

Cannabis Business Tax

Frequently Asked Questions (FAQ's)

What cannabis business activities are subject to the tax?

Cannabis business activities include “any activity which entails the distribution, delivery, dispensing, exchanging, bartering or sale of non-medical Cannabis, including but not limited to, transporting, manufacturing, cultivating, compounding, converting, processing, preparing, storing, packaging, wholesale, or retail sales of Cannabis and any ancillary products in the City, whether or not carried on for gain or profit.” SDMC § 34.0103(b). All cannabis business activities are taxable, regardless of whether a cannabis business has received the necessary licenses and permits to operate in the City of San Diego.

In addition to cannabis, I sell other products such as t-shirts. Are all my sales taxable?

If you sell cannabis, then yes you are a cannabis business as defined by SDMC § 34.0103(b) and all products sold are taxable. Under SDMC § 34.0103(b), the Cannabis Business Tax applies to retail sales of cannabis and any ancillary products sold.

My business is located outside the City of San Diego yet engages in cannabis activities within the City's limits. Does the City's Cannabis Business Tax apply to my business?

Yes. The City of San Diego's Cannabis Business Tax requirements apply to any business engaging in cannabis business activities within City's limits. This includes business that do not have a physical presence within the City of San Diego. Specifically, SDMC § 34.0103(e) defines *Engaged in Cannabis Business* as follows: “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.**” Although the tax applies, apportionment procedures have been developed to prevent an undue burden on interstate commerce. Additional information can be found [here](#).

I own multiple cannabis businesses. Are transactions between each business taxable?

It depends. SDMC §34.01013 (f)(8-10) exempts transactions made between affiliated businesses, yet the exemption only applies if certain ownership requirements are met.

What medical cannabis sales are excluded from the tax?

Only two types of sales qualify as medical marijuana activities excluded from the Cannabis Business Tax: (1) Nonprofit cannabis businesses that make only medical cannabis sales can exclude gross receipts from sales made to patients with a doctor's recommendation or a state-issued Medical Marijuana Identification Card and (2) Nonprofit and for-profit cannabis businesses with both medical and recreational cannabis sales can exclude gross receipts from medical cannabis sales only when made to patients with a state issued Medical Marijuana Identification Card. See the [City Treasurer Cannabis Business Tax – Medical Cannabis Regulation](#) for additional information.

However, note that it is the cannabis business owner's responsibility to confirm the validity of any doctor's recommendations and Medical Marijuana Identification Cards.

What If I make a tax-exempt medical cannabis sale but do not retain the documentation to show the purchaser was a qualified patient or primary caregiver?

Cannabis businesses are required to maintain copies of doctor's recommendations and/or Medical Marijuana Identification Cards for sales excluded from gross receipts and keep them on file for no less than three years. SDMC § 34.0124. Documentation must be provided to the City upon request. Any sales excluded from gross receipts that cannot be supported with the required documentation will be deemed subject to Cannabis Business Tax. Any under remitted taxes will be subject to penalties and interest.

What is the City's tax rate for cannabis business activities?

Effective January 1, 2018, the Cannabis Business Tax rate was 5%. On July 1, 2019, the rate increased to 8%. On May 1, 2022 the tax rate decreased to 2% for Cannabis Production Facilities. Cannabis Production Facilities consists of businesses conducting cultivation, manufacturing, distribution and storage activities.

Should I include state excise taxes and sales taxes to my gross receipts used to compute the City's Cannabis Business Tax?

In general, no. For the purpose of the Cannabis Business Tax, gross receipts means the total amount actually received from all sales, excluding the items listed in SDMC 34.0103 (f). Taxes required by law to be included in or added to the purchase price and collected from the consumer or purchaser should be excluded from gross receipts. However, over collected, unremitted excise tax and sales tax must be included in gross receipts when computing CBT due to the City.

When are Cannabis Business Taxes due?

Cannabis Business Taxes are to be remitted monthly. Full payment must be made on or before the last day of the month for the previous month's activity. In the event the last day of the month falls on a weekend or recognized City holiday, a payment made on the next regular business day in which the Office of the City Treasurer is open to the public will be considered timely.

Are there penalties for late payment?

Yes. A penalty of 25% of the amount of the tax owed plus interest of 1.5% will be assessed for taxes not paid by the due date. Unpaid taxes outstanding for a period exceeding one calendar month beyond the due date will be assessed an additional 25% penalty.

Failure to remit Cannabis Business Taxes to the City may also result in the revocation of state-issued licenses and permits, the revocation of the City-issued Conditional Use Permit (CUP) required to operate a cannabis business, and a lien on the real property of the cannabis business owner.

How do I submit my tax payment?

Cash payments must be made in person at Civic Center Plaza – 1200 Third Ave. Suite 100, San Diego, CA 92101. Cash deposits in excess of \$3,000 require an appointment by calling (619) 615-1580. Payments made by check can be submitted in person or by mail to the address listed below. The [Cannabis Tax Remittance Form](#) must be included with all payments.

The City of San Diego Business Tax Program is providing this information as general guidance on the City's Cannabis Business Tax Ordinance. This information is provided as a public service and should not be construed or relied upon in any way as legal advice. Although we make every effort to correct any errors brought to our attention, please refer directly to the full text of the Ordinance: <http://docs.sandiego.gov/municode/MuniCodeChapter03/Ch03Art04Division01.pdf>.

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Note that check payments remitted by mail shall be considered timely only if the postmark date is prior to midnight on the last day for remitting without penalty.

I do not have any taxable gross receipts for the month. Am I still required to submit Cannabis Tax Remittance Form?

Yes. All cannabis businesses must remit a completed Cannabis Tax Remittance form to the Office of the City Treasurer monthly no later than the due date.

Does the issuance of a Business Tax Certificate and payment of associated taxes give me authorization to operate a cannabis business?

No. A cannabis business must obtain a Cannabis Business Tax Certificate to report and remit taxes monthly; the Certificate is not an authorization to operate. A cannabis business is subject to the Cannabis Business Tax regardless of whether it is authorized to operate.

In addition to any requirements imposed by the State of California, a cannabis business in San Diego must obtain a Marijuana Outlet Permit or Marijuana Production Facility Permit to operate in the City. Please visit the following website for permitting information <https://www.sandiego.gov/blog/marijuana-cultivation-testing-sales-and-delivery>.

Do I need to provide documentation with my monthly remittance supporting my gross receipts?

No, documentation is not required when submitting your monthly remittance; however, as required by San Diego Municipal Code section 34.0124, all business records (including documentation to support excluded medical sales) must be maintained by the Operator for a minimum of three years. All businesses are subject to audit by the City and must produce records necessary to determine the amount of tax due.

Why I am being audited?

The City routinely audits Cannabis Businesses. Per San Diego Municipal Code section 34.0124, the City has the authority to examine all records necessary to determine tax due to the City.

What should I expect during the audit?

The City initiates an audit by providing the Operator with an [engagement letter](#), including a request for documents. As the audit progresses, the auditor will perform testing and inquiries and may require additional documentation. The results of the audit will be documented in an audit report and discussed with the Operator during an exit conference.

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What happens if I don't provide complete and/or accurate records during the audit?

In the absence of accurate and/or complete records the City will use the facts and information available to estimate any tax due to the City.

Are penalties assessed for underpayment of cannabis taxes discovered during an audit?

Yes. In accordance with San Diego Municipal code section 34.0114, a penalty of 25% of the amount of the tax owed plus interest of 1.5% will be assessed on underreported taxes and are calculated using the date when the taxes were due to the City. Further, any taxes that have been delinquent for a period of more than one calendar month beyond the due date will be assessed an additional 25% penalty.

What happens if I locate records after my audit has been completed?

The City does not reopen audits or issue credits against audit deficiencies based on unaudited documents. If an Operator locates records after the completion of the audit, they may take a credit on a future monthly return and must maintain the documents supporting the credit; these documents will be reviewed in the next audit.