cannabis tax, penalties, and interest for Thacksine Rattanasengchanh for the reporting period covering July 2017 - June 2018, and provide direction to staff to prepare and return with written findings to support the Board's determination. (Fifth District)

Executive Summary:

Pursuant to Section 35-28 of the County Cannabis Tax Ordinance, Thacksine Rattanasengchanh ("Operator") has appealed the Tax Collector's determination against waiver of Cannabis tax, penalties, and interest for the reporting period covering July 2017 - June 2018. The Cannabis tax, penalties, and interest total \$7,408.96. Operator is requesting relief on the basis that Operator did not cultivate cannabis for said period. Operator previously appealed the tax, penalties, and interest to the Tax Collector, but the Ordinance does not provide the Tax Collector the authority to grant such a waiver under these circumstances.

Discussion:

Background

The Board of Supervisors adopted the Temporary Code Enforcement Penalty Relief Program on May 23, 2017 to bring existing operators into the regulated market. The Penalty Relief Program created requirements that, if satisfied, would allow certain cannabis businesses to continue to operate without being subject to land use fines while they complete the work necessary to either become permitted or cease operations.

The Penalty Relief Program was modified and extended by the Board on September 17, 2017. In order to qualify for the Penalty Relief Program, operators must: (1) complete the Cannabis Land Use Penalty Relief Application by October 31, 2017, (2) fall into one of the categories identified in Table 1, (3) operate in compliance with the operating requirements listed in Table 1, and (4) submit complete applications by June 1, 2018, if applicable.

Table 1: Penalty Relief Program: Operator Qualifications and Compliance Requirements

Operator Status	Current Operators (Non-permit-eligible)	Current Operators (Permit-eligible)
Operation Start	Prior to July 5, 2017	Prior to July 5, 2017
Penalty Relief Application Form Due Date	October 31, 2017	October 31, 2017
Complete Application Due Date	N/A. All commercial cannabis operations must cease by January 1, 2018	June 1, 2018
Operating Requirements	1.No increase in cultivation area (if applicable) 2.Compliance with the Medical Cannabis Land Use Ordinance Operating Standards 3.Compliance with Medical Cannabis Development Criteria (applicable for permit eligible properties) 4.Compliance with Cannabis Best Management Practices adopted by the Agricultural Commissioner 5.Tax Compliance	

Section 35-5 imposes a cannabis business tax at the rates approved by the Board of Supervisors. Businesses under the Penalty Relief Program were taxed under the same process as if already permitted. The tax is determined by the size of the operation and its corresponding rate.

Section 35-6(b) allows adjustment of the tax due to square footage authorized but not utilized for cultivation provided the tax statement filed with the Tax Collector includes a request for such adjustment.

Operator submitted a Cannabis Land Use Penalty Relief Application on September 22, 2017, stating an existing operation of 7,000-8,000 sq. ft. of outdoor cannabis cultivation; however, a Cannabis Permit Application was never submitted. The FY 2017-18 annual tax liability for an outdoor operation consisting of 7,000-8,000 square feet at a set rate of \$2.00 per square foot is between \$14,000 and \$16,000 scheduled to be paid in 3 installments: January 2018, April 2018 and July 2018.

Tax Collector notified Operator of the Cannabis tax delinquency and in accordance with Section 35-26 of the Cannabis Tax Ordinance, the Operator requested an Appeal Hearing to waive the Cannabis tax, penalties, and interest for the reporting period covering July 2017 - June 2018.

On March 28, 2019, the Tax Collector held an Appeal Hearing in which the Operator claimed the permitting and legalization process has been vague and unclear, which resulted in Operator removing all cultivation from the property while under the penalty relief program. The Operator did not notify the County of the removal of all cultivation, removal was not verified by County inspection staff in accordance with canopy verification procedures, and the Operator did not request a tax liability adjustment during the reporting period.

After considering the evidence presented by the Operator and after reviewing google imagery from June 2017, the Tax Collector determined the operation size to be 3,342 square feet. Per the Cannabis Land Use Table, an outdoor operation consisting of less than 5,000 square feet is taxed at a rate of \$1.50 per square foot. Therefore, the tax liability determined by the Tax Collector for FY 2017-2018 is \$7,408.96; which consists of \$5,013.00 in taxes, \$2,092.93 in penalties, and \$303.04 in interest. As of November 1, 2019, the total tax liability is still outstanding.

The Operator timely appealed the Tax Collector's decision to the Board in accordance with Section 35-28 of the Cannabis Tax Ordinance. The Ordinance requires that the Board hold a public hearing to weigh evidence presented by the Operator and the recommendation of the Tax Collector.

Staff Recommendation

Staff recommends that the Board:

- Conduct a public hearing to consider whether to waive Cannabis tax, penalties, and interest for Thacksine Rattanasengchanh for the reporting period covering July-2017 -June 2018.
- Take a straw vote on the proposed petition and provide direction to staff to prepare and return with written findings in support of the Board's determination.

Prior Board Actions:

None

FISCAL SUMMARY

Expenditures	FY 19-20 Adopted	FY20-21 Projected	FY 21-22 Projected
Budgeted Expenses			
Additional Appropriation Requested			
Total Expenditures			
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance			
Contingencies			
Total Sources			

Narrative Explanation of Fiscal Impacts:

None

Staffing Impacts:

Position Title (Payroll Classification)	Monthly Salary Range (A-I Step)	Additions (Number)	Deletions (Number)

Narrative Explanation of Staffing Impacts (If Required):

None

Attachments:

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