

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

**APPORTIONMENT OF GROSS RECEIPTS FOR  
CANNABIS RELATED BUSINESSES**

Reference: San Diego Municipal Code (SDMC) §§ 34.0103 and 34.0123  
Authority: SDMC § 34.0122

**PURPOSE**

This regulation establishes apportionment procedures for taxpayers to adjust their tax base to prevent an undue burden on interstate commerce or violation of the equal protection and due process clauses of the Constitution of the United States or the State of California.

**BACKGROUND**

The City of San Diego's (City) Cannabis Business Tax<sup>1</sup> applies to any business engaged in cannabis business activities within the City's limits, including businesses that do not have a physical presence within the City. Businesses must pay the City's Cannabis Business Tax on the portion of gross receipts relating to cannabis business conducted within the City limits. The process of attributing gross receipts to business conducted within City limits when a transaction crosses City limits is called apportionment. Under SDMC § 34.0122, the City Treasurer is authorized to promulgate administrative rules and regulations related to apportionment. This rule applies to cannabis business activity that crosses City limits and provides specific apportionment criteria to be used in determining the percentage of gross receipts subject to the Cannabis Business Tax.

**CITY TREASURER REGULATION**

As referenced in SDMC 34.0103(e), engaged in Cannabis Business means *the commencing, conducting, operating, managing or carrying on of a Cannabis Business and the exercise of corporate or franchise powers, whether done as owner, or by means of an officer, agent, manager, employee, or otherwise, whether operating from a fixed location in the City or coming into the City from an outside location to engage in such activities. A person shall be deemed engaged in Cannabis Business if:*

- *Such person or person's employee maintains a fixed place of location for Cannabis Business purposes, in whole or part, within the City for the benefit or partial benefit of such person;*
- *Such person or person's employee owns or leases real property within the City for Cannabis Business;*
- *Such person or person's employee regularly maintains a stock of tangible property in the City for sale in the ordinary course of such Cannabis Business;*

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<sup>1</sup> SDMC, Chapter 3, Article 4, Division 1.

- *Such person or person’s employee regularly conducts solicitation of Cannabis Business within the City, which may be demonstrated by the use of signs, circulars, cards or any other advertising media, including the use of internet or telephone solicitation; or*
- *Such person or person’s employee uses the streets within the City in connection with the operation of motor vehicles, or other methods of transportation, for Cannabis Business purposes.*

For purposes of the Cannabis Business Tax, SDMC § 34.0103(f) defines the term “gross receipts.” The City Treasurer will use the following standards to determine the cumulative percentage of gross receipts subject to the tax (further represented below in the “APPORTIONMENT TABLE”):

1. 15% of gross receipts when the buyer is within the City.
2. 25% of gross receipts when the seller is within the City.
3. 15% of gross receipts for deliveries to customers located within the City regardless of f.o.b. point, other conditions of sale, or method of delivery.
4. 20% of gross receipts if product is shipped from within the City.
5. 10% of gross receipts if accounting is processed within the City. Accounting includes the generation of billing data, a billing invoice, or a billing statement.
6. 15% of gross receipts if funds are collected or received within the City.

**APPORTIONMENT TABLE**

Rate	Description
<b>SALES</b>	
15%	When the buyer is located within the City of San Diego
25%	When the seller is located within the City of San Diego
<b>PRODUCT DELIVERY</b>	
15%	If product is delivered within the City of San Diego
20%	If the product is shipped from within the City of San Diego
<b>ACCOUNT PROCESSING</b>	
10%	Billing, accounting is processed within the City of San Diego
15%	Payment is collected within the City of San Diego
Total not to exceed 100%	

**PROVISION FOR MODIFICATION OF  
APPORTIONMENT FORMULA**

Any taxpayer may request an adjustment to the apportionment formula if the taxpayer believes application of the formula in the taxpayer's situation would place an undue burden upon interstate commerce or violate the equal protection and due process clauses of the Constitution of the United States or the State of California. SDMC §34.0123(a)(b).

The taxpayer shall, by sworn statement and supporting testimony, show the method of business and the gross volume of business and such other information as the City Treasurer may deem necessary in order to determine the extent, if any, of such adjustment. The City Treasurer shall then conduct an investigation, and shall increase, reduce, or allow to stand the percentage originally determined, depending on the facts presented. SDMC § 34.0123(c).

The City Treasurer must approve, in writing, any variation from the apportionment formula provided for under this regulation.