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15 Attorneys for the Plaintiffs

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18 **UNITED STATES DISTRICT COURT**
19
20 **NORTHERN DISTRICT OF CALIFORNIA**

21 ANN MARIE BORGES and CHRIS GURR,
22 individually and doing business as GOOSE
23 HEAD VALLEY FARMS,

24 Plaintiffs,

25 v.

26 COUNTY OF MENDOCINO, SUE
27 ANZILOTTI and Does 1 – 25 inclusive,

28 Defendants.

Case No. 3:20-cv-04537-SI

**PLAINTIFFS' REQUEST FOR JUDICIAL
NOTICE IN SUPPORT OF PLAINTIFFS'
OPPOSITION TO DEFENDANT COUNTY
OF MENDOCINO'S MOTION TO DISMISS**

Date: September 25, 2020
Time: 9:00 a.m.
Ctrm: 1, 17th Floor, 450 Golden Gate Avenue,
San Francisco, CA
Judge: The Honorable Susan Illston

1 TO: DEFENDANT COUNTY OF MENDOCINO, and their attorneys CHRISTIAN M. CURTIS
2 and BRINA ANNA BLANTON.

3 Pursuant to Rule 201(b) of the Federal Rules of Evidence, Plaintiffs Ann Marie Borges
4 and Chris Gurr requests judicial notice of the following:

5
6 1. The California Department of Tax and Fee Administration Reports Cannabis Tax
7 Revenues for the Second Quarter of 2019, dated August 22, 2019. A true and correct copy is
8 attached as Exhibit A.

9 2. The California Department of Tax and Fee Administration's Tax Guide for
10 Cannabis Business, dated August 24, 2020. A true and correct copy is attached as Exhibit B.

11 Dated: August 27, 2020

SCOTT LAW FIRM

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15 By: /s/ John Houston Scott
16 Attorney for Plaintiffs
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Exhibit A

News Release

For Immediate Release

August 22, 2019

NR 19-19

Contact: Casey Wells

Office of Public Affairs

916-327-8988

California Department of Tax and Fee Administration Reports Cannabis Tax Revenues for the Second Quarter of 2019

Sacramento – The California Department of Tax and Fee Administration (CDTFA) reported revenue numbers today for cannabis sales for the 2nd quarter of 2019. As of August 16, 2019, California's cannabis excise tax generated \$74.2 million in revenue reported on the 2nd quarter 2019 returns due by July 31, 2019, and the cultivation tax generated \$22.6 million.

Sales tax from cannabis businesses totaled \$47.4 million in reported revenue for the same period. Retail sales of medicinal cannabis and medicinal cannabis products are exempt from sales and use taxes when the purchaser provides a valid Medical Marijuana Identification card and valid government-issued identification card. Sales taxes apply to sales of cannabis and other tangible personal property.

Total tax revenue reported by the cannabis industry is \$144.2 million for 2nd quarter returns due by July 31, 2019. This does not include tax revenue collected by each jurisdiction. Previously reported revenue for 1st quarter 2019 returns was revised to \$120.8 million, which included \$63.1 million in excise tax, \$17.1 million in cultivation tax, and \$40.6 million in sales tax. Revisions to quarterly data are the result of amended and late returns, and other tax return adjustments.

In November 2016, California voters approved Proposition 64, *the Control, Regulate, and Tax Adult Use of Marijuana Act*. Beginning on January 1, 2018, two new cannabis taxes went into effect: a cultivation tax on all harvested cannabis that enters the commercial market and a 15 percent excise tax upon purchasers of cannabis and cannabis products. In addition, retail sales of cannabis and cannabis products are subject to state and local sales tax.

To learn more, visit the [Tax Guide for Cannabis Businesses \(www.cdtfa.ca.gov/industry/cannabis.htm\)](http://www.cdtfa.ca.gov/industry/cannabis.htm) on the CDTFA website.

The California Department of Tax and Fee Administration (CDTFA) administers California's sales and use, fuel, tobacco, alcohol, and cannabis taxes, as well as a variety of other taxes and fees that fund specific state programs. CDTFA-administered programs account for over \$70 billion annually which in turn supports local essential services such as transportation, public safety and health, libraries, schools, social services, and natural resource management programs through the distribution of tax dollars going directly to local communities.

Exhibit B

Tax Guide for Cannabis Businesses

We will update this page as we receive information about the taxation requirements for the cannabis industry – please check back.

Please note: This guide is intended to provide general information regarding issues relating to the Sales and Use Tax Laws, Cannabis Tax Law, and other programs administered by the California Department of Tax and Fee Administration (CDTFA) which may affect cannabis businesses. It is not intended to provide advice or guidance related to other state and local statutes and regulations relating to the cannabis industry. Additionally, for the Federal Government's guidance regarding marijuana enforcement, refer to the [U.S. Department of Justice website \(https://www.justice.gov\)](https://www.justice.gov).

New Information

Mark-up Rate Update – The CDTFA has determined the mark-up rate will remain at 80 percent for the remainder of 2020. The CDTFA is responsible for determining a mark-up rate every six months. The mark-up rate must be used by distributors to compute the Average Market Price of cannabis or cannabis products sold or transferred to a cannabis retailer in an arm's length transaction. Current cannabis tax rates are posted on the [Special Taxes and Fees Rate webpage \(www.cdtfa.ca.gov/taxes-and-fees/tax-rates-stfd.htm\)](http://www.cdtfa.ca.gov/taxes-and-fees/tax-rates-stfd.htm) under [Cannabis Taxes \(www.cdtfa.ca.gov/taxes-and-fees/tax-rates-stfd.htm#cannabis\)](http://www.cdtfa.ca.gov/taxes-and-fees/tax-rates-stfd.htm#cannabis).

Sign up for the CDTFA [Cannabis Outreach \(www.cdtfa.ca.gov/subscribe/cannabis.aspx\)](http://www.cdtfa.ca.gov/subscribe/cannabis.aspx) email listserv to receive the latest news on cannabis tax compliance and related issues like CDTFA-issued special notices and news releases.

Helping your business succeed is important to the CDTFA. To help you better understand the tax obligations specific to your cannabis business, we have created this guide detailing the tax issues and important information relevant to your industry.

How to Use This Guide

Each section of this guide contains important information relevant to cannabis businesses. The [Getting Started \(#Started\)](#) section provides key resources related to

registration, filing returns, account maintenance, and other information cannabis business may need.

The [Distributors \(#Distributors\)](#) section covers topics related to the general application of tax to purchases and sales by distributors.



The [Retailers \(#Retailers\)](#) section covers topics related to the general application of tax to purchases and sales by retailers. It also has information on exemptions that retailers may qualify for and the exemption certificates required.

The [Cultivators \(#Cultivators\)](#) section covers topics related to the general application of tax to cultivators and processors, the available exemptions and the exemption certificates required.

The [Manufacturers \(#Manufacturers\)](#) section covers topics related to the general application of tax to purchases and sales by manufacturers.

The [Videos \(#Videos\)](#) section contains videos with important information for cannabis retailers, distributors, cultivators, and manufacturers.

The [Tax Facts \(#Facts\)](#) section provides information on specific topics important to the cannabis industry.

Lastly, the [Resources \(#Resources\)](#) section provides links to useful information, including special notices web-based seminars, publications, statutory and regulatory information, and access to assistance from our Customer Service Representatives.

Please note that the general information provided is not intended to replace any law or regulation. This website summarizes the law and applicable regulations in effect when it was published. However, changes in the law or regulations may have occurred. If there is a conflict between this document and the law, decisions will be based on the law.

Get it in Writing

Our tax and fee laws can be complex and difficult to understand. If you have specific questions regarding this topic, we recommend that you get answers in writing from us. This will enable us to give you the best advice and will protect you from tax, penalties and interest in case we give you erroneous information.

Requests for written advice can be [emailed \(www.cdtfa.ca.gov/email\)](mailto:www.cdtfa.ca.gov/email) to CDTFA or mailed directly to the [CDTFA office \(www.cdtfa.ca.gov/office-locations.htm\)](http://www.cdtfa.ca.gov/office-locations.htm) nearest you.

For more details, please see [publication 8, *Get It in Writing!*](#)
(www.cdtfa.ca.gov/formspubs/ctdfa8.pdf)

If You Need Help

If at any time you need assistance with topics included in this guide – or with topics not included – feel free to contact us by telephone or email. Contact information and hours of operation are available in the [Resources \(#Resources\)](#) section.

If you have suggestions for improving this guide, please [contact us via email](#)
([mailto:BTFD-AIS.IndustryGuides@cdtfa.ca.gov?subject=Tax Guide for Cannabis Businesses](mailto:BTFD-AIS.IndustryGuides@cdtfa.ca.gov?subject=Tax%20Guide%20for%20Cannabis%20Businesses)).

Free Educational Consultations

If you are starting a new business, or have tax-related questions, CDTFA staff is available to meet with you at your business location to provide a personal consultation to help you correctly report and pay your sales and use taxes. To participate, or for more information, please contact your [local office](#) (www.cdtfa.ca.gov/office-locations.htm) today to schedule an appointment.

We will update this page as we receive information about the taxation requirements for the cannabis industry – please check back.

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If you own a business in California that sells cannabis and/or cannabis products, you must register with the CDTFA for a seller's permit and regularly file sales and use tax returns. In addition to a seller's permit, if you are a distributor, or microbusiness licensed to act as a distributor, of cannabis and/or cannabis products, you must register with the CDTFA for a cannabis tax permit and regularly file cannabis tax returns.

Sales and Use Taxes

In California, all retail sales of tangible personal property are taxable unless the law provides a specific exemption. The law defines tangible personal property as an item that can be seen, weighed, measured, felt, or touched. Cannabis and cannabis products are generally considered tangible personal property and without a specific exemption, sales of such property are subject to sales and use tax.

Please note, on November 8, 2016, California voters approved Proposition 64, *Control, Regulate and Tax Adult Use of Marijuana Act*. Proposition 64, among other things, provides that effective **November 9, 2016**, certain sales of medicinal cannabis are exempt from sales and use tax. For more information on how Proposition 64 affects your medicinal cannabis sales, please see the [Retailers \(#Retailers\)](#) tab, under the heading, *Proposition 64 Exempts Certain Medicinal Cannabis Sales*.

Use tax may be due when you purchase taxable items without payment of California tax from an out-of-state vendor for use in California. You may owe use tax on items that you remove from your inventory and use in California if you did not pay tax when you purchased the items.

To find out more about use tax, please visit our [use tax webpage \(www.cdtfa.ca.gov/taxes-and-fees/use-tax.htm\)](http://www.cdtfa.ca.gov/taxes-and-fees/use-tax.htm).

Cannabis Excise Tax and Cultivation Tax

Effective January 1, 2018, a 15-percent excise tax is imposed upon retail purchasers of cannabis or cannabis products. The 15-percent excise tax is calculated based on the average market price of the cannabis or cannabis products sold in a retail sale.

In addition, a cultivation tax on all harvested cannabis that enters the commercial market is imposed on cultivators based on the weight and category of the cannabis. There are currently three categories:

- ⊗ Cannabis flowers,
- ⊗ Cannabis leaves, and
- ⊗ Fresh cannabis plant.*

*To qualify for the "fresh" plant category, the unprocessed cannabis must be weighed within two hours of harvesting.

The current cultivation tax rates are posted on our Tax and Fee Rates page under [Special Taxes and Fees Rates \(www.cdtfa.ca.gov/taxes-and-fees/tax-rates-stfd.htm\)](http://www.cdtfa.ca.gov/taxes-and-fees/tax-rates-stfd.htm) and select Cannabis Taxes.

Beginning January 1, 2020, the CDTFA is required to annually adjust the cultivation tax rates to account for inflation. A special notice will be mailed to cannabis businesses

informing them of any rate adjustments and we will update the Rates Page.

Registration

Online Registration (www.cdtfa.ca.gov/services/#Register-Renewals) — Register with us for your seller's permit and a cannabis tax permit if applicable to your type of business. Our registration system will prompt you when you select [Register a business activity with CDTFA](http://www.cdtfa.ca.gov/services/#Register-Renewals) (www.cdtfa.ca.gov/services/#Register-Renewals) from Registration – Main Menu. If you currently hold a seller's permit previously issued by the Board of Equalization, you do not need to re-register for a seller's permit with the CDTFA.

In addition to registering with the CDTFA for the required tax permit(s), you will also need to obtain the appropriate cannabis license(s) for your business. The [California Department of Food and Agriculture](https://www.cdfa.ca.gov/is/mccp/) (<https://www.cdfa.ca.gov/is/mccp/>) is responsible for licensing cannabis cultivators. The [California Department of Public Health](https://www.cdph.ca.gov/Programs/CEH/DFDCS/Pages/MCSB.aspx) (<https://www.cdph.ca.gov/Programs/CEH/DFDCS/Pages/MCSB.aspx>) is responsible for licensing cannabis manufacturers. The [Bureau of Cannabis Control](https://bcc.ca.gov/) (<https://bcc.ca.gov/>) within the California Department of Consumer Affairs is responsible for licensing cannabis distributors, retailers, microbusinesses, and testing laboratories.

You are also responsible for contacting your city and/or county government office for information on local licenses you may be required to obtain.

To help you determine your permit and licensing requirements, please see the chart below:

If you are a ...	CDTFA Permit(s) Required	State Commercial Cannabis License Required
Collective/Cooperative	Seller's Permit ^[1]	Please refer to footnote ^[2]
Cultivator of cannabis	Seller's Permit	Cultivator license issued by the California Department of Food and Agriculture
Distributor of cannabis and/or cannabis products	Seller's Permit ^[3] Cannabis Tax Permit	Distributor license issued by the Bureau of Cannabis Control within the California Department of Consumer Affairs

If you are a ...	CDTFA Permit(s) Required	State Commercial Cannabis License Required
Manufacturer of cannabis products	Seller's Permit	Manufacturer license issued by the California Department of Public Health
Microbusiness (combined business authorized to engage in cultivation, manufacturing, distribution and/or retail sales of cannabis or cannabis products)	Seller's Permit Cannabis Tax Permit ^[4]	Microbusiness license issued by the Bureau of Cannabis Control within the California Department of Consumer Affairs
Nursery	Seller's Permit	Cultivator license issued by the California Department of Food and Agriculture
Processor ^[5]	Seller's Permit	Cultivator license issued by the California Department of Food and Agriculture
Cannabis Retailer	Seller's Permit	Retail license issued by the Bureau of Cannabis Control within the California Department of Consumer Affairs
Testing facility	May need a seller's permit ^[6]	Testing laboratory license issued by the Bureau of Cannabis Control within the California Department of Consumer Affairs

1. Collectives and cooperatives are generally retailers and must collect and pay sales tax. Before you start operating as a collective or cooperative, please contact us. You should also review the general provisions and definitions found in Revenue

and Taxation Code section 6011.1 and section 6012.1. Please refer to footnote 2 for additional information.

2. The Cannabis Tax Law provides that any person required to be licensed as a cannabis retailer, cultivator, distributor, and/or manufacturer collect the excise or cultivation tax, and for a person required to be licensed as a distributor, to obtain a permit and pay the taxes to the CDTFA. Effective January 10, 2019, collectives or cooperatives that engage in commercial cannabis activity are required to be licensed with the appropriate state licensing agency. Please review the Bureau of Cannabis Control's (BCC) [Collectives and Cooperatives Fact Sheet](https://bcc.ca.gov/about_us/documents/18-006_collective_faq.pdf) (https://bcc.ca.gov/about_us/documents/18-006_collective_faq.pdf) and contact the BCC and/or the California Department of Food and Agriculture, and/or the California Department of Public Health to determine your cannabis licensing requirements.
3. A seller's permit is only required if you make sales of tangible personal property, including cannabis and/or cannabis products.
4. A cannabis tax permit is only required if you are authorized to distribute cannabis.
5. For more information, see the [Processors \(#processors\)](#) section.
6. Cannabis testing facilities are not allowed to sell cannabis or cannabis products. If you sell other tangible personal property, such as testing kits, you are required to register for a seller's permit.

No Seller's Permit Required – Obtain Certification Letter

If you do not sell tangible personal property in California, you are not required to hold a seller's permit. However, to meet the commercial cannabis licensing application requirements, a certification letter must be provided to the licensing agency stating that a seller's permit is not required. To receive a certification letter from the CDTFA, please [email us \(mailto:CDTFA.Cannabis.Reg@cdtfa.ca.gov\)](mailto:CDTFA.Cannabis.Reg@cdtfa.ca.gov) with the following information:

- ⊗ Owner name,
- ⊗ DBA,
- ⊗ Business address,
- ⊗ Contact name,
- ⊗ Contact phone number, and a
- ⊗ Description of your business activities

Upon receipt of your email, the CDTFA will review your information and, if sufficient information is provided, a certification letter will be mailed to the address provided. You will be contacted if additional information is needed.

Filing and Payments

Sales & Use Tax Return

As a cannabis seller, you are required to file regular sales and use tax returns to report your sales. Whether you are new to operating a cannabis business or growing your existing business, you'll find these tools helpful in maintaining your account with us.

- **Tax Return Filing Deadlines** (www.cdtfa.ca.gov/taxes-and-fees/sales-use-tax-returns-filing-dates.htm) – Find your filing due dates.
- **File a Tax Return Online** (www.cdtfa.ca.gov/services/#File-a-Return) – CDTFA's online filing service is easy, fast, and free!
- **Online Payment Options** (www.cdtfa.ca.gov/services/#Make-a-Payment) – Make payments online for tax and fee programs.
- **Notice of Business Change** (www.cdtfa.ca.gov/formspubs/cdtfa345web.pdf) – Keep your information current by using this form to notify us of any business changes.

Cannabis Tax Return

As a distributor of cannabis or cannabis products, you are required to electronically file your cannabis tax return with the CDTFA to report the amounts of both the cultivation tax and cannabis excise tax due. The cannabis tax return is due on the last day of the month following the reporting period. The cannabis tax account is separate from other accounts you may have with the CDTFA.

Cash Payments

If you are paying your sales and use tax or cannabis tax in cash, please contact one of our [offices](http://www.cdtfa.ca.gov/office-locations.htm) (www.cdtfa.ca.gov/office-locations.htm) to make arrangements and explain that you need an exemption from the No Cash policy.

We may grant an exemption if paying in cash is necessary to avoid an undue hardship. Our staff will provide you with a No Cash Exemption Request form. On this form you will need to describe the nature of your business and why you are unable to establish a bank account or pay by cashier's check or money order. You will be notified in writing when your request has been approved or denied and you will be provided with additional information on how to proceed.

If you receive approval to pay in cash, you must call your local office for an appointment to make your payment at least 21 days in advance. Please see our [Cash Payment Instructions](http://www.cdtfa.ca.gov/formspubs/cdtfa245cpi.pdf) (www.cdtfa.ca.gov/formspubs/cdtfa245cpi.pdf) for more information.

If you have an estimated monthly tax liability over \$20,000 for cannabis tax accounts or \$10,000 for sales and use tax accounts, you are required to pay any amounts due by electronic funds transfer (EFT). If you do not pay electronically, you will be subject to a 10 percent penalty. Receiving approval to pay in cash will exclude you from the EFT requirement. However, if you believe you were assessed a penalty in error, you can [request relief of the mandatory EFT penalty online \(www.cdtfa.ca.gov/services/#Request-Relief\)](http://www.cdtfa.ca.gov/services/#Request-Relief).

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A cannabis distributor is a person who procures, sells, and/or transports cannabis between licensed cannabis businesses, such as a cultivator, manufacturer, or retailer. A microbusiness licensed to act as a distributor must comply with all the same requirements as a distributor.

If you are a cannabis distributor, the CDTFA requires that you:

- ① [Register \(www.cdtfa.ca.gov/services/#Register-Renewals\)](http://www.cdtfa.ca.gov/services/#Register-Renewals) with the CDTFA for a seller's permit, if you make sales of cannabis, cannabis products, or tangible personal property in California.
- ① Register with the CDTFA for a cannabis tax permit (this is separate from your seller's permit).
- ① Collect the cannabis cultivation tax from cultivators and manufacturers from which you receive cannabis and/or cannabis products.
- ① Collect the cannabis excise tax from cannabis retailers you supply (sell and/or transfer) with cannabis and/or cannabis products.
- ① Provide an invoice or receipt to the businesses from which you collect the cultivation tax and the cannabis excise tax.
- ① Electronically file *both* your sales and use tax and cannabis tax returns and pay the amounts due to the CDTFA.

In addition, you must also:

- ③ Obtain a distributor license issued by the [Bureau of Cannabis Control](#) (<https://bcc.ca.gov/>) within the California Department of Consumer Affairs.
- ③ Contact your city and/or county government office for information on local licenses you may be required to obtain.

Cannabis Excise Tax and Cultivation Tax

Effective January 1, 2018, two cannabis taxes apply as follows:

- ③ A cultivation tax is imposed on cultivators for all harvested cannabis that enters the commercial market based on the weight and category of the cannabis. There are currently three categories:
 - Cannabis flowers,
 - Cannabis leaves, and
 - Fresh cannabis plant. Please refer to the *Cultivation Tax Categories* heading below for more information.
 - The cultivation tax rates are posted on the [Special Taxes and Fees Rates Page](#) (www.cdtfa.ca.gov/taxes-and-fees/tax-rates-stfd.htm), under Cannabis Taxes. Beginning January 1, 2020, the CDTFA is required to annually adjust the cultivation tax rates to account for inflation. A special notice will be mailed to cannabis businesses informing them of any rate adjustment and the Rates Page will reflect such adjustments.
- ③ A 15-percent *cannabis excise tax* is imposed upon all purchasers of cannabis or cannabis products sold at retail. The cannabis excise tax is 15-percent of the “average market price.” Please refer to the *Average Market Price* heading below for more information.

Industry Topics

⊕ [Cultivation Tax Categories \(#Cultivation-Tax-Categories\)](#)

There are currently three categories for the cultivation tax.

⊕ [Cannabis Cultivation Tax Collection \(#DistributorsCultivation\)](#)

As a cannabis distributor, excluding a transport-only distributor, you are responsible for collecting the cultivation tax from cultivators and manufacturers from whom you receive cannabis and/or cannabis products.

⊕ [Cultivation Tax Computation \(#Distributorscomputation\)](#)

The cultivation tax is based on the category and weight of cannabis that a cultivator sells or transfers to a manufacturer or distributor and shall equal the weight and category of the cannabis that a cultivator records in the California Cannabis Track-and-Trace system. The cultivation tax is due once the cannabis or cannabis products enters the commercial market. To properly calculate the cultivation tax due, it is important that you know the weight in ounces of each category of cannabis that enters the commercial market. Partial ounces, rounded to the nearest hundredth, must be included in the calculation of the cultivation tax due.

+ Cultivation Tax Adjustments for Inflation (#CultivationTaxAdjustmentsDistributors)

As required by the Cannabis Tax Law, beginning January 1, 2020, the cultivation tax rates will reflect an adjustment for inflation. The adjusted rates for each category shown below will be reflected on the monthly and quarterly cannabis tax returns beginning January 1, 2020.

+ Measurement of Weight Conversion (#Distributorsmeasure)

Cannabis may be weighed using many different units of measurement. To properly calculate the cultivation tax due, it is important that you know the weight in ounces.

+ Average Market Price (#Distributormarket)

Effective January 1, 2018, a 15 percent cannabis excise tax applies to the average market price of the cannabis or cannabis products sold at the retail. The average market price is determined by the type of transaction (either "arm's length" or "nonarm's length") that occurred when the seller (cultivator, manufacturer or distributor) sold the cannabis or cannabis product to the retailer.

+ Wholesale Cost (#WholesaleCost)

Beginning January 1, 2020, "wholesale cost" is the amount paid by the cannabis retailer (retailer) for cannabis or cannabis products, including transportation charges and *after* any discounts are provided.

+ Cannabis Mark-up (#Cannabis-Mark-up)

The CDTFA is responsible for determining a mark-up rate every six months. The mark-up rate must be used by distributors to compute the Average Market Price of cannabis or cannabis products sold or transferred to a retailer in an arm's length transaction. Current and prior cannabis tax rates are posted on the [Special Taxes](#)

and Fees Rate webpage under Cannabis Taxes (www.cdtfa.ca.gov/taxes-and-fees/tax-rates-stfd.htm) .

⊕ Arm's Length Transaction (#ArmsLength)

An "arm's length transaction" is a sale that reflects the fair market price in the open market between two informed and willing parties, neither required to participate in the transaction. In an arm's length transaction, the average market price means the average retail price determined by the retailer's wholesale cost of the cannabis or cannabis products sold or transferred to a cannabis retailer, plus a mark-up determined by the CDTFA. As a distributor, you are required to calculate and collect the amount of excise tax due on the cannabis or cannabis products you supply to retailers in an arm's length transaction.

⊕ Nonarm's Length Transaction (#NonarmsLength)

A "nonarm's length transaction" is a transaction that does not meet the definition of an "arm's length transaction." In other words, the transaction does not reflect the fair market price in the open market between two informed and willing parties. An example of a nonarm's length transaction would be a transaction between a cannabis business that is both a distributor and retailer of cannabis or cannabis product, or a transaction within a microbusiness engaging in those activities. In a nonarm's length transaction, the average market price means the cannabis retailer's gross receipts from the retail sale of the cannabis or cannabis products.

⊕ Mark-up Rate (#MarkupRate)

You will use a mark-up rate to compute the average market price of cannabis or cannabis products sold or transferred to the retailer in an arm's length transaction. The mark-up rate determined by CDTFA is not intended to be used to determine the each party's selling price. The mark-up rate is only to calculate the amount of excise tax due in an arm's length transaction. Each party in the supply chain can use any mark-up they would like to establish their selling price.

⊕ Cannabis Excise Tax Collection (#DistributorExcise)

As a cannabis distributor, you are responsible for collecting the cannabis excise tax from the cannabis retailers that you supply (sell or transfer) with cannabis or cannabis products.

⊕ California Cannabis Track-and-Trace (#CCTrack-and-Trace)

As provided in the Industry User's Guide for the California Cannabis Track-and-Trace Metrc system (Metrc User's Guide), a distributor licensed to sell or transfer cannabis or cannabis products to a cannabis retailer is required to use a Wholesale Manifest transfer in the California Cannabis Track-and-Trace (CCTT) system. When a Wholesale Manifest is used, the distributor is required to record the retailer's wholesale cost of each package in the transfer. When a nursery sells or transfers immature plants or seeds to a cannabis retailer, it is recommended in the Metrc User's Guide that the nursery utilize a Wholesale Manifest in the CCTT system and record the retailer's wholesale cost of the immature plants or seeds. For clarity, we recommend that you also indicate the unit of measure for each of the items included in the package.

⊕ Cannabis Sold or Transferred to Another Distributor (#SoldorTransferred)

You may sell or transfer cannabis or cannabis products to another licensed distributor instead of to a cannabis retailer. In these instances, the distributor that sells and/or invoices the cannabis or cannabis products to a cannabis retailer, or the distributor that transfers the cannabis or cannabis products to a cannabis retailer on behalf of a manufacturer or cultivator, is responsible for collecting the cannabis excise tax from the retailer and reporting and paying it to the CDTFA.

⊕ Excise Tax Computation (#Distributorexcomp)

The cannabis excise tax is 15-percent of the average market price of cannabis or cannabis products sold in a retail sale. To properly calculate the cannabis excise tax due, it is important to know whether the retailer's purchase of the cannabis and/or cannabis product was at arm's length or not. For more information, see the heading **Average Market Price** above. The examples below provide sample scenarios and guidance on how to compute the amount of cannabis excise tax due.

⊕ Donated Medicinal Cannabis (#DonatedMedicinalCannabis)

Beginning March 1, 2020, California law provides that a cannabis retailer may donate free medicinal cannabis or medicinal cannabis products (medicinal cannabis) to medicinal cannabis patients. The cannabis excise tax and use tax do not apply to medicinal cannabis that is donated to a medicinal cannabis patient. Additionally, the cultivation tax is not imposed or due on medicinal cannabis that a cultivator designates for donation in the California Cannabis Track-and-Trace (CCTT) system. However, the cultivation tax is due if the cannabis is designated for donation by anyone other than the cultivator (i.e., manufacturer, distributor, or retailer).

+ Reporting and Paying the Cannabis Taxes (#ReportingPaying)

As a distributor (or microbusiness operating as a distributor), you are required to file a cannabis tax return to report the cultivation tax and cannabis excise tax and pay the amount due. Even if you are a distributor that is not responsible for collecting the cultivation tax or the excise tax, and you have no transaction to report, you are still required to file a cannabis tax return and report your activities to the CDTFA.

+ Excess Cannabis Excise Tax Collected (#Excess-Cannabis-Excise-Tax-Collected)

When a cannabis retailer collects cannabis excise tax from its customer on an amount that is in excess of the taxable amount, the retailer has collected excess tax. Excess tax is charged when tax is computed on a transaction that is not subject to tax, when tax is computed on an amount in excess of the amount subject to tax, when tax is computed using a tax rate higher than the rate imposed by law, or when a mathematical error results in an overstatement of the tax on an invoice, receipt or similar document. When this occurs, the retailer shall return the excess cannabis excise tax collected back to its customer. In the event the retailer cannot or does not return the excess cannabis excise tax collected back to its customer, the retailer is required to pay the excess cannabis excise tax collected to a distributor.

+ Excess Excise Tax Remitted, Later Returned to Retailer (#Excess-Excise-Tax-Returned)

If you paid excess cannabis excise tax to the CDTFA that was later returned to the retailer, you can claim this credit on your cannabis tax return. This line is for use only when you previously reported and paid excess cannabis excise tax on a previous return and then you subsequently returned this amount back to the retailer because the retailer was able to return the excess amount back to its customer.

+ Losses due to Theft (#Losses-due-to-Theft)

The cannabis excise tax is not due on cannabis or cannabis products that are not sold in a retail sale. As a result, the cannabis excise tax is not due from a cannabis retailer or you, as the distributor, if cannabis was stolen. However, once cannabis or cannabis products enter the commercial market, the cultivation tax is due even in the event of a loss due to theft.

+ Cannabis Accessories Sold with Cannabis or Cannabis Products (#Cannabis-Accessories-Sold-with)

Cannabis accessories such as pipes, pipe screens, vape pens and vape pen batteries (without cannabis), rolling papers, and grinders are not subject to the 15-percent cannabis excise tax when the sales price of cannabis or cannabis products are separately stated.

+ Sales of Samples or Promotional Items (#Sales-of-Samples)

As a distributor, you may sell samples or promotional items to a retailer. How cannabis excise tax and the sales and use tax applies depends on whether the samples are sold to the retailer for marketing purposes; that is, the retailer will consume and not resell the items, or whether the samples are sold to the retailer for resale to the retailer's customers.

+ 50 Percent Penalty for Late Payment of Cannabis Taxes (#50Percent)

The cannabis tax law imposes a mandatory 50 percent penalty for failure to pay the amount of cultivation tax or cannabis excise tax due. If you fail to pay the cannabis taxes by your due date, you may be relieved of the 50 percent penalty if the CDTFA finds that your failure to timely pay was due to reasonable cause and circumstances beyond your control, and occurred notwithstanding the exercise of ordinary care and absence of willful neglect.

+ Cannabis Excise Tax on Inventory Retailer Acquired Prior to, and Sold at Retail After, January 1, 2018 (#AcquiredPriorSoldAfterJan012018)

Retailers are required to pay the excise tax due on the sale of cannabis or cannabis products they purchased prior to January 1, 2018, and sold at retail on or after January 1, 2018, to a licensed distributor by the fifteenth of the following month in which they collected the excise tax.

+ Sales Tax Collection (#DistributorSalesTax)

As a cannabis distributor, you are responsible for transporting cannabis and cannabis products between licensed cannabis businesses. Even if all your sales or transports of cannabis and cannabis products are not subject to sales tax, you are still required to file a sales tax return and report your activities to the CDTFA.

+ Purchases (#DistributorPurchases)

When you purchase a product that will be resold, you can purchase it without paying sales or use tax by providing the seller a valid and timely resale certificate. Sales tax will apply if you sell the product at retail. However, when you purchase a product for resale without paying sales tax but, instead of selling it, you consume or use the product, then you owe use tax based on the purchase price.

⊕ Record Keeping (#DistributorRecord)

You are required by law to keep business records so that we may verify the accuracy of your sales and use tax (if applicable) and cannabis tax returns and determine how much tax is due.

⊕ Refunds (#DistributorRefund)

If you have collected and remitted more cannabis tax than the amount due, you may be able to get a refund of the overpayment.

We will update this page as we receive information about the taxation requirements for the cannabis industry – please check back.

Please note: This guide is intended to provide general information regarding issues relating to the Sales and Use Tax Laws, Cannabis Tax Law, and other programs administered by the California Department of Tax and Fee Administration (CDTFA) which may affect the cannabis industry. It is not intended to provide advice or guidance in relation to other state and local statutes and regulations relating to the cannabis industry. Additionally, for the Federal Government's guidance regarding marijuana enforcement, see the [U.S. Department of Justice website \(https://www.justice.gov\)](https://www.justice.gov).

A cannabis retailer is a person who sells cannabis and/or cannabis products directly to a consumer.

A microbusiness licensed to act as a retailer must comply with all the same requirements as a retailer.

If you are a cannabis retailer, the CDTFA requires that you:

- ⊗ [Register \(www.cdtfa.ca.gov/services/#Register-Renewals\)](http://www.cdtfa.ca.gov/services/#Register-Renewals) with the CDTFA for a seller's permit.
- ⊗ Charge and collect sales tax on your taxable retail sales of cannabis and/or cannabis products, and other products.
- ⊗ Electronically file your sales and use tax returns and pay the sales and/or use tax to the CDTFA.

- Charge and collect the cannabis excise tax from your customers who purchase cannabis and/or cannabis products.
- Pay the cannabis excise tax that is due to your distributor. DO NOT remit cannabis excise tax on your sales and use tax return.
- Provide your customer with an invoice, receipt, or other document which includes the statement: "The cannabis excise taxes are included in the total amount of this invoice." (Your customers are liable for the cannabis excise tax until it has been paid to the state or you provide them with such an invoice or receipt.)

In addition, you must also:

- Obtain a cannabis retail license issued by the [Bureau of Cannabis Control \(https://bcc.ca.gov/\)](https://bcc.ca.gov/) within the Department of Consumer Affairs.
- Contact your city and/or county government office for information on local licenses you may be required to obtain.

Cannabis Excise Tax

Effective January 1, 2018, a 15-percent excise tax is imposed upon retail purchasers of all cannabis and cannabis products, including medicinal cannabis, and distributors are required to calculate and collect the amount of excise tax due on the cannabis or cannabis products they supply to you. The 15-percent excise tax is calculated based on the average market price of cannabis or cannabis products sold in a retail sale. Please refer to the heading, *Average Market Price*, below for more information. As a retailer, you are required to pay the cannabis excise tax to your distributor and collect the cannabis excise tax from your customers. No cannabis and/or cannabis products may be sold unless the cannabis excise tax is paid by the purchasers (consumers) at the time of sale.

Industry Topics

⊕ [Sales \(#RetailersSales\)](#)

Your sales of cannabis and cannabis products are generally subject to sales tax, unless your customer provides you with a valid Medical Marijuana Identification Card indicating they are a qualified patient or the primary caregiver for a qualified patient, along with a valid government-issued identification card. Please refer to the heading, *Proposition 64 Exempts Certain Medicinal Cannabis Sales from Sales and Use Tax*, below for more information.

⊕ [Cannabis Accessories \(#CannabisAccessories\)](#)

The retail sale of cannabis accessories, such as pipes, rolling machines, vape pens (without cannabis), rolling papers, shirts, hats, books, and magazines are subject to sales tax, but not the 15-percent cannabis excise tax when the sales price of the cannabis or cannabis products is separated stated.

⊕ Sales Tax Reimbursement (#SalesTaxReimbursement)

A retailer has the option to collect sales tax reimbursement from its customers. It is not mandatory. Regardless of whether or not you collected sales tax reimbursement from your customers, you as the retailer are liable for the sales tax on taxable sales, and you must report and pay the tax to the CDTFA on your sales and use tax return.

⊕ Cannabis Excise Tax Collection (#ExciseTaxCollection)

The cannabis excise tax is imposed on the purchaser of cannabis and/or cannabis products. As a retailer, you are required to collect the cannabis excise tax from your customers and pay the tax to your distributor. Cannabis and/or cannabis products may not be sold unless the cannabis excise tax is paid by the purchaser at the time of sale.

⊕ Average Market Price (#RetailersPrice)

Effective January 1, 2018, a 15-percent cannabis excise tax applies to the average market price of cannabis or cannabis products sold in a retail sale. The average market price is determined by the type of transaction (either "arm's length" or "nonarms' length") that occurred when the seller (cultivator, manufacturer or distributor) sold the product to you.

⊕ Arm's Length Transaction (#RetArmsLength)

An "arm's length transaction" is a sale that reflects the fair market price in the open market between two informed and willing parties, neither required to participate in the transaction. In an arm's length transaction, the average market price means the average retail price determined by the wholesale cost of the cannabis or cannabis products sold or transferred to you, plus a mark-up.

⊕ Nonarm's Length Transaction (#RetNonarmsLength)

A "nonarm's length transaction" is a transaction that does not meet the definition of an "arm's length transaction." In other words, the transaction does not reflect the fair market price in the open market between two informed and willing parties. An example of a nonarm's length transaction would be a transaction between a cannabis business that is both a distributor and retailer of their cannabis product,

or a transaction within a microbusiness engaging in those activities. In a nonarm's length transaction, the average market price means the cannabis retailer's gross receipts from the retail sale of the cannabis or cannabis products.

⊕ **Mark-up Rate (#RetMarkupRate)**

Distributors use a mark-up rate to compute the average market price of cannabis and cannabis products sold or transferred in an arm's length transaction. The mark-up rate is not intended to be used to determine the amount for which you sell your cannabis and cannabis products. You may use any mark-up you would like to establish your selling price.

⊕ **Cannabis Excise Tax and Sales Tax Computation (#Retailerscanextax)**

The cannabis excise tax is 15-percent of the average market price of cannabis or cannabis products sold in a retail sale and the sales tax is based on your gross receipts. The examples below provide sample scenarios and guidance on how the cannabis excise tax and sales tax due are computed.

⊕ **California Cannabis Track-and-Trace (#CannabidiolTrack-and-Trace)**

As provided in the Industry User's Guide for the California Cannabis Track-and-Trace Metrc system (Metrc User's Guide), a distributor licensed to sell or transfer cannabis or cannabis products to a cannabis retailer is required to use a Wholesale Manifest transfer in the California Cannabis Track-and-Trace (CCTT) system. When a Wholesale Manifest is used, the distributor is required to record the retailer's wholesale cost of each package in the transfer. When a nursery sells or transfers immature plants or seeds to a cannabis retailer, it is recommended in the Metrc User's Guide that the nursery utilize a Wholesale Manifest in the CCTT system and record the retailer's wholesale cost of the immature plants or seeds. For clarity, we recommend that you also indicate the unit of measure for each of the items included in the package.

⊕ **Receipts for Cannabis Excise Tax Paid to Cannabis Retailers (#Receipts-4-Cannabis-Excise-Tax-Paid-2-CRetailer)**

Each cannabis retailer is required to provide a purchaser (retail customer) of cannabis or cannabis products with an invoice, receipt, or other similar document that includes the following statement:

⊕ Excess Cannabis Excise Tax Collected (#Excess-Cannabis-Excise-Tax-Collected-retailers)

When a cannabis retailer collects cannabis excise tax from its customer and the retailer has collected more excise tax from the retail customer than the retailer paid to a distributor is considered excess cannabis excise tax collected. Excess tax is charged when tax is computed on a transaction that is not subject to tax, when tax is computed on an amount in excess of the amount subject to tax, when tax is computed using a tax rate higher than the rate imposed by law, or when a mathematical error results in an overstatement of the tax on an invoice, receipt or similar document. When this occurs, the retailer shall return the excess cannabis excise tax collected back to the retail customer. In the event the retailer cannot or does not return the excess cannabis excise tax collected back to its customer, the retailer is required to pay the excess cannabis excise tax collected to a distributor for the distributor to remit the excess tax amount to the CDTFA.

⊕ Losses Due to Theft (#Losses-Due-to-Theft)

You are required to pay sales tax and cannabis excise tax on all taxable sales despite the loss of cash due to theft. The cannabis excise tax is not due on cannabis or cannabis products that are stolen.

⊕ Sales of Cannabidiol (CBD) Products (#Cannabidiol)

CBD products that contain cannabis are subject to the cannabis excise tax. CBD products which are derived from industrial hemp plants and do not contain cannabis are not subject to the cannabis excise tax, even if the CBD product contains trace amounts of Tetrahydrocannabinol (THC)

⊕ Free Cannabis (#FreeCannabis)

As a cannabis retailer, you are prohibited from giving away any amount of cannabis or cannabis products unless authorized to do so.

⊕ Donated Medicinal Cannabis (#DonatedMedCannabis)

Beginning March 1, 2020, California law provides that a cannabis retailer may donate free medicinal cannabis or medicinal cannabis products (medicinal cannabis) to medicinal cannabis patients. When you, as a retailer, donate free medicinal cannabis to a medicinal cannabis patient, the cannabis excise tax and use tax do not apply.

⊕ Discounted Sales (#RetailersDiscount)

Tax Guide for Cannabis Businesses

There may be times when you run a promotion that discounts the selling price of a cannabis or cannabis product, including, but not limited to, deep discounts or two for the price of one discounts. The cannabis excise tax and sales and use tax still apply to sales of discounted cannabis or cannabis product.

+ Collectives/Cooperatives (#RetailersCollectives)

The Cannabis Tax Law provides that any person required to be licensed as a cannabis retailer, cultivator, distributor, and/or manufacturer collect the excise tax or cultivation tax, and for a person required to be licensed as a distributor, to obtain a permit and pay the taxes to the CDTFA. Beginning January 10, 2019, collectives or cooperatives that engage in commercial cannabis activity are required to be licensed with the appropriate state licensing agency and must comply with any local requirements.

+ Proposition 64 Exempts Certain Medicinal Cannabis Sales from Sales and Use Tax (#RetailersProp)

Effective **November 9, 2016**, certain sales of medicinal cannabis are exempt from sales and use tax.

+ Consignment Sales (#RetailersConsignment)

You are responsible for obtaining a seller's permit and reporting and paying the sales tax on the retail selling price of consignment sales.

+ Special Events (#SpecialEvents)

The Bureau of Cannabis Control (BCC) provides that only licensed retailers or microbusinesses authorized to sell cannabis to retail customers may sell cannabis or cannabis products at a special event. The cannabis excise tax and generally the sales and use tax apply to any retail sales of cannabis or cannabis product.

+ Purchases (#RetailersPurchases)

When you purchase a product that will be resold, you can purchase it without paying sales or use tax by providing the seller a valid and timely resale certificate. Sales tax will apply when you sell the product at retail. However, when you purchase a product for resale without paying sales tax but, instead of selling it, you consume or use the product, then you owe the use tax based upon the amount of the purchase price.

+ Local Government Cannabis Business Taxes (#LocGov)

Some cities have enacted measures requiring that cannabis businesses located in their jurisdictions pay a cannabis business tax. If you add a separate amount to your customers' invoices or receipts to cover your cannabis business tax, sales tax applies to the business tax amount.

⊕ Record Keeping (#RetailersRecord)

You are required by law to keep business records so that we may verify the accuracy of your sales and use tax return and determine how much tax is due, when a return has not been filed.

⊕ Refunds (#Refunds)

If you have collected and remitted more tax than the amount due, you may be able to get a refund of the overpayment.

⊕ Cannabis Excise Tax on Inventory Acquired Prior to, and Sold at Retail After, January 1, 2018 (#AcquiredPriorSoldAfterJan012018-retailers)

Beginning January 1, 2018, distributors who supply you with cannabis or cannabis products are required to calculate and collect the 15 percent cannabis excise tax from you. When you sell those items at retail you are required to collect the cannabis excise tax from your customer. If you had cannabis or cannabis products in your inventory on January 1, 2018, you are required to collect the 15 percent cannabis excise tax from your customer when you sell those items on or after January 1, 2018, and then pay that amount to a licensed distributor with whom you have established a business relationship.

We will update this page as we receive information about the taxation requirements for the cannabis industry – please check back.

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A cannabis cultivator is a person who is engaged in the business of planting, growing, harvesting, drying, curing, grading or trimming cannabis. A microbusiness licensed to act as a cultivator, must comply with all of the same requirements as a cultivator.

If you are a cannabis cultivator, the CDTFA requires that you:

- Register (www.cdtfa.ca.gov/services/#Register-Renewals) with the CDTFA for a seller's permit.
- Pay the cultivation tax to your distributor or manufacturer.
- Electronically file your sales and use tax returns and pay the tax due, if any, to the CDTFA. Even if you do not make taxable sales of cannabis, you are still required to file a return indicating your total sales with your claimed nontaxable or exempt sales during that particular reporting period.

In addition, you must also:

- Obtain a cultivation license issued by the [California Department of Food and Agriculture](https://www.cdfa.ca.gov/is/mccp/) (<https://www.cdfa.ca.gov/is/mccp/>).
- Contact your city and/or county government office for information on local licenses you may be required to obtain.

Cannabis Cultivation Tax

Effective **January 1, 2018**, a cultivation tax is imposed on cultivators for all harvested cannabis, except immature plants and seeds, that enters the commercial market based on the weight and category of the cannabis. There are currently three categories:

Cannabis flowers

“*Cannabis flowers*” means the flowers of the cannabis plant that have been harvested, dried, trimmed or untrimmed, and cured, and prior to any processing by a manufacturer. “Cannabis flowers” excludes leaves and stems removed from the cannabis flower prior to the cannabis flower being transferred or sold.

Cannabis leaves

“*Cannabis leaves*” means all parts of the cannabis plant other than cannabis flowers that are sold or consumed.

Fresh cannabis plant

“*Fresh cannabis plant*” means the flowers, leaves, or a combination of adjoined flowers, leaves, stems, and stalk from the cannabis plant that is either cut off just above the roots, or otherwise removed from the plant. “Fresh cannabis plant” must be weighed within two hours of the plant being harvested and without any artificial drying or curing, and must be recorded in the California Track-and-Trace system and invoiced as such.

The cultivation tax rates are posted on the [Special Taxes and Fees Rates Page](https://www.cdtfa.ca.gov/taxes-and-fees/tax-rates-stfd.htm) (www.cdtfa.ca.gov/taxes-and-fees/tax-rates-stfd.htm), under Cannabis Taxes.

Beginning January 1, 2020, the CDTFA is required to annually adjust the cultivation tax rates to account for inflation. A special notice will be mailed to cannabis businesses informing them of any rate adjustments and we will update the Rates Page.

Application of the Cultivation Tax

The cultivation tax applies to all harvested cannabis, that enters the commercial market. Cannabis "enters the commercial market" when the cannabis or cannabis products, except for immature cannabis plants, clones and seeds, have completed and comply with both the quality assurance review and testing as required in the Medicinal and Adult-Use Cannabis Regulation and Safety Act. If the cannabis or cannabis product does not pass the required testing, cannot be remediated, and does not enter the commercial market, you are entitled to the return of the cultivation tax that was collected from you. The distributor is responsible for returning the cultivation tax that was collected from you.

Sales to a Distributor

Distributors are required to collect the cultivation tax from you, as the cultivator, on all harvested cannabis based on weight and category of the cannabis that enters the commercial market.

Sales to a Manufacturer

If the first transfer or sale of unprocessed cannabis is to a manufacturer, and not a distributor, the manufacturer is required to collect the cultivation tax from you at the time of the first sale or transfer of the unprocessed cannabis based on the weight and category of the cannabis sold or transferred. The cultivation tax you pay to a manufacturer will be passed on to a distributor for payment to the CDTFA.

Invoicing Requirements

The invoice or receipt you receive from the manufacturer or distributor showing the amount of cultivation tax paid relieves you of the liability for the cultivation tax. The invoice or receipt should identify:

- The distributor or manufacturer's name, as the licensee receiving the product.
- Your name, as the cultivator.
- The associated unique identifier for the cannabis.

- The amount of cultivation tax.
- The weight and category of the cannabis. The weight and category on the invoice or receipt shall be equal to the weight and category recorded in the California Cannabis Track-and-Trace system.
- The date of sale or transfer.

Industry Topics

+ Cannabis Cultivation Tax Imposition (#CultivationTaxImposition)

The cultivation tax is imposed on the cultivator. As a cannabis cultivator, you are responsible for the payment of the cultivation tax to your distributor or manufacturer. The tax is due on all harvested cannabis based on the weight and category of the cannabis that enters the commercial market. No cannabis may be sold unless the cultivation tax has been paid.

+ Cultivation Tax Adjustments for Inflation (#HarvestedPrior)

As required by the Cannabis Tax Law, beginning January 1, 2020, the cultivation tax rates will reflect an adjustment for inflation. The adjusted rates for each category shown below will be reflected on the monthly and quarterly cannabis tax returns beginning January 1, 2020.

+ Cultivation Tax Computation (#Cultivatorscomputation)

The cultivation tax is based on the category and weight of cannabis that you, as a cultivator, sell or transfer to a distributor or a manufacturer. The distributor will need to know the weight in ounces of each category of cannabis that is sold or transferred to properly calculate the amount of cultivation tax due. Partial ounces, rounded to the nearest hundredth, must be included in the calculation of the cultivation tax due. The amount of cannabis that is sent for testing is excluded from the calculation. The example below provides a sample scenario and guidance on how to compute the amount of cultivation tax due.

+ Donated Medicinal Cannabis (#Donated-Medicinal-Cannabis)

Beginning March 1, 2020, California law provides that the cultivation tax will not be imposed on medicinal cannabis you, a cultivator, designates for donation in the California Cannabis Track-and-Trace (CCTT) system. Additionally, the use tax does not apply to any medicinal cannabis you donate for subsequent donation to a medicinal cannabis patient. However, if you, as the cultivator, do not designate the

medicinal cannabis for donation in the CCTT system, the cultivation tax is due on the medicinal cannabis that you sell or transfer to a cannabis licensee.

+ Measurement of Weight Conversion (#Cultivatorsmeasure)

Cannabis may be weighed using many different units of measurement. To properly calculate the cultivation tax due, it is important that you know the weight in ounces.

+ Whole Dry Cannabis Plant (#WholeDryPlant)

There is no cultivation tax category for whole dry cannabis plant. If you sell or transfer cannabis as a whole dried cannabis plant to a distributor or manufacturer, you must use the cannabis flower category and rate for the whole dried plant.

+ Removal from a Cultivator's Premises (#RemovalFrom)

All cannabis removed from your premises, except for plant waste, is presumed to be sold and is subject to the cultivation tax. There may be circumstances when cannabis is removed from your premises for valid purposes other than for entry into the commercial market.

+ Sales (#CultivatorsSales)

When you sell cannabis to a customer, such as a distributor, manufacturer, or retailer who provides you with a valid and timely resale certificate, the sale is not subject to sales tax; however, it is subject to the cannabis cultivation tax.

+ Purchases (#CultivatorsPurchases)

Generally, most of the products you purchase for use in your business are subject to sales or use tax. However, purchases of certain supplies may not be taxable, whereas purchases of other products may qualify for a partial exemption.

+ Processors (#Cultivatorsprocessors)

A processor license is a type of cultivation license issued by the California Department of Food and Agriculture. A processor performs trimming, drying, curing, grading, or packaging of cannabis and non-manufactured cannabis products.

+ Partial Exemption for Farm Equipment and Machinery (#CultivatorsPartial)

In general, the sale of farm equipment and machinery is subject to sales and use tax. However, certain sales and purchases of farm equipment and machinery are partially exempt from sales and use tax. As a cultivator, you may be able to take advantage of this partial exemption.

+ Buildings for Raising Plants (#CultivatorsBuildings)

Certain buildings may meet the definition of farm equipment for purposes of qualifying for the partial exemption from sales and use tax for farm equipment. The building must be a single-purpose building to house plants, such as a greenhouse.

+ Solar Power Facilities (#CultivatorsSolar)

If you qualify for the partial exemption from sales and use tax for farm equipment, your purchase of a solar power facility may also qualify.

+ Exemptions for Diesel Fuel Used in Farming Activities (#CultivatorsDiesel)

Most sales and/or purchases of diesel fuel are subject to sales and use tax and diesel fuel excise tax. However, a partial sales and use tax exemption exists for certain sales and purchases of diesel fuel used in farming activities.

+ Exemption for Liquefied Petroleum Gas (LPG) Used in Farming Activities (#CultivatorsLPG)

Sales of LPG for agricultural use are not subject to sales and use tax or use fuel tax when purchased by a qualified buyer.

The exemption from sales and use tax applies to the sale or purchase of LPG only if it is used in commercial crop production or harvesting.

+ Exemption Certificates (#CultivatorsCertificates)

When you make a purchase that qualifies for an exemption, you must provide an exemption certificate to your supplier.

+ Record Keeping (#CultivatorsRecord)

You are required by law to keep business records so that we may verify the accuracy of your sales and use tax and cannabis tax returns and determine how much tax is due, if any.

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A cannabis manufacturer is a person who produces or prepares cannabis or cannabis products at a fixed location, packages or repackages cannabis or cannabis products, or labels or relabels its container. A microbusiness licensed to act as a manufacturer must comply with all of the same requirements as a manufacturer.

If you are a cannabis manufacturer, the CDTFA requires that you:

- ① [Register \(www.cdtfa.ca.gov/services/#Register-Renewals\)](http://www.cdtfa.ca.gov/services/#Register-Renewals) with the CDTFA for a seller's permit.
- ① Collect the cannabis cultivation tax from cultivators from which you receive unprocessed cannabis and provide the cultivator with a receipt.
- ① Pay the cultivation tax collected from cultivators to your distributor.
- ① Electronically file your sales and use tax returns and pay any sales and/or use tax owed to the CDTFA. Even if you do not make taxable sales of cannabis, you are still required to file a return indicating your total sales with your claimed nontaxable or exempt sales during that particular reporting period.

In addition, you must also:

- ① Obtain a manufacturer license issued by the [California Department of Public Health \(https://www.cdph.ca.gov/Programs/CEH/DFDCS/MCSB/Pages/Applyforalicense.aspx\)](https://www.cdph.ca.gov/Programs/CEH/DFDCS/MCSB/Pages/Applyforalicense.aspx).
- ① Contact your city and/or county government office for information on local licenses you may be required to obtain.

Cannabis Cultivation Tax

Effective **January 1, 2018**, a cultivation tax is imposed on cultivators for all cannabis that enters the commercial market based on the weight and category of the cannabis. There are currently three categories:

Cannabis flowers

“*Cannabis flowers*” means the flowers of the cannabis plant that have been harvested, dried, trimmed or untrimmed, and cured, and prior to any processing by a

manufacturer. “Cannabis flowers” excludes leaves and stems removed from the cannabis flower prior to the cannabis flower being transferred or sold.

Cannabis leaves

“*Cannabis leaves*” means all parts of the cannabis plant other than cannabis flowers that are sold or consumed.

Fresh cannabis plant

“*Fresh cannabis plant*” means the flowers, leaves, or a combination of adjoined flowers, leaves, stems, and stalk from the cannabis plant that is either cut off just above the roots, or otherwise removed from the plant. “Fresh cannabis plant” must be weighed within two hours of the plant being harvested and without any artificial drying or curing, and must be recorded in the California Track-and-Trace system and invoiced as such.

The cultivation tax rates are posted on the [Special Taxes and Fees Rates Page \(www.cdtfa.ca.gov/taxes-and-fees/tax-rates-stfd.htm\)](http://www.cdtfa.ca.gov/taxes-and-fees/tax-rates-stfd.htm), under Cannabis Taxes.

Beginning January 1, 2020, the CDTFA is required to annually adjust the cultivation tax rates to account for inflation. A special notice will be mailed to cannabis businesses informing them of any rate adjustments and we will update the Rates Page.

If the cannabis or cannabis products does not pass the required testing or quality assurance review, cannot be remediated and does not enter the commercial market, the cultivator is entitled to the return of the cultivation tax that was collected from them for such cannabis or cannabis product.

The distributor is responsible for returning the cultivation tax collected to the cultivator.

Industry Topics

⊕ Cannabis Cultivation Tax Collection (#CultivationCollection)

As a cannabis manufacturer, you are required to collect the cultivation tax from cultivators when the unprocessed cannabis is first sold or transferred to you based on the weight and category of the cannabis. You must then pay the cultivation tax you collected to your distributor, based on the weight and category of the cannabis that was used to produce the cannabis product, when the cannabis products is sold or transferred to the distributor for quality assurance review and/or testing.

⊕ Cultivation Tax Computation (#Manufacturerscomputation)

The cultivation tax is based on the category and weight of cannabis. To properly calculate the cultivation tax due from the cultivator, it is important that you know

the weight in ounces of each category of cannabis that is transferred or sold. Partial ounces, rounded to the nearest hundredth, must be included in the calculation of the cultivation tax due. The distributor will also need to know information on the category and weight of the cannabis sold or transferred to you to properly complete the cannabis tax return.

+ Cultivation Tax Adjustments for Inflation (#CultivationTaxAdjustmentsManufacturers)

As required by the Cannabis Tax Law, beginning January 1, 2020, the cultivation tax rates will reflect an adjustment for inflation. The adjusted rates for each category shown below will be reflected on the monthly and quarterly cannabis tax returns beginning January 1, 2020.

+ Donated Medicinal Cannabis (#Donated-Med-Cannabis)

Beginning March 1, 2020, California law provides that the cultivation tax will not be imposed on medicinal cannabis designated for donation by a cultivator in the California Cannabis Track-and-Trace (CCTT) system. Additionally, the use tax does not apply to any medicinal cannabis or medicinal cannabis products (medicinal cannabis) donated by a licensee to a cannabis retailer for subsequent donation to a medicinal cannabis patient.

+ Measurement of Weight Conversion (#Manufacturersmeasure)

Cannabis may be weighed using many different units of measurement. To properly calculate the cultivation tax due, it is important that you know the weight in ounces.

+ Whole Dry Cannabis Plant (#MfrWholeDryPlant)

There is no cultivation tax category for whole dry cannabis plant. If a cultivator sells or transfers the cannabis as a whole dried cannabis plant to you as the manufacturer, you must use the cannabis flower category and rate for the whole dried plant.

+ Cannabis Product Sold to Another Manufacturer (#AnotherManufacturer)

As a manufacturer of cannabis products, when you receive unprocessed cannabis from a cultivator, you are required to collect the cultivation tax based on the weight and category of the cannabis. When you sell or transfer the cannabis product you manufactured to a licensed distributor, you must pay the cultivation tax you

collected to the distributor based on the weight and category of the cannabis that you used to produce the cannabis products. However, you may manufacture cannabis product that you sell or transfer to another, or multiple, manufacturer(s) instead of directly to the distributor. In these instances, you pass the cultivation tax that you collected from the cultivator on the cannabis you used to manufacture the cannabis product you are selling or transferring to the next manufacturer(s).

+ Sales (#ManufacturerSales)

When you sell your product to a customer, such as a distributor or retailer, and the customer provides you with a valid and timely resale certificate, the sale is not subject to sales tax.

+ Sales of Samples or Promotional Items (#ManufacturerSales-of-Samples)

As a manufacturer, you may sell samples or promotional items to a retailer. However, the distributor that transfers the samples to a retailer on behalf of the manufacturer is responsible for collecting the cannabis excise tax from the retailer, and the manufacturer may be responsible for the sales or use tax.

+ Purchases (#ManufacturerPurchases)

When you purchase a product that will be resold, you can purchase it without paying sales and use tax by timely providing the seller with a valid resale certificate. Sales tax will apply if you sell the product at retail. However, when you purchase a product for resale without paying sales tax but, instead of selling it, you consume or use the product, then you owe the use tax based upon the amount of the purchase price.

+ Record Keeping (#ManufacturerRecord)

You are required by law to keep business records so that we may verify the accuracy of your sales and use tax return and determine how much tax is due, if any.

+ Manufacturing and Research & Development Partial Exemption (#ManufacturerExemption)

Manufacturers and certain research and developers may qualify for a partial exemption of sales and use tax on certain manufacturing and research and development equipment purchases and leases. To be eligible for this partial exemption of sales and use tax, you must meet certain specified conditions.

Filing a Cannabis Tax Return for Cannabis Distributors

Filing a Cannabis Tax Return for Cannabis Distributors



Tax Help for the Cannabis Industry – Retailers

Tax Help for the Cannabis Industry - Retailers



- [> Resale Certificates](#)
- [> Use Tax](#)
- [> Recordkeeping](#)
- [> For More Information](#)
- [> Contact Us](#)

Other Video Resources

[Understanding the Resale Certificate \(https://www.youtube.com/watch?v=m4H_fJjQ1Do&list=PLx1DRuOy9XKeUCfkP1z5cVgEltyqmVoLo&index=6\)](https://www.youtube.com/watch?v=m4H_fJjQ1Do&list=PLx1DRuOy9XKeUCfkP1z5cVgEltyqmVoLo&index=6)

[Paying Your Use Tax \(https://www.youtube.com/watch?v=gU43xl-3cSw&index=8&list=PLx1DRuOy9XKeUCfkP1z5cVgEltyqmVoLo\)](https://www.youtube.com/watch?v=gU43xl-3cSw&index=8&list=PLx1DRuOy9XKeUCfkP1z5cVgEltyqmVoLo)

[Keeping Records \(https://www.youtube.com/watch?v=SXxN_LUGCGo\)](https://www.youtube.com/watch?v=SXxN_LUGCGo)

We will update this page as we receive information about the taxation requirements for the cannabis industry – please check back.

Please note: This guide is intended to provide general information regarding issues relating to the Sales and Use Tax Laws, Cannabis Tax Law, and other programs administered by the California Department of Tax and Fee Administration (CDTFA) which may affect cannabis businesses. It is not intended to provide advice or guidance related to other state and local statutes and regulations relating to the cannabis industry. Additionally, for the Federal Government's guidance regarding marijuana enforcement, refer to the [U.S. Department of Justice website \(https://www.justice.gov\)](https://www.justice.gov).

+ [Cannabis Retailers – How to Collect the Cannabis Excise Tax from your Customers on Retail Sales \(#ExciseTax\)](#)

Beginning January 1, 2018, cannabis distributors are required to calculate and collect the cannabis excise tax from you on cannabis or cannabis products that they sell or transfer to you. In an arm's length transaction, your distributor calculates the cannabis excise tax based on the "average market price," which is computed by applying the CDTFA's predetermined mark-up rate to the wholesale cost of the cannabis and cannabis products sold or transferred in an arm's length transaction.

The current mark-up rate is posted on the [Special Taxes and Fees Rate Page](#) (www.cdtfa.ca.gov/taxes-and-fees/tax-rates-stfd.htm) under Cannabis Taxes.

+ Cannabis Retailers – Excise Tax Does Not Apply to Free Medicinal Cannabis; Use Tax Is Due on Cost of Medicinal Cannabis Given Away for Free (#ExciseTax-FreeMed)

As a cannabis retailer, you are prohibited from giving away any amount of cannabis or cannabis products unless authorized to do so by the [Bureau of Cannabis Control \(BCC\)](#) (<https://www.bcc.ca.gov/>), the agency that administers the cannabis licensing activities for retailers and distributors. If you are authorized to give cannabis or cannabis products away free of charge, the cannabis excise tax does not apply; but you do owe use tax on your purchase price of the cannabis or cannabis products.

+ Cannabis Retailers – Cannabis Excise Tax Paid to Distributors Must be Collected on Discounted Retail Sales (#ExciseTax-Distributors)

As a retailer, you are required to collect cannabis excise tax from your customer when you sell cannabis or cannabis products at retail. Therefore, you must collect from your customer the same amount of cannabis excise tax that you paid to your distributor.

+ Losses due to Robbery and Theft (#robbery-theft)

Cannabis Excise Tax for Cannabis Retailers

As a cannabis retailer, you are required to pay the cannabis excise tax to your distributor based on the average market price of the cannabis or the cannabis products sold or transferred to you. However, if you already paid the cannabis excise tax to your distributor and the associated cannabis or cannabis products were subsequently stolen from you, you may request a refund of the tax from your distributor, and provide your distributor with documentation substantiating the theft. Examples of documentation include, but are not limited to, police reports, insurance claims, etc. (see additional information below.) When a refund is issued to you, your distributor is required to provide you with a receipt that indicates the amount of cannabis excise tax refunded.

+ Cannabis Cultivators - How to Determine Tax on Whole Dry Cannabis Plants Sold to Manufacturers (#WholeDry)

- [Cannabis Tax Law](#)
 - [Definition and Responsibilities](#)
 - [Sales and Use Tax](#)
 - [Exempt Sales of Medicinal Cannabis](#)
 - [Resale Certificates](#)
 - [Use Tax](#)
 - [Filing Your Sales and Use Tax Return](#)
 - [Cannabis Excise Tax](#)
 - [Average Market Price](#)
 - [Cannabis Excise Tax Computation – example](#)
 - [Recordkeeping](#)
 - [For More Information](#)
 - [Contact Us](#)
-

Tax Help for the Cannabis Industry – Distributors

Tax Help for the Cannabis Industry - Distributors



- [Cannabis Tax Law](#)
- [Definitions and Responsibilities](#)

As a cultivator, you are responsible for the cultivation tax on all harvested cannabis entering the commercial market. Your distributor or manufacturer is required to collect the cultivation tax from you based on the category and weight of the cannabis.

+ Manufacturers of Cannabis Products – How to Collect the Cultivation Tax and Pay it to Distributors or Other Manufacturers (#DistributorsManufacturers)

As a manufacturer of cannabis products, when you receive unprocessed cannabis from a cultivator, you are required to collect the cultivation tax from the cultivator based on the weight and category of the cannabis.

+ Cannabis Distributors – Cannabis Tax Return is Due (#CannabisDistributors)

Your cannabis tax return and payment of the cannabis taxes are due on the last day of the month following the reporting period. To assist you in preparing the cannabis tax return, watch our [Filing a Cannabis Tax Return for Cannabis Distributors \(www.cdtfa.ca.gov/industry/cannabis.htm#Videos\)](https://www.cdtfa.ca.gov/industry/cannabis.htm#Videos) video located in the Videos Section of this guide.

+ Cannabis Distributors – Who is Responsible for the Cannabis Excise Tax when Sold/Transferred between Distributors (#SoldTransferred)

As a licensed cannabis distributor, you are required to collect the cannabis excise tax from retailers that you supply with cannabis or cannabis products as of January 1, 2018. You are required to report (based on the average market price) and pay the cannabis excise tax to the CDTFA in the reporting period in which you sell or transfer the cannabis or cannabis products to the cannabis retailer.

+ New Definition of Wholesale Cost for Calculating the Average Market Price (#WholesaleCostNewDefinition)

Beginning January 1, 2020, "wholesale cost" is the amount paid by the cannabis retailer (retailer) for cannabis or cannabis products, including transportation charges and *after* any discounts are provided.

+ Cannabis Distributors – Determining the Retailer's Wholesale Cost When Calculating the Average Market Price (#DetermineRetailerWholesale)

- [Cannabis Cultivation Tax](#)
 - [Cannabis Excise Tax](#)
 - [Average Market Price](#)
 - [Cannabis Excise Tax Computation – example](#)
 - [Filing Your Cannabis Tax Return](#)
 - [Sales and Use Tax](#)
 - [Resale Certificates](#)
 - [Use Tax](#)
 - [For More Information](#)
 - [Contact Us](#)
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Tax Help for the Cannabis Industry — Cultivators & Manufacturers

Tax Help for the Cannabis Industry - Cultivators and Manufacturers



- [Cannabis Tax Law](#)
- [Definitions and Responsibilities](#)
- [Cannabis Cultivation Tax](#)
- [Sales and Use Tax](#)

As a cannabis distributor, you are required to collect the cannabis excise tax from retailers that you supply based on the average market price of the cannabis or cannabis products. In an arm's length transaction, you calculate the average market price by using the retailer's wholesale cost of the cannabis or cannabis products plus a mark-up predetermined by CDTFA.

+ Cannabis Distributors – Information on Collecting and Paying the Cultivation Tax (#PayingCultivationTax)

As a licensed cannabis distributor (excluding transport-only distributors), you are required to collect the cultivation tax from cultivators, manufacturers, or other distributors based on the weight and category of the cannabis. The distributor who conducts the final quality assurance review after the cannabis or cannabis product passes the required testing is the distributor responsible for reporting and paying the cultivation tax to the California Department of Tax and Fee Administration (CDTFA). The cultivation tax must be reported during the reporting period in which the cannabis or cannabis product passes the required testing and quality assurance review, which is when the cannabis or cannabis product enters the commercial market.

+ Cannabis Distributors – Information on Collecting and Paying the Cannabis Excise Tax (#PayingCannabisExciseTax)

As a licensed cannabis distributor, you are required to collect the cannabis excise tax from retailers you supply with cannabis or cannabis products (cannabis). There may be instances when there are multiple distributors involved in the transaction. You are responsible for collecting the excise tax if you are the distributor that does the following:

- Sells and/or invoices cannabis to the retailer; or
- Transfers cannabis to the retailer on behalf of a manufacturer or cultivator.

+ Microbusinesses or Cannabis Businesses with Multiple Licenses – How to Calculate the Cannabis Excise Tax on Nonarm's Length Transactions (#Microbusinesses)

Distributors or microbusinesses authorized to operate as distributors are required to calculate and collect the 15 percent cannabis excise tax from cannabis retailers on the sale or transfer of cannabis or cannabis products (cannabis) based on the average market price of the cannabis. In a nonarm's length transaction, generally when a cannabis retailer is also the distributor, the average market price of the

cannabis is equal to the gross receipts, and the 15 percent cannabis excise tax is applied to the gross receipts of the retail sale of the cannabis.

+ Microbusinesses or Cannabis Businesses with Multiple Licenses - Cultivation Tax Requirements (#MultipleLicensesCultivation)

You are subject to the same requirements as an independent/third party distributor if you are a cannabis business licensed as a microbusiness that is authorized to engage in distribution, or if you hold multiple cannabis license types to operate as a distributor as well as a cultivator and/or manufacturer. This Tax Fact explains how and when to report the cultivation tax if you are a distributor that obtains cannabis or cannabis products from a related or affiliated cultivator and/or manufacturer.

+ Cannabis Accessories That Do Not Contain Cannabis Are Not Subject to the Cannabis Excise Tax (#CannabisAccessoriesExcise)

Cannabis accessories such as pipes, pipe screens, vape pens and vape pen batteries (without cannabis), rolling papers, and grinders are not subject to the 15 percent cannabis excise tax when the sales price of cannabis or cannabis products are separately stated. However, as a cannabis retailer, your retail sales of cannabis accessories are subject to sales tax and must be reported on your sales and use tax return.

+ Microbusinesses or Cannabis Businesses with Multiple Licenses - Cannabis Excise Tax Requirements (#MultipleLicensesExcise)

You are subject to the same cannabis excise tax collection and reporting requirements as an independent, third party distributor if you are a cannabis business licensed as a microbusiness that is authorized to act as a distributor, or if you hold multiple cannabis licenses to operate as both a distributor and retailer. This Tax Fact explains how and when to report the cannabis excise tax if your business is both the distributor and retailer of cannabis or cannabis products.

+ The Cannabis Excise Tax Applies to Cannabidiol Products that Contain Cannabis (#ExciseCannabidiol)

Cannabidiol (CBD) products containing "cannabis" as defined in the [Cannabis Tax Law \(https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=RTC&division=2.&title=&part=14.5.&chapter=&article=\)](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=RTC&division=2.&title=&part=14.5.&chapter=&article=) (Revenue and Taxation

Code § 34010) and the Health and Safety Code

([https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?](https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=10.&title=&part=&chapter=&article=)

[tocCode=HSC&division=10.&title=&part=&chapter=&article=](https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=10.&title=&part=&chapter=&article=)) (Health and Safety Code §§11018, 11018.1) are subject to the cannabis excise tax. CBD products that do not contain cannabis are not subject to the cannabis excise tax, even if the CBD product contains trace amounts of Tetrahydrocannabinol (THC).

+ Samples of Cannabis – How Does Tax apply? (#CannabisSamples)

As a distributor, manufacturer, or cultivator, you may sell samples or promotional items to a cannabis retailer. How the cannabis excise tax and the sales and use tax apply depends on whether the samples are sold to the retailer for marketing purposes for the retailer's use, or whether the samples are sold to the retailer for resale to the retailer's customers.

+ How Tax Applies to Immature Plants, Clones, and Seeds (#PlantsClonesSeeds)

In general, the cultivation tax does not apply to immature plants, clones, and seeds. However, the cannabis excise tax and the sales and use tax do apply to the retail sale of immature plants, clones and seeds.

+ How the Cultivation Tax Applies to Cannabis Pre-Rolls (#CannabisPre-Rolls)

Cannabis cultivators, including processors, are responsible for paying the cultivation tax when selling or transferring cannabis to distributors or manufacturers based on the weight and category (flowers, leaves, or fresh cannabis plant) of the cannabis. With respect to pre-rolled cannabis, a processor owes the cultivation tax when the processor transfers or sells the pre-rolled cannabis to a distributor.

+ Cannabis Retailers – How to calculate and pay the cannabis excise tax on cannabis or cannabis products acquired prior to, and sold at retail after, January 1, 2018 (#calculate-and-pay-cannabis-excise-tax)

Cannabis cultivators, including processors, are responsible for paying the cultivation tax when selling or transferring cannabis to distributors or manufacturers based on the weight and category (flowers, leaves, or fresh cannabis plant) of the cannabis. With respect to pre-rolled cannabis, a processor owes the

cultivation tax when the processor transfers or sells the pre-rolled cannabis to a distributor.

We will update this page as we receive information about the taxation requirements for the cannabis industry – please check back.

Please note: This guide is intended to provide general guidance regarding issues relating to the Sales and Use Tax Laws, Cannabis Tax Law, and other programs administered by the CDTFA which may affect the cannabis industry. It is not intended to provide advice or guidance in relation to other state and local statutes and regulations relating to the cannabis industry. Additionally, for the Federal Government's guidance regarding marijuana enforcement, see the [U.S. Department of Justice website \(https://www.justice.gov\)](https://www.justice.gov) .

The links below have more information about the topics covered in this guide, and other information you might find helpful:

Special Notices

- [The Cannabis Tax Return Will Move to Our New Online Services System Effective November 9, 2020 \(www.cdtfa.ca.gov/formspubs/L765.pdf\)](http://www.cdtfa.ca.gov/formspubs/L765.pdf)
- [Cannabis Mark-up Rate Remains at 80 Percent \(www.cdtfa.ca.gov/formspubs/L749.pdf\)](http://www.cdtfa.ca.gov/formspubs/L749.pdf)
- [Donated Medicinal Cannabis Exempt from Taxes \(www.cdtfa.ca.gov/formspubs/l729.pdf\)](http://www.cdtfa.ca.gov/formspubs/l729.pdf)
- [Cannabis Rate Changes Effective January 1, 2020 \(www.cdtfa.ca.gov/formspubs/L720.pdf\)](http://www.cdtfa.ca.gov/formspubs/L720.pdf)
- [Changes to Cannabis Excise and Cultivation Taxes Regulation \(L-719\) \(www.cdtfa.ca.gov/formspubs/l719.pdf\)](http://www.cdtfa.ca.gov/formspubs/l719.pdf)
- [Cannabis Special Notice – Important Cannabis Excise Tax Reminders for Cannabis Retailers and Distributors \(www.cdtfa.ca.gov/formspubs/l596.pdf\)](http://www.cdtfa.ca.gov/formspubs/l596.pdf)
- [New Emergency Regulation for Cannabis Distributors and Retailers Requires California Cannabis Track-and-Trace \(www.cdtfa.ca.gov/formspubs/l594.pdf\)](http://www.cdtfa.ca.gov/formspubs/l594.pdf)
- [Important Information for Cannabis Distributors \(www.cdtfa.ca.gov/formspubs/L531.pdf\)](http://www.cdtfa.ca.gov/formspubs/L531.pdf)
- [Guidance on How Taxes Apply to Cannabis Inventory Beginning January 1, 2018 \(www.cdtfa.ca.gov/formspubs/L530.pdf\)](http://www.cdtfa.ca.gov/formspubs/L530.pdf)
- [Notice of Proposed Emergency Regulation \(www.cdtfa.ca.gov/taxes-and-fees/regscont.htm\)](http://www.cdtfa.ca.gov/taxes-and-fees/regscont.htm)

- ⊗ [New Proposed Cultivation Tax Category, Tax Application, and Invoicing Requirements for Cannabis Businesses \(www.cdtfa.ca.gov/formspubs/l524.pdf\)](http://www.cdtfa.ca.gov/formspubs/l524.pdf)
- ⊗ [Cannabis – What you Need to Know about the Tax Rates and Registration \(www.cdtfa.ca.gov/formspubs/l519.pdf\)](http://www.cdtfa.ca.gov/formspubs/l519.pdf)
- ⊗ [New Cannabis Taxes Begin January 1, 2018 \(www.cdtfa.ca.gov/formspubs/l510.pdf\)](http://www.cdtfa.ca.gov/formspubs/l510.pdf)

Guides

- ⊗ [Guide for New Permit and License Holders \(www.cdtfa.ca.gov/industry/permit-holders.htm\)](http://www.cdtfa.ca.gov/industry/permit-holders.htm)
- ⊗ [Tax Guide for the Manufacturing and Research and Development Exemption \(manufacturing-exemptions.htm\)](http://www.cdtfa.ca.gov/formspubs/manufacturing-exemptions.htm)
- ⊗ [Tax Guide for the Agricultural Industry \(agriculture.htm\)](http://www.cdtfa.ca.gov/formspubs/agriculture.htm)

Publications

- ⊗ [Publication 44, *District Taxes* \(www.cdtfa.ca.gov/formspubs/pub44.pdf\)](http://www.cdtfa.ca.gov/formspubs/pub44.pdf)
- ⊗ [Publication 66, *Agricultural Industry* \(www.cdtfa.ca.gov/formspubs/pub66.pdf\)](http://www.cdtfa.ca.gov/formspubs/pub66.pdf)
- ⊗ [Publication 100, *Shipping and Delivery Charges* \(www.cdtfa.ca.gov/formspubs/pub100/\)](http://www.cdtfa.ca.gov/formspubs/pub100/)
- ⊗ [Publication 103, *Sales for Resale* \(www.cdtfa.ca.gov/formspubs/pub103/\)](http://www.cdtfa.ca.gov/formspubs/pub103/)
- ⊗ [Publication 110, *California Use Tax Basics* \(www.cdtfa.ca.gov/formspubs/pub110/\)](http://www.cdtfa.ca.gov/formspubs/pub110/)
- ⊗ [Publication 116, *Sales and Use Tax Records* \(www.cdtfa.ca.gov/formspubs/pub116/\)](http://www.cdtfa.ca.gov/formspubs/pub116/)
- ⊗ [Publication 557, *Tax Help for the Cannabis Industry* \(www.cdtfa.ca.gov/formspubs/pub557.pdf\)](http://www.cdtfa.ca.gov/formspubs/pub557.pdf)

Laws

- ⊗ [Cannabis Tax Law \(www.cdtfa.ca.gov/lawguides/vol3/ctl/ctl-toc.html\)](http://www.cdtfa.ca.gov/lawguides/vol3/ctl/ctl-toc.html)
- ⊗ [Sales and Use Tax Law \(www.cdtfa.ca.gov/lawguides/vol1/sutl/sales-and-use-tax-law-chapters.html\)](http://www.cdtfa.ca.gov/lawguides/vol1/sutl/sales-and-use-tax-law-chapters.html)

Cannabis Tax Regulations

- ⊗ [Regulation 3700, *Cannabis Excise and Cultivation Taxes* \(www.cdtfa.ca.gov/lawguides/vol3/ctr/ctr-reg3700.html\)](http://www.cdtfa.ca.gov/lawguides/vol3/ctr/ctr-reg3700.html)
- ⊗ [Regulation 3701, *Collection and Remittance of the Cannabis Excise Tax* \(www.cdtfa.ca.gov/lawguides/vol3/ctr/ctr-reg3701.html\)](http://www.cdtfa.ca.gov/lawguides/vol3/ctr/ctr-reg3701.html)

- ⊗ Regulation 3702, *California Cannabis Track-and-Trace*
(www.cdtfa.ca.gov/lawguides/vol3/ctr/ctr-reg3702.html)

Other Regulations

- ⊗ Regulation 1316, *Exempt Uses of Fuel in a Motor Vehicle*
(www.cdtfa.ca.gov/lawguides/vol3/uftr/uftr-reg1316.html)
- ⊗ Regulation 1431, *Diesel Fuel Used on a Farm for Farming Purposes*
(www.cdtfa.ca.gov/lawguides/vol3/dftr/dftr-reg1431.html)
- ⊗ Regulation 1533.1, *Farm Equipment and Machinery*
(www.cdtfa.ca.gov/lawguides/vol1/sutr/1533-1.html)
- ⊗ Regulation 1533.2, *Diesel Used in Farming Activities or Food Processing*
(www.cdtfa.ca.gov/lawguides/vol1/sutr/1533-2.html)
- ⊗ Regulation 1588, *Seed, Plants and Fertilizer*
(www.cdtfa.ca.gov/lawguides/vol1/sutr/1588.html)
- ⊗ Regulation 1589, *Containers and Labels*
(www.cdtfa.ca.gov/lawguides/vol1/sutr/1589.html)
- ⊗ Regulation 1628, *Transportation Charges*
(www.cdtfa.ca.gov/lawguides/vol1/sutr/1628.html)
- ⊗ Regulation 1668, *Sales for Resale* (www.cdtfa.ca.gov/lawguides/vol1/sutr/1668.html)
- ⊗ Regulation 1700, *Reimbursement for Sales Tax*
(www.cdtfa.ca.gov/lawguides/vol1/sutr/1700.html)

Other Helpful Resources

- ⊗ [CDTFA Field Offices](http://www.cdtfa.ca.gov/office-locations.htm) (www.cdtfa.ca.gov/office-locations.htm) – A comprehensive listing of all CDTFA field offices and contact information.
- ⊗ [CDTFA Online Services](http://www.cdtfa.ca.gov/services/) (www.cdtfa.ca.gov/services/) – Learn about the online services CDTFA offers.
- ⊗ [City and County Tax Rates](http://www.cdtfa.ca.gov/taxes-and-fees/sales-use-tax-rates.htm) (www.cdtfa.ca.gov/taxes-and-fees/sales-use-tax-rates.htm) – A listing of current and historical tax rates.
- ⊗ [Employment Development Department \(EDD\) Guide for Cannabis Industry Payroll Tax Reporting](http://www.edd.ca.gov/Payroll_Taxes/Cannabis_Industry_Payroll_Tax_Reporting.htm) (http://www.edd.ca.gov/Payroll_Taxes/Cannabis_Industry_Payroll_Tax_Reporting.htm) – An EDD guide that provides information for cannabis businesses to comply with payroll taxes.
- ⊗ [Contact Us](http://www.cdtfa.ca.gov/contact.htm) (www.cdtfa.ca.gov/contact.htm) – A listing of CDTFA contacts for your questions and concerns.
- ⊗ [Franchise Tax Board \(FTB\)](https://www.ftb.ca.gov/file/business/industries/cannabis.html?WT.mc_id=akCannabis) (https://www.ftb.ca.gov/file/business/industries/cannabis.html?WT.mc_id=akCannabis) –

An FTB guide that provides information regarding income tax issues for cannabis businesses.

- ③ [Get It In Writing!](http://www.cdtfa.ca.gov/formspubs/cdtfa8.pdf) (www.cdtfa.ca.gov/formspubs/cdtfa8.pdf) – The Sales and Use Tax Law can be complex, and you are encouraged to put your tax questions in writing.
- ③ [Internal Revenue Service \(IRS\) Guide for Cash Intensive Businesses](https://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Cash-Intensive-Businesses-Audit-Techniques-Guide-Table-of-Contents) (<https://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Cash-Intensive-Businesses-Audit-Techniques-Guide-Table-of-Contents>) – An IRS guide that provides insight to issues unique to cash businesses.
- ③ [Sign Up for CDTFA Updates](http://www.cdtfa.ca.gov/subscribe/) (www.cdtfa.ca.gov/subscribe/) – Subscribe to our email lists and receive the latest news, newsletters, tax and fee updates, public meeting agendas, and other announcements.
- ③ [Special Notices](http://www.cdtfa.ca.gov/news/#SpecialNotices) (www.cdtfa.ca.gov/news/#SpecialNotices) – CDTFA special notices are issued whenever there is a change in law, tax rates, or procedures.
- ③ [Taxpayers' Rights Advocate \(TRA\)](http://www.cdtfa.ca.gov/tra/) (www.cdtfa.ca.gov/tra/) – The TRA Office helps taxpayers when they are unable to resolve a matter through normal channels (for example, by speaking to a supervisor), or when there are apparent rights violations.
- ③ [Verify a Permit or License](https://onlineservices.cdtfa.ca.gov/?Link=PermitSearch) (<https://onlineservices.cdtfa.ca.gov/?Link=PermitSearch>) – You can use this application to verify a seller's permit.
- ③ [Videos and How-To Guides](http://www.cdtfa.ca.gov/seminar/online.htm) (www.cdtfa.ca.gov/seminar/online.htm) – These resources will help you avoid common mistakes, file your tax returns online, and more.
- ③ [California Department of Public Health](http://www.calmmmp.ca.gov/MMIC_Search.aspx) (http://www.calmmmp.ca.gov/MMIC_Search.aspx) – Verify the validity of a California Medical Marijuana Identification Card.
- ③ [California Department of Public Health](https://www.cdph.ca.gov/Programs/CEH/DFDCS/Pages/MCSB.aspx) (<https://www.cdph.ca.gov/Programs/CEH/DFDCS/Pages/MCSB.aspx>) – Manufactured Cannabis Safety Branch (MCSB) – Learn about manufacturer licensing.
- ③ [California Department of Food and Agriculture](https://www.cdfa.ca.gov/is/mccp/) (<https://www.cdfa.ca.gov/is/mccp/>) – Learn about cultivation licensing and the cannabis activity tracking system.
- ③ [California Bureau of Cannabis Control](https://bcc.ca.gov/) (<https://bcc.ca.gov/>) – Learn more about distribution, laboratory testing, and dispensary (sale) licensing.
- ③ [California Cannabis Portal](https://cannabis.ca.gov/) (<https://cannabis.ca.gov/>) – Learn about doing business in California
- ③ [Local and District Tax Guide for Retailers](http://www.cdtfa.ca.gov/industry/localanddistricttaxes.htm) (www.cdtfa.ca.gov/industry/localanddistricttaxes.htm) – A tax guide for retailers to learn more about how to properly collect, report, and pay local and district taxes.

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