

**THE CITY OF SAN DIEGO
OFFICE OF THE CITY TREASURER
CANNABIS BUSINESS TAX REGULATION**

CLARIFYING ADMINISTRATIVE REMEDIES AND APPEALS

REFERENCE: San Diego Municipal Code (SDMC) Chapter 3, Article 4, Division 1

AUTHORITY: SDMC section 34.0122

PURPOSE

This regulation provides clarification on Cannabis Business Tax (CBT) administrative remedies and appeals.

BACKGROUND

The Office of the City Treasurer is responsible for the administration of CBT in accordance with the SDMC, Chapter 3, Article 4, Division 1. SDMC section 34.0117 outlines Operators'¹ rights regarding administrative remedies and appeals for the tax amount assessed. In general, these rights include:

- To be heard by a hearing board made up of specific City officials (Hearing Board) to offer evidence regarding the amount assessed; and
- Ability to request a further appeal to an independent hearing officer² (Independent Hearing Officer).

Additionally, the Office of the City Treasurer is responsible for conducting compliance engagements of CBT in accordance with SDMC section 34.0124. During an audit, it is the Operator's responsibility to provide all records necessary to determine the amount of tax due to the City. If it is determined that the records provided are insufficient, it is standard practice that the Office of the City Treasurer may estimate any tax liability.

CITY TREASURER REGULATION

1. The only evidence the appeal board and/or hearing officer may consider is the evidence that was lawfully provided to the City Treasurer during an audit in accordance with SDMC section 34.0124 which states:

The Tax Administrator and authorized deputies or agents in the exercise of duties imposed by this Article shall have the right to inspect such records at all reasonable times and to apply auditing procedures necessary to determine the amount of tax due to the City.

Records not provided by the Operator during the audit shall not be considered as evidence during the appeal.

¹ All terms not otherwise defined in this regulation shall have the same meaning as set forth in SDMC section 34.0103

² Pursuant to SDMC section 34.0117(b) the Independent Hearing Officer shall be a member of the California Bar and shall not be a City employee.

2. To ensure all returns and payments submitted by Operators are treated as confidential, as required by SDMC section 34.0113(e), appeals/hearings shall not be open to the public.
3. Failure of the appellant to appear or send a representative to the hearing shall be deemed a waiver of the right to a hearing, provided that proper notice of the hearing (as determined by the Hearing Officer) has been given by the City. In the event the appellant (or appellant's representative) has failed to appear, the Hearing Officer shall issue an order stating that appellant has waived its right to a hearing and that the audit finding is upheld. Written declarations, signed under penalty of perjury, may be accepted by the Hearing Officer in lieu of personal appearance and testimony.

Date created: December 21, 2022