

LEGISLATIVE DIGEST

[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 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.

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, transporting, 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; and (2) laboratory testing of cannabis. 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 2% 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
- 2% 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 3% 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 adjust any or all of the above tax rates upwards or downwards, except that each rate could not exceed 10%.

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.

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