

File No. 180629

Committee Item No. 17

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Budget & Finance Sub-Committee

Date July 19, 2018

Board of Supervisors Meeting

Date _____

Cmte Board

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Completed by: Linda Wong Date July 13, 2018
 Completed by: Linda Wong Date _____

1 [Initiative Ordinance - Business and Tax Regulations Code - Additional Gross Receipts Tax on
2 Cannabis]

3 **Motion ordering submitted to the voters, at an election to be held on November 6, 2018,**
4 **an ordinance amending the Business and Tax Regulations Code to impose an**
5 **additional gross receipts tax, starting January 1, 2020, on gross receipts from cannabis**
6 **business activities, but exempting the first \$500,000 of gross receipts and exempting**
7 **retail sales of medicinal cannabis; said tax for 2020 to be set at a rate of 1%, which will**
8 **increase in 2021 to between 1% and 5% depending on the type of cannabis business**
9 **activity and amount of gross receipts, and which may be adjusted at any time within a**
10 **range of 0% to 7% by an ordinance adopted by a two-thirds vote of the Board of**
11 **Supervisors for any increase (which is limited to 1% annually) or an ordinance adopted**
12 **by a majority vote of the Board of Supervisors for any decrease; and increasing the**
13 **City's appropriations limit by the amount collected under the new tax for four years**
14 **from November 6, 2018.**

15
16 **MOVED, That the Board of Supervisors hereby submits the following ordinance to the**
17 **voters of the City and County of San Francisco, at an election to be held on November 6,**
18 **2018.**

19
20 **Ordinance amending the Business and Tax Regulations Code to impose an additional**
21 **gross receipts tax, starting January 1, 2020, on gross receipts from cannabis business**
22 **activities, but exempting the first \$500,000 of gross receipts and exempting retail sales**
23 **of medicinal cannabis; said tax for 2020 to be set at a rate of 1%, which will increase in**
24 **2021 to between 1% and 5% depending on the type of cannabis business activity and**
25 **amount of gross receipts, and which may be adjusted at any time within a range of 0%**

1 to 7% by an ordinance adopted by a two-thirds vote of the Board of Supervisors for any
2 increase (which is limited to 1% annually) or an ordinance adopted by a majority vote
3 of the Board of Supervisors for any decrease; and increasing the City's appropriations
4 limit by the amount collected under the new tax for four years from November 6, 2018.

5
6 NOTE: **Unchanged Code text and uncodified text** are in plain font.
7 **Additions to Codes** are in *single-underline italics Times New Roman font*.
8 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
9 **Asterisks (* * * *)** indicate the omission of unchanged Code subsections or
10 parts of tables.

11
12 Be it ordained by the People of the City and County of San Francisco:

13 Section 1. Pursuant to Article XIII C of the Constitution of the State of California, this
14 ordinance shall be submitted to the qualified electors of the City and County of San Francisco
15 at the November 6, 2018, consolidated general election.

16 Section 2. The Business and Tax Regulations Code is hereby amended by adding
17 Article 30, consisting of Sections 3001 through 3014, to read as follows:

18
19 **ARTICLE 30: CANNABIS BUSINESS TAX**

20
21 **SEC. 3001. SHORT TITLE.**

22 *This Article 30 shall be known as the "Cannabis Business Tax Ordinance," and the tax it*
23 *imposes shall be known as the "Cannabis Business Tax."*
24
25

1 SEC. 3002. DEFINITIONS.

2 Unless otherwise defined in this Article 30, the terms used in this Article shall have the
3 meanings given to them in Articles 6 and 12-A-1 of the Business and Tax Regulations Code, as
4 amended from time to time. For purposes of this Article 30, the following definitions shall apply:

5 "Cannabis" means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or
6 Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified,
7 extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or
8 preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether
9 crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant,
10 fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound,
11 manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted
12 therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For
13 the purpose of this Article 30, "Cannabis" does not mean "Industrial Hemp."

14 "Cannabis Business Activities" means any business activities directly related to Cannabis or
15 Cannabis Products, including but not limited to the cultivation, possession, manufacture, processing,
16 storing, labeling, distribution, or sale of Cannabis or Cannabis Products for consideration. "Cannabis
17 Business Activities" shall not include: (a) business activities indirectly related to Cannabis or
18 Cannabis Products, including the sale of items that do not themselves contain Cannabis or Cannabis
19 Products; (b) laboratory testing; and (c) transportation of Cannabis or Cannabis Products where the
20 person transporting Cannabis or Cannabis Products never takes title to or sells Cannabis or Cannabis
21 Products.

22 "Cannabis Products" means Cannabis that has undergone a process whereby the plant
23 material has been transformed into a concentrate, including, but not limited to, concentrated Cannabis,
24 or an edible or topical product containing Cannabis or concentrated Cannabis and other ingredients.

1 "Industrial Hemp" means a fiber or oilseed crop, or both, that is limited to types of the plant
2 Cannabis sativa L. having no more than three tenths of 1% tetrahydrocannabinol (THC) contained in
3 the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any
4 part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the
5 plant, its seeds or resin produced therefrom.

6 "Medicinal Cannabis" means Cannabis or a Cannabis Product, respectively, sold for use under
7 the Compassionate Use Act of 1996 (Proposition 215) by a medicinal cannabis patient in California
8 who possesses a physician's recommendation.

9 "Retail Sale" means any transaction whereby, for any consideration, title to Cannabis or
10 Cannabis Products is transferred from one person to another for the latter person's use and not for
11 resale, and includes the delivery of Cannabis or Cannabis Products to a person for such person's own
12 use and not for resale pursuant to an order placed for the purchase of the same and soliciting or
13 receiving an order for the same.

14
15 **SEC. 3003. IMPOSITION OF TAX.**

16 (a) Except as otherwise provided in this Article 30, for the privilege of engaging in Cannabis
17 Business Activities in the City, the City imposes an annual Cannabis Business Tax on each person
18 engaged in business in the City that receives gross receipts from Cannabis Business Activities
19 attributable to the City.

20 (b) The Cannabis Business Tax shall be calculated in the following manner:

21 (1) The person or combined group's first \$500,000 of gross receipts attributable to
22 the City from Cannabis Business Activities shall be exempt from the Cannabis Business Tax.

23 (2) The person or combined group's gross receipts attributable to the City from the
24 Retail Sale of Cannabis or Cannabis Products, including the amount exempt under Section 3003(b)(1),
25 shall be multiplied as follows:

1 (A) by 2.5% for gross receipts in excess of the amount exempt under Section
2 3003(b)(1) and up to and including \$1,000,000; and

3 (B) by 5% for gross receipts over \$1,000,000.

4 (3) The person or combined group's gross receipts attributable to the City from all
5 Cannabis Business Activities other than the Retail Sale of Cannabis or Cannabis Products, including
6 the amount exempt under Section 3003(b)(1), shall be multiplied as follows:

7 (A) by 1% for gross receipts in excess of the amount exempt under Section
8 3003(b)(1) and up to and including \$1,000,000; and

9 (B) by 1.5% for gross receipts over \$1,000,000.

10 (4) Notwithstanding the tax rates provided in Sections 3003(b)(2) and 3003(b)(3),
11 for tax year 2020 each of the tax rates under Sections 3003(b)(2)(A), 3003(b)(2)(B), 3003(b)(3)(A), and
12 3003(b)(3)(B) shall be 1%.

13 (5) The Board of Supervisors may from time to time by an ordinance adopted by at
14 least two-thirds of the members of the Board increase one or more of the rates provided for in Sections
15 3003(b)(2) and 3003(b)(3), or the rate provided for in Section 3003(b)(4), except that no rate shall
16 increase more than 1% annually and no rate shall exceed 7%. The Board of Supervisors may from
17 time to time by an ordinance adopted by a majority of the members of the Board decrease one or more
18 of the rates provided for in Sections 3003(b)(2) and 3003(b)(3), or the rate provided for in Section
19 3003(b)(4). Any such adjustments in this Section 3003(b)(5) shall be effective no sooner than the tax
20 year following the tax year in which the ordinance adjusting the rate is effective. The Controller shall
21 prepare and submit a market analysis and impact report to the Board before the Board adjusts any tax
22 rate under this Section 3003(b)(5).

23 (6) If a person or combined group has gross receipts attributable to the City from
24 the Retail Sale of Cannabis or Cannabis Products and from Cannabis Business Activities other than the
25

1 Retail Sale of Cannabis or Cannabis Products, the person or combined group's Cannabis Business Tax
2 shall be determined as follows:

3 (A) The person or combined group's taxable gross receipts shall be determined
4 on an aggregate basis first for gross receipts attributable to the City from Cannabis Business Activities
5 other than the Retail Sale of Cannabis or Cannabis Products, and then for gross receipts attributable to
6 the City from the Retail Sale of Cannabis or Cannabis Products;

7 (B) The \$500,000 exemption in Section 3003(b)(1) shall be applied first to
8 gross receipts attributable to the City from Cannabis Business Activities other than the Retail Sale of
9 Cannabis or Cannabis Products, with any remaining portion of the exemption then applied to gross
10 receipts attributable to the City from the Retail Sale of Cannabis or Cannabis Products;

11 (C) The rates applicable under Section 3003(b)(2) shall be determined by
12 applying the rate scale commencing with the gross receipts attributable to the City from Cannabis
13 Business Activities other than the Retail Sale of Cannabis or Cannabis Products; and

14 (D) The Cannabis Business Tax for the person or combined group shall be the
15 sum of the liabilities calculated under Sections 3003(b)(2) and 3002(b)(3), determined in accordance
16 with Sections 3003(b)(6)(A), 3003(b)(6)(B), and 3003(b)(6)(C).

17
18 **SEC. 3004. ALLOCATION; GROSS RECEIPTS ATTRIBUTABLE TO THE CITY.**

19 (a) Notwithstanding any other provision of this Article 30, any person subject to the Cannabis
20 Business Tax engaging in Cannabis Business Activities in the City and engaging in no Cannabis
21 Business Activities outside the City is subject to the Cannabis Business Tax on all non-exempt gross
22 receipts.

23 (b) Notwithstanding any other provision of this Article 30, any person subject to the Cannabis
24 Business Tax engaging in Cannabis Business Activities both in the City and outside the City shall
25 determine their or their combined group's gross receipts attributable to the City from Cannabis

1 Business Activities under Section 956.1 of Article 12-A-1. For purposes of this Section 3004(b), "gross
2 receipts" as used in Section 956.1 of Article 12-A-1 shall mean all of the person or combined group's
3 non-exempt gross receipts from Cannabis Business Activities.

4
5 **SEC. 3005. EXEMPTIONS AND EXCLUSIONS.**

6 (a) For purposes of this Article 30, gross receipts shall not include receipts from the Retail Sale
7 of Medicinal Cannabis.

8 (b) An organization that is exempt from income taxation by Chapter 4 (commencing with
9 Section 23701) of Part 11 of Division 2 of the California Revenue and Taxation Code or Subchapter F
10 (commencing with Section 501) of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986, as
11 amended, as qualified by Sections 502, 503, 504, and 508 of the Internal Revenue Code of 1986, as
12 amended, shall be exempt from taxation under this Article 30, only so long as those exemptions
13 continue to exist under state or federal law.

14 (c) For purposes of this Article 30, gross receipts shall not include receipts from business
15 activities if, and only so long as and to the extent that, the City is prohibited from taxing such receipts
16 under the Constitution or laws of the United States or under the Constitution or laws of the State of
17 California.

18 (d) For only so long as and to the extent that the City is prohibited from imposing the Cannabis
19 Business Tax, any person upon whom the City is prohibited under the Constitution or laws of the State
20 of California or the Constitution or laws of the United States from imposing the Cannabis Business Tax
21 shall be exempt from the Cannabis Business Tax.

1 **SEC. 3006. RETURNS; COMBINED RETURNS.**

2 (a) Persons subject to the Cannabis Business Tax shall file returns at the same time and in the
3 same manner as returns filed for the gross receipts tax (Article 12-A-1), including the rules for
4 combined returns under Section 956.3, as amended from time to time.

5 (b) If a person is subject to the Cannabis Business Tax but is not required to file a gross
6 receipts tax return, such person or combined group's Cannabis Business Tax return shall be filed at the
7 same time and in the same manner as if such person or combined group were required to file a gross
8 receipts tax return.

9 (c) For purposes of this Article 30, a lessor of residential real estate is treated as a separate
10 person with respect to each individual building in which it leases residential real estate units,
11 notwithstanding Section 6.2-15 of Article 6, as amended from time to time, or subsection (a) of this
12 Section 3006. This subsection (c) applies only to leasing residential real estate units within a building,
13 and not to any business activity related to other space, either within the same building or other
14 buildings, which is not residential real estate. The Tax Collector is authorized to determine what
15 constitutes a separate building and the number of units in a building.

16
17 **SEC. 3007. TAX COLLECTOR AUTHORIZED TO DETERMINE GROSS RECEIPTS.**

18 The Tax Collector may, in the Tax Collector's reasonable discretion, independently establish a
19 person or combined group's gross receipts attributable to the City from Cannabis Business Activities
20 and establish or reallocate gross receipts among related entities so as to fairly reflect the gross receipts
21 attributable to the City from Cannabis Business Activities of all persons and combined groups.

1 **SEC. 3008. CONSTRUCTION AND SCOPE OF THE CANNABIS BUSINESS TAX**

2 **ORDINANCE.**

3 (a) This Article 30 is intended to authorize application of the Cannabis Business Tax in the
4 broadest manner consistent with its provisions and with the California Constitution, the United States
5 Constitution, and any other applicable provision of federal or state law.

6 (b) The Cannabis Business Tax imposed by this Article 30 is in addition to all other City taxes,
7 including the gross receipts tax imposed by Article 12-A-1, as amended from time to time. Accordingly,
8 by way of example and not limitation, persons subject to both the Cannabis Business Tax and the gross
9 receipts tax shall pay both taxes. Persons exempt from either the gross receipts tax or the Cannabis
10 Business Tax, but not both, shall pay the tax from which they are not exempt.

11
12 **SEC. 3009. ADMINISTRATION OF THE CANNABIS BUSINESS TAX ORDINANCE.**

13 Except as otherwise provided under this Article 30, the Cannabis Business Tax Ordinance shall
14 be administered pursuant to Article 6 of the Business and Tax Regulations Code, as amended from time
15 to time.

16
17 **SEC. 3010. EXPENDITURE OF PROCEEDS.**

18 Proceeds from the Cannabis Business Tax shall be deposited in the City's General Fund and
19 may be spent for unrestricted general revenue purposes of the City.

20
21 **SEC. 3011. AMENDMENT OF ORDINANCE.**

22 Except as limited in Section 3003(b)(5) and as limited by Article XIII C of the California
23 Constitution, the Board of Supervisors may amend or repeal this Article 30 by ordinance without a vote
24 of the people.

1 **SEC. 3012. EFFECT OF STATE AND FEDERAL AUTHORIZATION.**

2 To the extent that the City's authorization to impose or collect any tax imposed under this
3 Article 30 is expanded or limited as a result of changes in state or federal statutes, regulations, or other
4 laws, or judicial interpretations of those laws, no amendment or modification of this Article shall be
5 required to conform the taxes to those changes, and the taxes are hereby imposed in conformity with
6 those changes and the Tax Collector shall collect them to the full extent of the City's authorization up
7 to the full amount and rate of the taxes imposed under this Article.

8
9 **SEC. 3013. SEVERABILITY.**

10 (a) Except as provided in Section 3013(b), if any section, subsection, sentence, clause, phrase,
11 or word of this Article 30, or the application thereof to any person or circumstance, is for any reason
12 held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision
13 shall not affect the validity of the remaining portions of this Article, including the application of such
14 portions to other persons or circumstances. The People of the City and County of San Francisco
15 hereby declare that, except as provided in Section 3013(b), they would have adopted each section,
16 subsection, sentence, clause, phrase, and word of this Article not declared invalid or unconstitutional
17 without regard to whether any other portion of this Article would be subsequently declared invalid or
18 unconstitutional.

19 (b) If the imposition of the Cannabis Business Tax in Section 3003 is held in its entirety to be
20 facially invalid or unconstitutional in a final court determination, the remainder of this Article 30 shall
21 be void and of no force and effect, and the City Attorney shall cause it to be removed from the Business
22 and Tax Regulations Code.

1 SEC. 3014. SAVINGS CLAUSE.

2 No section, clause, part, or provision of this Article 30 shall be construed as requiring the
3 payment of any tax that would be in violation of the Constitution or laws of the United States or of the
4 Constitution or laws of the State of California.

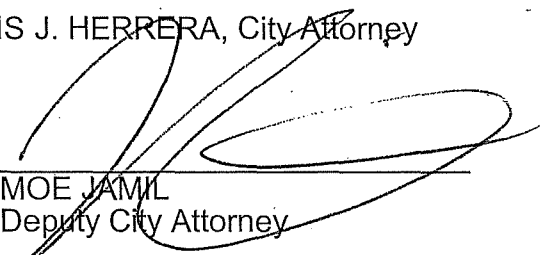
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6 Section 3. Appropriations Limit Increase. Pursuant to California Constitution
7 Article XIII B and applicable laws, for four years from November 6, 2018, the appropriations
8 limit for the City shall be increased by the aggregate sum collected by the levy of the tax
9 imposed under this ordinance.

10
11 Section 4. Effective and Operative Dates. The effective date of this ordinance shall be
12 10 days after the date the official vote count is declared by the Board of Supervisors. This
13 ordinance shall become operative on January 1, 2020.

14
15 APPROVED AS TO FORM:

16 DENNIS J. HERRERA, City Attorney

17
18 By:

19 
20 MOE JAMIL
21 Deputy City Attorney

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LEGISLATIVE DIGEST

(Amended in Committee – Second Draft – 7/12/18)

[Initiative Ordinance - Business and Tax Regulations Code - Additional Gross Receipts Tax on Cannabis]

Motion ordering submitted to the voters, at an election to be held on November 6, 2018, an ordinance amending the Business and Tax Regulations Code to impose an additional gross receipts tax, starting January 1, 2020, on gross receipts from cannabis business activities, but exempting the first \$500,000 of gross receipts and exempting retail sales of medicinal cannabis; said tax for 2020 to be set at a rate of 1%, which will increase in 2021 to between 1% and 5% depending on the type of cannabis business activity and amount of gross receipts, and which may be adjusted at any time within a range of 0% to 7% by an ordinance adopted by a two-thirds vote of the Board of Supervisors for any increase (which is limited to 1% annually) or an ordinance adopted by a majority vote of the Board of Supervisors for any decrease; and increasing the City's appropriations limit by the amount collected under the new tax for four years from November 6, 2018.

Existing Law

Businesses engaged in cannabis business activities currently pay a gross receipts tax under Article 12-A-1 of the Business and Tax Regulations Code. The rates vary based on the type of cannabis business activity and the amount of each business's gross receipts, and range from 0.075% to 0.65%.

Businesses with \$1,000,000 or less in total gross receipts within the City (whether from cannabis business activities or any other line of business), adjusted for inflation, are generally exempt from the gross receipts tax in Article 12-A-1. Certain other businesses (e.g., certain non-profits, banks, insurance companies, etc.) are also exempt.

Amendments to Current Law

Beginning on January 1, 2020, this ordinance would impose an additional gross receipts tax on businesses engaging in cannabis business activities in the City (the "Cannabis Business Tax"). Cannabis business activities means any business activities directly related to cannabis or cannabis products, including but not limited to cultivation, possession, manufacture, processing, storing, labeling, distribution, or sale of cannabis or cannabis products for consideration. Cannabis business activities does not include: (1) business activities indirectly related to cannabis or cannabis products, such as the sale of items that do not themselves contain cannabis; (2) laboratory testing of cannabis, and (3) transportation of cannabis or cannabis products where the person transporting cannabis or cannabis products never takes title to or sells cannabis or cannabis products. Businesses liable for the Cannabis Business Tax would also remain liable for the existing gross receipts tax.

For the tax year commencing on January 1, 2020, the Cannabis Business Tax rate would be 1% for all cannabis business activities. In subsequent years, the Cannabis Business Tax rate would be:

- 2.5% for gross receipts from the retail sale of cannabis or cannabis products up to and including \$1,000,000, and 5% for gross receipts from the retail sale of cannabis or cannabis products above \$1,000,000; and
- 1% for gross receipts from cannabis business activities other than the retail sale of cannabis or cannabis products up to and including \$1,000,000, and 1.5% for gross receipts from cannabis business activities other than the retail sale of cannabis or cannabis products above \$1,000,000.

The ordinance would provide rules for how businesses with gross receipts both from the retail sale of cannabis or cannabis products and from cannabis business activities other than the retail sale of cannabis and cannabis products should calculate their Cannabis Business Tax.

The ordinance would permit the Board of Supervisors, by a vote of at least eight members, to increase any or all of the above tax rates, except that each rate could not exceed 7%. The ordinance would also permit the Board of Supervisors, by a majority vote, to decrease any or all of the above tax rates. Any increase in tax would be limited to 1% annually.

The first \$500,000 of gross receipts from cannabis business activities would be exempt from the Cannabis Business Tax. Businesses with gross receipts both from the retail sale of cannabis or cannabis products and from cannabis business activities other than the retail sale of cannabis and cannabis products would be entitled to only one \$500,000 exemption. Additionally, amounts received from the retail sale of medicinal cannabis would be excluded from the calculation of the Cannabis Business Tax. Certain businesses exempt from the existing gross receipts tax (e.g., certain non-profits, banks, insurance companies, etc.) would also be exempt from the Cannabis Business Tax.

All proceeds from the Cannabis Business Tax would be deposited into the general fund and could be expended for any purposes of the City.

This ordinance would also increase the City's appropriations limit under Article XIII B by the amounts collected from the Cannabis Business Tax, for four years from November 6, 2018.

Background

This digest reflects amendments made at the Budget and Finance Committee on July 12, 2018. The amendments:

- Removed transportation from the definition of Cannabis Business Activities if the person transporting cannabis or cannabis products never takes title to or sells cannabis or cannabis products;
- For the tax year 2020, reduced the Cannabis Business Tax rate from 2% to 1%;
- For subsequent years, reduced the Cannabis Business Tax Rate from 2% to 1% for gross receipts from cannabis business activities other than the retail sale of cannabis or cannabis products up to and including \$1,000,000, and from 3% to 1.5% for gross receipts from cannabis business activities other than the retail sale of cannabis or cannabis products above \$1,000,000;
- Reduced the voting threshold required to decrease the tax from eight members of the Board of Supervisors to a majority of the members of the Board of Supervisors;
- Reduced the maximum rate up to which the Board of Supervisors could increase the tax from 10% to 7%; and
- Limited any increases to the tax rate to 1% annually.

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OFFICE OF THE CONTROLLER
CITY AND COUNTY OF SAN FRANCISCO

Ben Rosenfield
Controller
Todd Rydstrom
Deputy Controller

File # 180629
Received in Committee
7/12/18
JR

MEMORANDUM

TO: Supervisor Malia Cohen
FROM: Ted Egan, Chief Economist
DATE: July 11, 2018
SUBJECT: Additional Gross Receipts Tax on Cannabis: Impact on the Industry

On July 2nd, our office determined that the proposed additional Gross Receipts Tax on cannabis products would not require an economic impact report, because of the relatively small amount of revenue that it would raise. Subsequently, your office indicated an interest in understanding how it would affect cannabis retailers, and whether it would severely undermine this emerging industry. This brief memo summarizes what we know about this question.

The tax will clearly have some adverse impact on the cannabis industry, but whether it would lead to an actual contraction depends on two main factors. Firstly, the industry's rate of growth since the legalization of recreational cannabis could potentially sustain profits, even in the face of a new Gross Receipts tax. This would particularly be true if legalization was not accompanied by new businesses entering the industry, as that would tend to increase competition and lower prices and profit margins.

Secondly, if the tax could be passed on to consumers in the form of higher prices, that would also protect the profit margins of retailers and other cannabis sellers.

Based on recent sales tax data, and existing research on cannabis consumption, we have some information that speaks to these two questions. We have recently obtained San Francisco sales tax filings for the first quarter of 2018, which covers the first three months that recreational cannabis sales were legal. The data shows a 25% growth in revenue for sellers of cannabis products, between the January-March of 2017, and January-March of 2018.

2 | Additional Gross Receipts Tax on Cannabis: Impact on the Industry

With this data, we are unable to determine how much of this 25% growth in revenue since January 1 is due to higher retail prices, and how much is due to higher consumption. The data does show that none of the sales occurred at businesses that started in 2018. This absence of new entrants into the market suggests that at least some of the growth in revenue is due to higher retail prices. It also seems unlikely that the market for recreational cannabis products has fully developed as of the first quarter of this year, and that more growth can be expected in the future. If just one-quarter of the observed growth in industry revenue in the past year is due to price increases, then the industry could readily absorb a 2-5% gross receipts tax without reducing effective prices below the 2017 level.

In terms of the ability of businesses to pass the tax on to consumers, the consensus from existing research into cannabis consumption seems to be that consumers are relatively price-insensitive. This generally means that some pass-through is feasible. While this tax would of course not apply in other cities, and this could make San Francisco sellers less competitive, many nearby cities are also either considering similar taxes, or restricting cannabis sales entirely. For this reason, we think the tax is unlikely to lead to a significant leakage of retail cannabis product sales. A conservative assumption would be that one-half of the tax would be passed-through to consumers, in the form of higher prices. This means that a 2-5% tax would feel a 1% – 2.5% tax to businesses.

To summarize, both because of the rapid growth of the industry, and the ability to pass some of the tax through to consumers, it seems unlikely that the proposed tax would lead to a contraction of the cannabis products industry in San Francisco.



OFFICE OF THE CONTROLLER
CITY AND COUNTY OF SAN FRANCISCO

Ben Rosenfield
Controller

Todd Rydstrom
Deputy Controller

Ms. Angela Calvillo
Clerk of the Board of Supervisors
1 Dr. Carlton B. Goodlett Place Room 244
San Francisco, CA 94102-4689

July 3, 2018

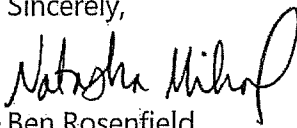
RE: File 180629 - Ordinance amending the Business Tax & Regulations Code – Additional gross receipts tax on cannabis

Dear Ms. Calvillo,

Should this ordinance be approved, in my opinion, it would result in an annual tax revenue increase to the City of between \$0.5 million and \$1.5 million in fiscal year FY 2019-2020, between \$3 million and \$7 million in FY 2020-21, and between \$5 million and \$12 million annually beginning in FY 2021-22. The tax is a general tax and proceeds would be deposited into the General Fund.

The measure would amend the City's Business Tax and Regulations Code to impose a cannabis business tax rate of two percent for all cannabis business activities, but exempting the first \$500,000 of gross receipts and exempting retail sales of medicinal cannabis, beginning on January 1, 2020. The tax rate will increase in 2021 to between two percent and five percent depending on the type of cannabis business activity and amount of a business's gross receipts, which may be adjusted at any time within a range of zero percent to ten percent by ordinance adopted by a two-thirds vote of the Board of Supervisors.

Sincerely,


for Ben Rosenfield
Controller

Note: This analysis reflects our understanding of the proposal as of the date shown. At times further information is provided to us which may result in revisions being made to this analysis before the final Controller's statement appears in the Voter Information

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

June 12, 2018

File No. 180629

Lisa Gibson
Environmental Review Officer
Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Dear Ms. Gibson:


On June 5, 2018, Supervisor Cohen introduced legislation for the following proposed Initiative Ordinance for the November 6, 2018, Election:

File No. 180629

Motion ordering submitted to the voters, at an election to be held on November 6, 2018, an Ordinance amending the Business and Tax Regulations Code to impose an additional gross receipts tax, starting January 1, 2020, on gross receipts from cannabis business activities, but exempting the first \$500,000 of gross receipts and exempting retail sales of medicinal cannabis; said tax for 2020 to be set at a rate of 2%, which will increase in 2021 to between 2% and 5% depending on the type of cannabis business activity and amount of gross receipts, and which may be adjusted at any time within a range of 0% to 10% by Ordinance adopted by a two-thirds vote of the Board of Supervisors; and increasing the City's appropriations limit by the amount collected under the new tax for four years from November 6, 2018.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

for By: 
Linda Wong, Assistant Clerk
Budget and Finance Committee

Attachment

c: Joy Navarrete, Environmental Planner
Laura Lynch, Environmental Planner


BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Ben Rosenfield, City Controller, Office of the Controller

FROM:  Linda Wong, Assistant Clerk, Budget and Finance Committee
Board of Supervisors

DATE: June 12, 2018

SUBJECT: INITIATIVE ORDINANCE INTRODUCED
November 6, 2018 Election

The Board of Supervisors' Budget and Finance Committee has received the following Initiative Ordinance for the November 6, 2018, Election, introduced by Supervisor Cohen on June 5, 2018. This matter is being referred to you in accordance with Rules of Order 2.22.4.

File No. 180629

Motion ordering submitted to the voters, at an election to be held on November 6, 2018, an Ordinance amending the Business and Tax Regulations Code to impose an additional gross receipts tax, starting January 1, 2020, on gross receipts from cannabis business activities, but exempting the first \$500,000 of gross receipts and exempting retail sales of medicinal cannabis; said tax for 2020 to be set at a rate of 2%, which will increase in 2021 to between 2% and 5% depending on the type of cannabis business activity and amount of gross receipts, and which may be adjusted at any time within a range of 0% to 10% by Ordinance adopted by a two-thirds vote of the Board of Supervisors; and increasing the City's appropriations limit by the amount collected under the new tax for four years from November 6, 2018.

Please review and prepare a financial analysis of the proposed measure prior to the first Budget and Finance Committee hearing.

If you have any questions or concerns, please call me at (415) 554-7719 or email: linda.wong@sfgov.org. To submit documentation, please forward to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Todd Rydstrom, Deputy City Controller
Peg Stevenson, City Performance Director

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Small Business Commission, City Hall, Room 448

FROM:  Linda Wong, Assistant Clerk
Budget and Finance Committee

DATE: June 12, 2018

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Budget and Finance Committee

The Board of Supervisors' Budget and Finance Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 180629

Motion ordering submitted to the voters, at an election to be held on November 6, 2018, an Ordinance amending the Business and Tax Regulations Code to impose an additional gross receipts tax, starting January 1, 2020, on gross receipts from cannabis business activities, but exempting the first \$500,000 of gross receipts and exempting retail sales of medicinal cannabis; said tax for 2020 to be set at a rate of 2%, which will increase in 2021 to between 2% and 5% depending on the type of cannabis business activity and amount of gross receipts, and which may be adjusted at any time within a range of 0% to 10% by Ordinance adopted by a two-thirds vote of the Board of Supervisors; and increasing the City's appropriations limit by the amount collected under the new tax for four years from November 6, 2018.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

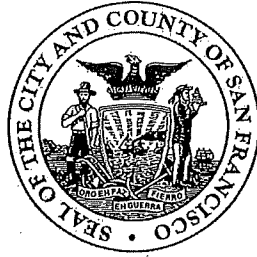
RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

No Comment

Recommendation Attached

Chairperson, Small Business Commission

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

June 12, 2018

File No. 180629

Lisa Gibson
Environmental Review Officer
Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Dear Ms. Gibson:

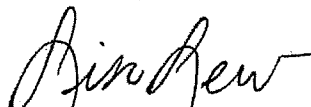
On June 5, 2018, Supervisor Cohen introduced legislation for the following proposed Initiative Ordinance for the November 6, 2018, Election:

File No. 180629

Motion ordering submitted to the voters, at an election to be held on November 6, 2018, an Ordinance amending the Business and Tax Regulations Code to impose an additional gross receipts tax, starting January 1, 2020, on gross receipts from cannabis business activities, but exempting the first \$500,000 of gross receipts and exempting retail sales of medicinal cannabis; said tax for 2020 to be set at a rate of 2%, which will increase in 2021 to between 2% and 5% depending on the type of cannabis business activity and amount of gross receipts, and which may be adjusted at any time within a range of 0% to 10% by Ordinance adopted by a two-thirds vote of the Board of Supervisors; and increasing the City's appropriations limit by the amount collected under the new tax for four years from November 6, 2018.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

for By: 
Linda Wong, Assistant Clerk
Budget and Finance Committee

Attachment

c: Joy Navarrete, Environmental Planner
Laura Lynch, Environmental Planner

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it does not result in a direct or reasonably foreseeable physical change in the environment.

Joy Navarrete

Digitally signed by Joy Navarrete
DN: cn=Joy Navarrete, o=Planning,
ou=Environmental Planning,
email=joy.navarrete@sfgov.org, c=US
Date: 2018.07.03 17:04:17 -07'00


BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Andres Power, Liaison to the Board of Supervisors, Mayor's Office
Jon Givner, Deputy City Attorney, Office of the City Attorney
John Arntz, Director, Department of Elections
LeeAnn Pelham, Executive Director, Ethics Commission
Naomi Kelly, City Administrator, Office of the City Administrator
Jose Cisneros, Treasurer, Office of the Treasurer & Tax Collector
Nicole Elliott, Director, Office of Cannabis

FROM:  Linda Wong, Assistant Clerk, Budget and Finance Committee
Board of Supervisors

DATE: June 12, 2018

SUBJECT: INITIATIVE ORDINANCE INTRODUCED
November 6, 2018 Election

The Board of Supervisors' Budget and Finance Committee has received the following Initiative Ordinance for the November 6, 2018, Election, introduced by Supervisor Cohen on June 5, 2018. This matter is being referred to you in accordance with Rules of Order 2.22.4.

File No. 180629

Motion ordering submitted to the voters, at an election to be held on November 6, 2018, an Ordinance amending the Business and Tax Regulations Code to impose an additional gross receipts tax, starting January 1, 2020, on gross receipts from cannabis business activities, but exempting the first \$500,000 of gross receipts and exempting retail sales of medicinal cannabis; said tax for 2020 to be set at a rate of 2%, which will increase in 2021 to between 2% and 5% depending on the type of cannabis business activity and amount of gross receipts, and which may be adjusted at any time within a range of 0% to 10% by Ordinance adopted by a two-thirds vote of the Board of Supervisors; and increasing the City's appropriations limit by the amount collected under the new tax for four years from November 6, 2018.

Please review and submit any reports or comments you wish to be included with the legislative file.

If you have any questions or concerns, please call me at (415) 554-7719 or email: linda.wong@sfgov.org. To submit documentation, please forward to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

- c: Shahde Tavakoli, Mayor's Office
- Kyle Kundert, Ethics Commission
- Lynn Khaw, Office of the City Administrator
- Lihmeei Leu, Office of the City Administrator
- Amanda Kahn Fried, Office of the Treasurer & Tax Collector
- Ray Law, Office of Cannabis

Print Form

Introduction Form

By a Member of the Board of Supervisors or Mayor

RECEIVED
 BOARD OF SUPERVISORS
 SAN FRANCISCO
 2018 JUN -5 PM 3:17
 BY _____
 Time stamp SB
 or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Topic submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Cohen

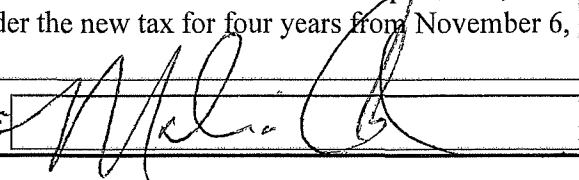
Subject:

[Initiative Ordinance - Business and Tax Regulations Code - Additional Gross Receipts Tax on Cannabis]

The text is listed:

Motion ordering submitted to the voters, at an election to be held on November 6, 2018, an ordinance amending the Business and Tax Regulations Code to impose an additional gross receipts tax, starting January 1, 2020, on gross receipts from cannabis business activities, but exempting the first \$500,000 of gross receipts and exempting retail sales of medicinal cannabis; said tax for 2020 to be set at a rate of 2%, which will increase in 2021 to between 2% and 5% depending on the type of cannabis business activity and amount of gross receipts, and which may be adjusted at any time within a range of 0% to 10% by ordinance adopted by a two-thirds vote of the Board of Supervisors; and increasing the City's appropriations limit by the amount collected under the new tax for four years from November 6, 2018.

Signature of Sponsoring Supervisor



For Clerk's Use Only

10201

Wong, Linda (BOS)

From: Board of Supervisors, (BOS)
Sent: Friday, July 06, 2018 12:34 PM
To: Somera, Alisa (BOS); Wong, Linda (BOS)
Subject: FW: Local Cannabis Taxation in San Francisco
Attachments: CTF letter to BoS --Taxation -- 7.2.18.pdf

For File No. 180629.

From: Calvillo, Angela (BOS)
Sent: Tuesday, July 03, 2018 11:50 AM
To: Mchugh, Eileen (BOS) <eileen.e.mchugh@sfgov.org>
Subject: FW: Local Cannabis Taxation in San Francisco

From: Tim Morrison [<mailto:tmorrison@harderco.com>]
Sent: Monday, July 02, 2018 5:00 PM
To: BOS-Supervisors <bos-supervisors@sfgov.org>; BOS-Legislative Aides <bos-legislative_aides@sfgov.org>; BOS-Everyone <bos-everyone@sfgov.org>
Cc: DPH - terrance <terrance@sequelmedia.com>; DPH - jen.garcia7 <jen.garcia7@yahoo.com>; DPH - sara2 <sara@sarapayan.com>; Elliott, Nicole (ADM) <nicole.elliott@sfgov.org>; DPH - mmagee <mmagee@harderco.com>
Subject: Local Cannabis Taxation in San Francisco

Dear Mayor-Elect Breed and Honorable Members of the San Francisco Board of Supervisors:

On behalf of the San Francisco Cannabis State Legalization Task Force, please find a letter attached outlining the Task Force's six recommendations regarding local cannabis taxation.

Should your offices have any questions about this letter, please do not hesitate to reach out to any of the Chair, Co-Chairs or Nicole Elliott at Nicole.Elliott@sfgov.org or 415-554-4684.

Sincerely,
Tim Morrison
Task Force co-facilitator

CC: Terrance Alan, Task Force Chair, Seat 19
Jennifer Garcia, Task Force Co-Chair, Seat 20
Sara Payan, Task Force Co-Chair, Seat 12
Nicole Elliott, Director, Office of Cannabis
Michelle Magee, Harder+Company Community Research, Task Force Facilitator

Tim Morrison, MPP | Research Associate
Harder+Company Community Research
299 Kansas Street, San Francisco, CA 94103
(415) 522-5400 | www.harderco.com | @HarderCo

San Francisco Cannabis State Legalization Task Force

Terrance Alan, Chair | Seat 19: Individual working in entertainment or nightlife industry

Jennifer Garcia, Co-Chair | Seat 20: Labor union representative for cannabis industry

Sara Payan, Co-Chair | Seat 12: Individual who uses cannabis, with at least 2 years' cannabis legislative advocacy experience

July 2, 2018

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

Re: Local Cannabis Taxation in San Francisco

Dear Mayor-Elect Breed and Supervisors:

Between April and June 2018, the Cannabis Task Force discussed local cannabis taxation through the lens of our guiding principles to: (1) promote health and safety and design policy options that reduce youth exposure and access to cannabis; (2) rely upon sound, evidence-based or experiential information and data, and (3) design policy options that seek to reduce the illicit market. As a result of our deliberations and our guiding principles, we offer the following recommendations:

- 1. Tax rate:** If San Francisco decides to implement local adult use cannabis taxes, the City should consider a 0 to 3% tax at the point of sale. The State has imposed a 15% excise tax on adult use cannabis. Therefore, the local point of sale tax should not exceed 3%, to prevent consumers from purchasing from the illicit market due to taxes that are perceived to be too high.
- 2. Collection mechanism:** Given that the cannabis industry currently operates primarily on a cash-only basis, San Francisco's Office of the Treasurer and Tax Collector should create a mechanism to collect local cannabis taxes locally.
- 3. Compassion incentives:** San Francisco should provide incentives (e.g. tax and licensing incentives) to cannabis organizations that provide compassion programs.
- 4. Employment incentives:** Provide employer financial incentives for hiring populations impacted by the war on drugs (e.g., fee discounts and tax breaks, such as Enterprise zone tax credit, payroll/gross receipt tax)
- 5. Data collection:** San Francisco should use an evidence-based approach to inform future adult use cannabis tax policies and legislation. The City should engage key stakeholders to identify and collect appropriate data points to assess the impact of cannabis legalization.
- 6. Revenue allocation:** San Francisco should consider allocating its local adult use cannabis tax revenue towards the City's local regulatory, policy, and programmatic goals with respect to cannabis legalization. Allocation of funds shall be directed towards community identified priorities including, but not limited to:
 - Workforce development
 - Entrepreneurial opportunity fund and reinvestment fund
 - Education, counseling and treatment services for students and youth directed towards substance use/abuse programs that emerge from cannabis legalization
 - General education and city college education
 - Education and training for formerly incarcerated persons

Thank you for your consideration, and please feel free to contact us with any concerns, comments or questions. We look forward to working closely with you to establish an environment where consumers, patients, and workers can thrive in San Francisco's regulated cannabis industry.

Sincerely,

Terrance Alan, Seat #19 & Chair - terrance@sequelmedia.com

Sara Payan, Seat #12 & Co-chair - sara@sarapayan.com

Jennifer Garcia, Seat #20 & Co-chair - jen.garcia7@yahoo.com

San Francisco Cannabis State Legalization Task Force

CC: Nicole Elliott, Director, Office of Cannabis, nicole.elliott@sfgov.org

