



County of Nevada
Office of the Treasurer & Tax Collector

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NEVADA COUNTY BOARD OF SUPERVISORS
Board Agenda Memo

MEETING DATE: May 9, 2023

TO: Board of Supervisors

FROM: Tina Vernon, Treasurer & Tax Collector

SUBJECT: (Waive further reading/Adopt) an Ordinance Amending Article 8 of Chapter V of the General Code of the County of Nevada regarding the Cannabis Business Tax. (4/5ths affirmative vote required)

RECOMMENDATION:

Adopt the proposed Ordinance

FUNDING: Not applicable

BACKGROUND:

A Cannabis Business Tax Measure (Measure G) was placed on the November 6, 2018, ballot and was passed by the voters with over 75% approval. On December 11, 2018, the Board adopted Ordinance 2456, effective January 1, 2019, which added Article 8 to Chapter V of the Nevada County General Code and established a commercial cannabis tax. This ordinance set forth:

- A general tax with maximums for each collection methodology
- Set an initial tax rate of 2.5% on gross receipts frozen until July 1, 2021, and placed a set minimum to be paid based on square footage of permitted cannabis business
- Set maximum rates for each tax structure
- Provided BOS flexibility to adapt to changing legislation and industry needs by allowing the flexibility in the ordinance to adopt other methods and tax rates
- Provided BOS discretion to exempt or accept other business types
- Provided collection tools to the tax collector and code enforcement for successful collection and enforcement
- Provided the cannabis industry with collection processes, including registration and remitting, appeal and audit processes

- Imposed a 10% penalty for nonpayment or not timely payment of taxes with interest of 1.5% per month and gave the tax collector the authority to place liens or recommend a license to be revoked for non-payment.
- Exempted from tax any compassion care cultivation and personal use.

Since January 1, 2019, the Tax Collector has collected over \$1M in Cannabis taxes from approximately 200 legal cannabis businesses. Over the last two years, the industry has suffered, and tax collection has declined. In addition, there have been challenges for the County and businesses alike with the current gross receipts methodology. Some of the challenges include risk for inaccurate reporting of gross receipts with no validation of sales, and the inability to effectively budget as sales are reactive to changing market conditions and hard for the County and businesses alike to project gross receipts.

To eliminate some of these challenges associated with the gross receipts reporting method, we are proposing a change in how these taxes are collected and recommend that we collect by square footage. We looked at the pros and cons of collecting by a square footage methodology and presented these findings at the 2022 Board of Supervisors Workshop. At that time, we were given direction to bring forward these changes at a future meeting. In order to best project the new proposed square footage rate, we postponed the process until we were aware of the changes that were being made in the Cannabis Ordinance. Before you today are the recommended amendments to the Cannabis Tax Ordinance 2456 which take into account the amendments adopted in the January 2023 Cannabis Ordinance. These proposed tax ordinance amendments include:

- A change in the methodology moving from gross receipt to square footage.
- Clarification of the annual set minimums as they apply to gross receipts or gross weight with adjustments for disaster related situations.
- Implementation of a two-tiered rate structure, setting rates a \$0.16/sq.ft. of outdoor/mixed light 1 (ML1) and \$0.32/sq.ft. of indoor/mixed light 2 (ML2) resulting in an estimated \$316K in revenue annually.
- Changes to a handful of definitions to clarify meaning and intent.
- The ability to pay in two (2) equal installments for square footage methodology.

We believe that the benefits of making this change will include:

- More stable budgeting for County and Businesses - as businesses will know exactly what they are expected to pay pre-harvest and the County will know what revenue to expect. This also increases the financial viability for the County to operate the program long-term due to consistency of revenues.
- Reduction in revenue volatility due to changing market conditions - in good times businesses can net more, in bad times they might net less but this can be stabilized by adjusting square footage rates, either up or down

- Improvement in the collection of revenues, placing collection of revenues pre-harvest, rather than post-harvest.

The starting rates per square foot of \$0.16 and \$0.32 presented in the ordinance were derived to meet the demands on the County to operate a legal cannabis program and were adjusted to equate to roughly the 2.54% of gross receipts currently collected or \$316K annually. These estimates are conservative and are based on current number of active businesses and their self-reported square footage amounts and growing cycles. These estimates do not take into account any future increases in maximum square footage (up to 40,000 square feet) as allowed by the newest adopted cannabis ordinance as these changes are unknown at this time. In addition, these estimates do not consider revenues that will be generated by added retail, manufacturing, distribution, and microbusiness operations which will continue to be taxed at the gross receipt methodology and rate specified in the ordinance. The Amended ordinance before you today will become effective immediately upon its adoption, but the new tax rates and methodology will become effective as of July 1, 2023.

At the April 25, 2023 Board of Supervisors meeting this ordinance was introduced and recommended for approval. Staff recommends that the Board of Supervisors waive further reading and adopt the Ordinance with the amendments discussed at the previous meeting.

Initiated and Approved by: Tina Vernon, Treasurer & Tax Collector

Submittal Date: April 26, 2023