

Inyo County Code

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[Title 3 REVENUE AND FINANCE](#)

Chapter 3.50 CANNABIS BUSINESS TAX

3.50.010 Title.

This chapter shall be entitled the “Cannabis Business Tax.” This chapter shall be applicable in the unincorporated territory of the county of Inyo, which shall be referred to herein as “the county.” (Ord. 1202 § 1, 2016.)

3.50.020 General tax.

The cannabis business tax is enacted solely for general governmental purposes for the county and not for specific purposes. All of the proceeds from the tax imposed by this chapter shall be placed in the county’s general fund and used for purposes consistent with general fund expenditures of the county. (Ord. 1202 § 1, 2016.)

3.50.030 Purpose of the chapter.

The ordinance codified in this chapter is adopted to achieve the following purposes, among others, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

- A. To impose a tax on the privilege of cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing medical cannabis or medical cannabis products by commercial cannabis businesses in the unincorporated area of the county, pursuant to the state Medical Marijuana Regulation and Safety Act, specifically California Business and Professions Code Section 19348(c);
- B. To impose a tax on the privilege of cultivating, manufacturing, producing, processing, preparing, storing, providing, donating, selling, or distributing nonmedical marijuana and marijuana products and accessories by commercial cannabis business in the unincorporated area of the county if the “California Control, Regulate and Tax Audit Use of Marijuana Initiative” is approved by the voters in the November 2016 election, or if nonmedical marijuana activity otherwise becomes legal in the state of California, notwithstanding if state law uses the term “marijuana” or “cannabis”;
- C. To impose a tax on commercial cannabis business in accordance with the authority granted by California Revenue and Taxation Code Section 7284 to impose a business license tax;
- D. To specify the type of tax and rate of tax to be levied and the method of collection; and
- E. To comply with all requirements of imposition of a general tax, such tax to become operative only if submitted to the electorate and approved by a majority vote of the voters voting in an election on the issue. (Ord. 1202 § 1, 2016.)

3.50.040 Definitions.

The following words and phrases shall have the meanings set forth below when used in this chapter:

“Business” shall include all activities engaged in or caused to be engaged in within the unincorporated area of the county, including any commercial or industrial enterprise, trade, profession, occupation, vocation, calling, or livelihood, whether or not carried on for gain or profit, but shall not include the services rendered by an employee to his or her employer.

“Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant; its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” also means marijuana as defined by Section 11018 of the California Health and Safety Code and is not limited to medical cannabis.

“Cannabis product” means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product. “Cannabis product” also means marijuana products as defined by Section 11018.1 of the California Health and Safety Code and is not limited to medical cannabis products.

“Canopy” means all areas occupied by any portion of a cannabis plant, inclusive of all vertical planes, whether contiguous or noncontiguous on any one site. The plant canopy does not need to be continuous on any premise in determining the total square footage.

“Commercial cannabis business” means any commercial business activity relating to cannabis, including but not limited to cultivating, transporting, distributing, manufacturing, compounding, converting, processing, preparing, storing, packaging, delivering, and selling (wholesale and/or retail sales) of cannabis and any ancillary products and accessories in the unincorporated area of the county, whether or not carried on for gain or profit.

“Cannabis business tax,” “business tax,” or “commercial cannabis tax” means the tax due pursuant to this chapter for engaging in commercial cannabis business in the unincorporated area of the county.

“Commercial cannabis cultivation” means cultivation conducted by, for, or as part of a commercial cannabis business.

“County permit” means a license or permit issued by the county to a person to authorize that person to operate or engage in a commercial cannabis business. The term “county permit” includes a commercial medical cannabis permit issued pursuant to any chapter of the Inyo County Code which may be adopted or amended from time to time which authorizes any cannabis regulatory activity, and if nonmedical marijuana business becomes legal under state law, the term “county permit” includes such permit as the county may require to operate or engage in nonmedical commercial cannabis business.

“Cultivation” means the activity involving the planning, growing, harvesting, drying, curing, grading, or trimming of cannabis.

“Delivery” means the commercial transfer of cannabis or cannabis products from a dispensary.

“Dispensary” means a facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers cannabis and cannabis products as part of a retail sale.

“Distributor” or “distribution” or “distribution facility” means a person or facility involved in the procurement, sale, and/or transport of cannabis and cannabis products between permitted or licensed entities.

“Employee” means each and every person engaged in the operation or conduct of any business, whether as owner, member of the owner’s family, partner, associate, agent, manager or solicitor, and each and every other person employed or working in such business for a wage, salary, commission, barter or any other form of compensation.

“Engaged in business” means the commencing, conducting, operating, managing or carrying on of a cannabis business and the exercise of corporate or franchise powers, whether done as owner, or by means of an officer, agent, manager, employee, or otherwise, whether operating from a fixed location in the unincorporated area of the county or coming into the unincorporated areas of the county from an outside location to engage in such activities. A person shall be deemed engaged in business with the county if some or all of the following apply:

1. Such person or person’s employee maintains a place of business within unincorporated area of the county for the benefit or partial benefit of such person;
2. Such person or person’s employee owns or leases real property within the unincorporated area of the county for business purposes;
3. Such person or person’s employee regularly maintains a stock of tangible personal property in the unincorporated area of the county for sale in the ordinary course of business;
4. Such person or person’s employee regularly conducts solicitation of business within the unincorporated area of the county;
5. Such person or person’s employee performs work or renders services in the unincorporated area of the county; and
6. Such person or person’s employee utilizes the streets within the unincorporated area of the county in connection with the operation of motor vehicles for business purposes.

The foregoing specified activities shall not be a limitation on the meaning of “engaged in business.”

“Evidence of doing business” means evidence such as, without limitation, use of signs, circulars, cards or any other advertising media, including the use of internet or telephone solicitation, or representation to a government agency or to the public that such person is engaged in a cannabis business in the unincorporated area of the county.

“Fiscal year” means July 1st through June 30th of the following calendar year.

“Gross receipts,” except as otherwise specifically provided, means the total amount actually received or receivable from all sales; the total amount or compensation actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as part of or in connection with the sale of materials, goods, wares or merchandise; discounts, rents, royalties, fees, commissions, dividends, and gains realized from trading in stocks or bonds, however designated. Included in “gross receipts” shall be all receipts, cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever, except that the following shall be excluded therefrom:

1. Cash discounts where allowed and taken on sales;
2. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
3. Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;
4. Receipts from investments where the holder of the investment receives only interest and/or dividends, royalties, annuities and gains from the sale or exchange of stock or securities solely for a person’s own account, not derived in the ordinary course of a business;
5. Receipts derived from the occasional sale of used, obsolete or surplus trace fixtures, machinery or other equipment used by the taxpayer in the regular course of the taxpayer’s business;
6. Cash value of sales, trades or transactions between departments or units of the same business;
7. Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a subsequent year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected they shall be included in the amount of gross receipts for the period when they are recovered;
8. Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded when in excess of one dollar;
9. Amounts collected for others where the business is acting as an agent or trustee and to the extent that such amounts are paid to those for whom collected. These agents or trustees must provide the finance department with the names and the addresses of the others and the amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustees.

“Growing cycle” means the life of cannabis plant grown from seed, clone or start to maturity, at which point the plant is harvested for flower or byproducts to dry, cure grade, trim or package for retail or wholesale.

“Manufacturer” means a person that conducts the production, preparation, propagation, or compounding of cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis at a location that packages or repackages cannabis or cannabis products or labels or relabels its container, that holds a valid county permit.

“Nursery” means a person that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.

“Person” means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, cooperative, or any other group or combination acting as a unit, whether organized as a nonprofit or for-profit entity, and includes the plural as well as the singular number.

“Personal medical cannabis cultivation” means cultivation by a qualified patient who cultivates one hundred square feet total canopy area or less of cannabis exclusively for his or her personal medical use but who does not provide, donate, sell, or distribute cannabis to any other person. “Personal medical cannabis cultivation” also includes cultivation by a primary caregiver who cultivates one hundred square feet total canopy area or less of cannabis exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver, but who does not receive remuneration for these activities except for compensation in full compliance with Section 11362.765(c) of the California Health and Safety Code, as it may be amended.

“Personal use” shall be defined as provided by state law applicable to use of cannabis, if any, as the same may be amended from time to time.

“Sale” means and includes any sale, exchange, or barter.

“State” means the state of California.

“State license,” “license,” or “registration” means a state license issued pursuant to California Business and Professions Code Section 19300, et seq. or other applicable state law.

“Testing laboratory” means a facility, entity, or site in the state that offers or performs testing of cannabis or cannabis product and that is both of the following:

1. Accredited by an accrediting body that is independent from all other persons involved in the cannabis industry in the state; and
2. Registered with the California State Department of Public Health.

“Transport” means the transfer of cannabis or cannabis products from the permitted business location of one permittee or licensee to the permitted business location of another permittee or licensee, for the purposes of conducting commercial cannabis activity authorized pursuant to state law.

“Transporter” means a person issued all required state and county permits to transport cannabis or cannabis products between permitted facilities.

“Treasurer-tax collector” means the treasurer-tax collector of the county of Inyo, his or her deputies or any other county officer charged with the administration of the provisions of this chapter. (Ord. 1202 § 1, 2016.)

3.50.050 Tax imposed.

A. There is established and imposed a cannabis business tax at the rates set forth in this chapter.

B. Tax on Commercial Cannabis Cultivation Excluding Nurseries.

1. Every person who cultivates commercial cannabis in the unincorporated area of the county shall pay an annual commercial cannabis business tax. The initial tax rate effective January 1, 2017, through June 30, 2020, shall be set at five percent of the gross receipts per fiscal year; provided, however, that cultivators shall pay not less than the following amounts:

- a. Persons cultivating less than or equal to two thousand five hundred square feet of cannabis shall pay a tax of no less than one thousand two hundred fifty dollars per growing cycle.
- b. Persons cultivating two thousand five hundred one square feet and up to five thousand square feet of cannabis shall pay a tax of no less than two thousand five hundred dollars per growing cycle.
- c. Persons cultivating more than five thousand one square feet of cannabis shall pay a tax of no less than five thousand dollars per growing cycle.

2. As of July 1, 2020, such tax rate may be increased in two and one-half percent increments, not to exceed the maximum tax rate of twelve and one-half percent per fiscal year on gross receipts. Incremental increases in the tax rate shall not occur more than once per fiscal year, following the approval by the board of supervisors of such increase at a regularly scheduled meeting of the board of supervisors.

C. Tax on Commercial Cannabis Dispensaries.

1. Every person who is engaged in business as a dispensary in the unincorporated area of the county shall pay an annual commercial cannabis business tax. The initial tax rate effective January 1, 2017 through June 30, 2020 shall be set at five percent of the gross receipts per fiscal year.

2. As of July 1, 2020, such tax rate may be increased in two and one-half percent increments, not to exceed the maximum tax rate of twelve and one-half percent per fiscal year on gross receipts. Incremental increases in the tax rate shall not occur more than once per fiscal year, following the approval by the board of supervisors of such increase at a regularly scheduled meeting of the board of supervisors.

D. Tax on All Other Commercial Cannabis Business.

1. Every person who is engaged in business as a distributor, delivery service manufacturer, nursery, testing laboratory, transporter, or otherwise not specified above in subsections B or C, in the unincorporated area of the county shall pay an annual commercial cannabis business tax. The initial tax rate effective January 1, 2017 through June 30, 2020 shall be set at five percent of the gross receipts per fiscal year.

2. As of July 1, 2020, such tax rate may be increased in two and one-half percent increments, not to exceed the maximum tax rate of twelve and one-half percent per fiscal year on gross receipts. Incremental increases in the tax rate shall not occur more than once per fiscal year, following the approval by the board of supervisors of such increase at a regularly scheduled meeting of the board of supervisors. (Ord. 1202 § 1, 2016.)

3.50.060 Reporting and remittance of tax.

The commercial cannabis business tax imposed by this chapter shall be imposed on a fiscal year basis and shall be due and payable in quarterly installments as follows:

A. Each person owing a commercial cannabis business tax shall, on or before the last day of the month following the close of each fiscal year quarter, prepare and submit a tax statement on the form prescribed by the treasurer-tax collector and remit to the treasurer-tax collector the tax due. Each business shall pay on or before the last day of the month following the close of each calendar quarter.

B. If the cultivation begins in the middle of a fiscal year, the treasurer-tax collector shall prorate, in monthly increments, the amount due for the fiscal year.

C. All tax statements shall be completed on forms prescribed by the treasurer-tax collector.

D. Tax statements and payments for all outstanding taxes owed the county are immediately due to the treasurer-tax collector upon cessation of business for any reason.

E. The treasurer-tax collector may, at his or her discretion, establish shorter report and payment periods for any taxpayer as the treasurer-tax collector deems necessary to insure collection of the tax.

F. The treasurer-tax collector may, as part of administering the tax and in his or her discretion, modify the form of payment and take such other administrative actions as needed to facilitate collection of the tax. (Ord. 1202 § 1, 2016.)

3.50.070 Payments and communications—Timely remittance.

Whenever any payment, statement, report, request or other communication is due, it must be remitted to the treasurer-tax collector on or before the final due date. A postmark will be accepted as timely received. If the due date falls on Saturday, Sunday or a holiday, the due date shall be the next regular business day on which the county is open to the public. (Ord. 1202 § 1, 2016.)

3.50.080 Payment—When taxes deemed delinquent.

Unless otherwise specifically provided under other provisions of this chapter, the taxes required to be paid pursuant to this chapter shall be deemed delinquent if not remitted to the treasurer-tax collector on or before the due date as specified in Section 3.50.060. (Ord. 1202 § 1, 2016.)

3.50.090 Notice not required by county.

The treasurer-tax collector is not required to send a delinquency or other notice or bill to any person subject to the provisions of this chapter. Failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this chapter. (Ord. 1202 § 1, 2016.)

3.50.100 Penalties and interest.

A. Any person who fails or refuses to pay any commercial cannabis business tax required to be paid pursuant to this chapter on or before the due date shall pay penalties and interest as follows:

1. A penalty equal to ten percent of the amount of the tax, in addition to the amount of the tax, plus interest on the unpaid tax calculated from the due date of the tax at the rate of one and one-half percent per month on the unpaid tax.

2. If the tax remains unpaid for a period exceeding one calendar month beyond the due date, an additional penalty equal to twenty-five percent of the amount of the tax, plus interest at the rate of one and one-half percent per month on the unpaid tax.

3. Interest shall be applied at the rate of one and one-half percent per month on the first day of the month for the full month, and will continue to accrue monthly on the unpaid tax until the balance is paid in full.

B. Whenever a check or electronic payment is submitted in payment of a commercial cannabis business tax and the payment is subsequently returned unpaid by the bank for any reason, the taxpayer will be liable for the tax amount due plus any fees, penalties and interest as provided for in this section, and any other amount allowed under state law. (Ord. 1202 § 1, 2016.)

3.50.110 Refunds and credits.

A. No refund shall be made of any tax collected pursuant to this chapter, except as provided in Section 3.50.120.

B. No refund of any tax collected pursuant to this chapter shall be made because of the discontinuation, dissolution, or other termination of a business. (Ord. 1202 § 1, 2016.)

3.50.120 Refunds and procedures.

A. Whenever the amount of any commercial cannabis business tax, penalty or interest has been overpaid, paid more than once, or has been erroneously collected or received by the county under this chapter, it may be refunded to the claimant who paid the tax provided that a written claim for refund is filed with the treasurer-tax collector within one year of the due the tax was originally due and payable.

B. The treasurer-tax collector, his or her deputies or any other county officer charged with the administration of this chapter shall have the right to examine and audit all the books and business records of the claimant in order to determine the eligibility of the claimant to the claimed refund. No claim for refund shall be allowed if the claimant refuses to allow such examination of claimant's books and business records after request by the treasurer-tax collector to do so.

C. In the event that the commercial cannabis business tax was erroneously paid and the error is attributable to the county, the county shall refund the amount of tax erroneously paid up to one year from when the error was identified. (Ord. 1202 § 1, 2016.)

3.50.130 Exemptions from the tax.

A. The provisions of this chapter shall not apply to personal medical cannabis cultivation.

B. If the "California Control, Regulate and Tax Adult Use of Marijuana Initiative" is approved by the voters in the November 2016 election, or if nonmedical cannabis use otherwise becomes legal in the state of California, the provisions of this chapter shall not apply to personal use of nonmedical cannabis that is specifically exempted from state licensing requirements, that meets the definition of personal use or equivalent terminology under state law, and for which the individual receives no compensation whatsoever related to that personal use. If a state law is adopted that legalizes nonmedical use of cannabis, the treasurer-tax collector may implement this exemption to conform to such exemption for personal use as may be included in state law. (Ord. 1202 § 1, 2016.)

3.50.140 Constitutionality and legality.

This tax is intended to be applied in a manner consistent with the United States and California Constitutions and state law. None of the tax provided for by this chapter shall be applied in a manner that causes an undue burden upon interstate commerce, a violation of the equal protection and due process clauses of the Constitutions of the United States or the state of California or a violation of any other provision of the California Constitution or state law. (Ord. 1202 § 1, 2016.)

3.50.150 Payment of tax does not authorize unlawful business.

A. The payment of a commercial cannabis business tax required by this chapter, and its acceptance by the county, shall not entitle any person to carry on any cannabis business unless the person has complied with all of the requirements of this code and all other applicable state laws.

B. No tax paid under the previous of this chapter shall be construed as authorizing the conduct or continuance of any illegal or unlawful business, or any business in violation of any local or state law. (Ord. 1202 § 1, 2016.)

3.50.160 Administration.

The Inyo County administrative officer or designee thereof, upon the approval of the Inyo County board of supervisors, may promulgate regulations to implement and administer the provisions of this chapter. (Ord. 1202 § 1, 2016.)

3.50.170 Severability.

If any provision of this chapter, or its application to any person or circumstance, is determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this chapter or the application of this chapter to any other person or circumstance and, to that end, the provisions hereof are severable. (Ord. 1202 § 1, 2016.)

3.50.180 Amendment, adjustment, or repeal.

The board of supervisors of the county of Inyo is authorized to repeal this chapter without a vote of the people to the extent allowed by law. The board of supervisors of the county may also to impose the tax authorized by this chapter at a lower rate and may establish exemptions, incentives, or other reductions, as otherwise allowed by California law. The board of supervisors of the county of Inyo is further authorized to amend and/or adjust this chapter in any manner that does not increase the tax rate above the maximum rate specified for each category of business or in a manner that otherwise constitutes a tax increase for which voter approval is required by Article XIII C of the California Constitution. The people of the county of Inyo affirm that the following actions shall not constitute an increase of the rate of a tax:

A. The restoration of the rate of the tax to a rate that is no higher than that set by this chapter, if the board of supervisors has acted to reduce the rate of the tax via amendment or adjustment;

B. An action that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this chapter; or

C. The collection of the tax imposed by this chapter, even if the county had, for some period of time, failed to collect the tax. (Ord. 1202 § 1, 2016.)

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