



CANNABIS PROGRAM
MONTEREY COUNTY

Board of Supervisors
Agenda Item No. 22-623
June 21, 2022

Cannabis Industry Concerns

- Program received multiple messages regarding operator inability to pay taxes by July 31, 2022.
 - This was reinforced by operators during the monthly industry meeting.
- Due to urgency, staff received approval to bypass Cannabis and Budget Committee.
- This situation could have immediate and resounding impacts, including:
 - Collection of cannabis business tax.
 - Related impacts to current FY and future County budgets.
 - Viability of local cannabis industry.
 - Completion of infrastructure improvements
 - Workforce reductions.
- To assess and address this situation, staff has met several times with CAO executive management, County Counsel, the Budget Office, and the Treasurer-Tax Collector/

Consequences of Delinquency

Monterey County Code section 7.100.080:

“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 received by the Treasurer-Tax Collector on or before the due date as specified in Sections 7.100.060 and 7.100.070.”

Monterey County Code section 7.90.100(A)(21):

“A permittee shall not be delinquent in the payment of all applicable state taxes and fees, County taxes and fees, and other local agencies’ taxes and fees.

Monterey County Code section 7.90.130(G):

“Failure to pay all applicable taxes and fees required by the state, County, or other local agencies.

“Good Standing Criteria states:

“The subject property and business must be current on all applicable taxes.”

Guidelines for Cannabis Business Tax Payments

- The Cannabis Business Tax is an annual tax, due and payable in quarterly installments.
- Operators may make partial payments of the annual tax at any time during fiscal year.
- Quarterly installments must be paid by their respective due dates:
 - October 31st
 - January 31st
 - April 30th
 - July 31st
- Penalties and interest accrue on delinquent amounts due until paid in full.

Concerns for Provisional Cannabis Business Permit (PCBP)

- Good Standing as it relates to the Provisional Cannabis Business Permit.
- Commercial cannabis tax delinquency including the local fire tax.
 - Monterey County Regional Fire District commercial cannabis tax.
 - 58% delinquency rate, with 3 operators on payment plans.
- Delinquent operators would be operating without County authority.
 - This would make them subject to immediate shutdowns.
- Board may consider directing staff to amend Good Standing criteria to avoid shutdowns with the following to consider.
 - Allowing businesses to operate while delinquent removes incentive to resolve.
 - Could be perceived as inequitable to operators who timely pay their taxes.

Actions of outside jurisdictions to assist cannabis operators

- Sonoma County promulgated rules to create a payment plan process.
- Santa Cruz County has not denied or suspended licenses for nonpayment of taxes.
 - Issued conditional annual licenses, which require payment within three months.
 - Denied sale-related license transfers until taxes are paid in full.
 - Set up payment plans for delinquent operators.
- Santa Barbara County has informed DCC of non-payment or non-reporting.
 - TTC is in process of setting up financial monitoring and auditing for operators.

Outstanding Cannabis Business Tax Overview by Fiscal Year

Fiscal Year	Amount Tax Delinquent	Postponement of Tax Estimated Amount Due	Q4 Tax Estimated Amount Due	Total Estimated Amount
FY 21, Q3 and Q4	\$415,613			\$415,613
FY 22, Q1	\$1,599,257			\$1,599,257
FY 22, Q2 and Q3		\$4,182,362		\$4,182,362
FY 22, Q4			\$2,711,772	\$2,711,772
Total	\$2,014,870	\$4,182,362	\$2,711,772	\$8,909,004

FY 21-22 Cannabis Business Tax Revenue collected to date: \$6,816,355.

Depending on delinquency, there may be impacts to FY 21-22 and FY 22-23 budgets.

Budget Impacts

“Any commercial cannabis business tax delinquency not received by August 31, 2022 will have a direct impact on the FY 2021-22 budget. For example, if \$5 million are delinquent by that date, the general fund will have a funding gap of \$5 million. Actual impacts will vary due to the degree of uncertainty with the industry and its ability to operate for the current and future fiscal years.”

- Current FY impacts.
- Future impacts to the County budgets.

Local outcomes of market downturn

- Cannabis Program Monthly Memo – May 2022
 - Reported closure of 24 operations since 2019.
 - 1 additional operation has closed.
- Research findings on Cannabis-related businesses.
 - May fail for a variety of reasons:
 - They no longer have the financial means to continue operating at a loss.
 - Their business plans are overextended, due to rapid growth and/or expansion.
 - They are not in compliance with local and state taxes.
 - Taxes should be treated similarly to a fixed cost in their business plans.

Options for Consideration

<p>#1</p> <p>Refer to Cannabis Committee</p>	<p>#2</p> <p>Retain existing process and monitor delinquency</p>	<p>#3</p> <p>Retain existing process and pursue business closures for delinquent operators</p>	<p>#4</p> <p>Retain existing process and establish moratorium period for delinquent operators</p>	<p>#5</p> <p>Adopt ordinance to retroactively reduce tax rate for Q2, Q3, and Q4 of FY 21-22</p>
<p>Cannabis Committee Scheduled for July 7, 2022.</p> <p>Proceed to Budget Committee on July 27, 2022, based on staff direction.</p>	<p>Return to Board with outcomes of operator delinquency in August 2022 for next steps.</p>	<p>Applicable to operators who remain delinquent after August 2, 2022.</p> <p>Board may consider a threshold for delinquency that considers duration of delinquency.</p>	<p>Allow permittee to finish harvests, cease operations, and last opportunity to resolve delinquency by a date certain.</p>	<p>Amount TBD by Board, who may direct staff to determine rate that would avoid refunds.</p> <p>Equitable to those who paid in Q2 and Q3.</p> <p>Does not directly prevent delinquency.</p>



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Questions