



# TREASURER-TAX COLLECTOR SAN DIEGO COUNTY

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**Dan McAllister**  
Treasurer-Tax Collector



# Cannabis Taxation Operator Manual

Updated February 2023

On November 8, 2022, San Diego County voters approved Measure A, which was established to fund general County purposes including but not limited to parks, fire safety, roads, health, and social equity, by taxing cannabis businesses in the unincorporated area.

The San Diego County Treasurer-Tax Collector was authorized by resolution of the County Board of Supervisors to be the cannabis tax administrator.

This manual is developed as a guide to Cannabis operators outlining responsibilities and procedures for remitting cannabis tax. This guide serves as a summary of the cannabis business responsibilities. Please refer to County Ordinance No. 10801 for detailed information regarding the Cannabis Tax Administration Program. For questions or clarification regarding the information in this guide, please contact the San Diego County Treasurer-Tax Collector at (877) 829-4732.

## **Registration**

1. All cannabis businesses shall be required to register with the Tax Administrator within 30 calendar days of commencing operation and renew registration within 30 calendar days of the business registration anniversary date each year.
2. Registration shall include a sworn statement setting forth the following:
  - a. Name of business
  - b. Names and addresses of each owner
  - c. Exact nature and kind of business
  - d. Place where the business is carried on
  - e. Any additional information required by the Tax Administrator
3. Cannabis tax is paid in arrears on a quarterly basis.
4. Businesses shall file a tax statement on or before the last day of the month following the close of each quarter.
5. Upon cessation (closure) of a cannabis business, tax statements are immediately due for all calendar quarters up through the quarter of the closure.
6. Changes in Ownership.
  - a. New owner shall submit an updated registration form.
  - b. New owner is subject to an audit by the tax administrator
  - c. It is the liability of the seller and buyer to remit any taxes, interest, penalties, and fees due up until the date of the sale.
  - d. A certificate of lien may be recorded against both the seller and buyer for non-payment of taxes in an amount determined by the tax administrator.

## Payments

1. Payments must be “received” on or before the due date. A postmark will not be accepted as timely remittance.
2. If the due date falls on a weekend or holiday, the due date shall be the next regular business day in which the County is open to the public.
3. **Cash** payments are accepted by **appointment only** at the downtown location. If you would like to make an appointment to remit a cash payment, please contact us at (619) 685-2349 or email [SDCANNABISTAX@sdcounty.ca.gov](mailto:SDCANNABISTAX@sdcounty.ca.gov).
4. **Check, Cashier’s Check or Money Order** payments may be remitted by mail or in person at one of the five San Diego County Treasurer-Tax Collector locations.

### **MAIN OFFICE – COUNTY ADMINISTRATION CENTER**

1600 Pacific Hwy, Room 162  
San Diego, CA 92101

### **CHULA VISTA BRANCH OFFICE**

590 Third Ave  
Chula Vista, CA 91910

### **EAST COUNTY BRANCH OFFICE (NEW)**

10144 Mission Gorge Road  
Santee, CA 92071

### **SAN MARCOS BRANCH OFFICE**

141 East Carmel Street  
San Marcos, CA 92078

### **KEARNY MESA BRANCH OFFICE**

9225 Clairemont Mesa Blvd  
San Diego, CA 92123

5. Mail payments may be remitted to:  
San Diego County Treasurer-Tax Collector  
PO Box 129009  
San Diego, CA 92112
6. Returned Check or Electronic Payment
  - a. Whenever a check or electronic payment is submitted in payment of a cannabis business tax and the payment is subsequently returned unpaid by the bank for any reason, the taxpayer will be liable for the tax amount due plus any fees, penalties, and interest as provided for in this chapter, and any other amount allowed under state law (\$25 Returned Check Fee).

## Payment Due Dates

1. Payments shall be due on a quarterly basis no later than 30 days after the closing date of the quarter.
2. Quarters are defined as follows:

**Quarter 1:** July through September (Due date October 31<sup>st</sup>)

**Quarter 2:** October through December (Due date January 31<sup>st</sup>)

**Quarter 3:** January through March (Due date April 30<sup>th</sup>)

**Quarter 4:** March through June (Due date July 31<sup>st</sup>)

## Penalties & Interest

1. If a business fails to remit the cannabis tax on or before the due date, the following penalties and interest shall apply:
  - a. An additional penalty of 10% of the amount of the tax.
  - b. Additional interest at the rate of 1% per month calculated from the due date on the unpaid tax and penalties and will continue to accrue monthly on the tax and penalty until the balance is paid in full.
  - c. If the tax remains unpaid for more than 1 month beyond the due date, an additional penalty of 25% of the amount of tax.
2. Penalty Cancellation
  - a. TTC may waive penalties imposed on a tax if:
    - i. A written request for waiver is submitted to TTC no later than December 31<sup>st</sup> of the second calendar year following the year in which the tax became delinquent.
    - ii. Business provides evidence that the failure to pay timely was due to circumstances beyond the control of the person and the person paid the delinquent taxes, penalties, accrued interest and fees owed prior to applying for a penalty waiver.
    - iii. The penalty waiver shall not apply to interest accrued on the delinquent taxes.
    - iv. Waiver shall be granted only once during any 24-month period.
    - v. TTC's decision on a request for pc is final and conclusive and not subject to appeal.

## Refunds

1. If an operator believes that an overpayment, duplicate payment or erroneous payment was remitted a claim form must be submitted within 1 year of the date the tax was originally due or paid (whichever came first).
2. Claim must be supported with written documentation sufficient to show entitlement.
3. The tax administrator's decision on a claim form is final and conclusive and not subject to appeal.

4. The tax administrator, his or her designee which may include a third-party or any other County officer charged with administration of this chapter shall have the right to examine and audit all books and business records of the claimant to determine the eligibility of the claimed refund.
5. If the claimant refuses to allow an examination of the books and business records, no claim for refund shall be approved.
6. A fee may be charged to pay for the cost of examination and audit should the books and records be provided in a form insufficient to allow TTC to decide.

### **Relief from taxes due to disaster or crop failure**

1. If an operator is unable to pay any tax requirement imposed due to a disaster impacting the cannabis business, the operator may notify TTC of its inability to comply and request relief from the tax requirement.
2. Disaster means fire, flood, storm, tidal wave, earthquake, or similar public calamity resulting in physical damage to real property.
3. If a person is unable to pay any tax requirement imposed due to crop failure which impacts the cannabis, the person may notify TTC of its inability to comply and request relief from the tax requirement within 5 days from when the crop failure occurred.
4. Crop failure means a greatly diminished crop yield relative to expectation, caused by the plants being damaged, killed or destroyed or affected in some way that they fail to form clones, mother plants, vegetative and or flowering plants which must be destroyed because of viruses... (see Section 22.426 of the ordinance).
5. The person shall provide any information required by the Tax Administrator including, without limitation, why relief is requested, the time period for which the relief is requested, the reason relief is needed for a specific amount of time, access to cultivation logs, and video surveillance camera footage for the time period the where the cannabis business has been impacted.
6. The Tax Administrator, in his/her sole discretion, may provide relief from the cannabis business tax requirement and such tax relief shall not exceed twenty-five thousand (\$25,000) dollars. Such temporary relief may be granted for a reasonable amount of time, in the Tax Administrator's sole discretion, and the amount and duration of relief will be based upon how long it would reasonably take for the cannabis business to recover from the disaster or crop failure (see additional details in section 22.426).

### **Audits**

1. TTC or his/her designee, which may include a third-party, shall have the power to inspect any location where commercial cannabis activity occurs and audit and examine all books and records.
2. TTC or third-party designee shall have the power to inspect any space utilized for cannabis related activities as well as any equipment or software that may contain such records.

3. Each person liable for the payment of tax shall be liable to keep and preserve all records necessary to determine the amount of tax they are liable for, for a period of at least 3 years.
4. If TTC is not satisfied that any statement filed or the amount of tax is correctly computed, TTC may compute and determine the amount to be paid and make a deficiency determination based on information that may come into TTC's possession within 3 years of the date the tax was due.
5. If a business discontinues, a deficiency determination may be made any time within 3 years of any liability arising from engaging in the cannabis business.

### **Failure to Report/Non-payment**

1. TTC may make and give notice of an assessment of the amount of tax owed at any time:
  - a. If the person has not filed a complete statement required
  - b. If the person has not paid the tax due
  - c. If the person has not, after demand by TTC, filed a corrected statement or furnished TTC adequate substantiation of the information contained in the statement already filed or paid additional amount due
  - d. If TTC determines that nonpayment of any cannabis tax is due to fraud, a penalty of 25% of the amount of the tax shall be added in addition to penalties and interest otherwise payable.
2. Informal Hearing
  - a. Within 30 days after the receipt of an application for an informal hearing, TTC shall issue a notice of an informal hearing unless a later date is agreed upon.
  - b. The applicant may appear at the hearing and offer evidence why the assessment made by TTC should not be confirmed and fixed as the tax due.
  - c. After the hearing, TTC shall determine and reassess, if necessary, the proper amount of tax, penalties and interest to be charged. Written notice of the decision shall be given in person, by mail, overnight or USPS delivery.
  - d. If the person fails to appear at the informal hearing, the amount due as determined by TTC is final and conclusive.
  - e. If the taxpayer is not satisfied with TTC's decision after the informal hearing, they may appeal with the Clerk of the Board within 30 days.

### **Enforcement**

1. Any taxes, interest, penalties, and/or fees required to be paid under the provisions of this chapter shall be deemed a debt owed to the County.
2. Any person owing money to the County under the provisions of this chapter shall be liable in an action brought in the name of the County for the recovery of such debt.
3. If any amount required to be paid to the County under this chapter is not paid when due, the Tax Administrator may, within three (3) years after the amount is due record with any county recorder in the State of California a certificate of lien specifying the amount of

taxes, interest, penalties, and fees due, and the name and address of the person as it appears on the records of the Tax Administrator.

4. The lien has the force, effect, and priority of a judgment lien and shall continue for ten (10) years from the recording of the certificate unless sooner released or otherwise discharged.
5. At any time within ten (10) years after the Tax Administrator has recorded a certificate of lien under this Section 22.415, the Tax Administrator may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the County.
6. In lieu of issuing a warrant, at any time within three (3) years after any amount required to be paid to the County is not paid when due or a certificate of lien was recorded, the Tax Administrator may collect the amount due by seizing any asset or property, real or personal (including a bank account), of the person and sell at public auction the asset or property, or a sufficient part of it to pay the amount due together with any penalties, interest, and fees imposed for the delinquency and any cost incurred on account of the seizure and sale.

**Apportionment**

1. If a business is operating both within the unincorporated areas and outside of the unincorporated area, the County will apply the business tax to the proportion of the taxed activity carried on in the unincorporated area.
  - a. The taxpayer may indicate apportionment on the tax statement

**Tax Rate Table (rates approved 2/28/2023)**

By percent of gross receipts or square footage. Rates may be subject to change at any time by approval from the County of San Diego Board of Supervisors.

Business Type	Rate
Retail	2.00% of gross receipts
Manufacturing/Processing	2.50% of gross receipts
Distribution	2.00% of gross receipts
Cultivation (Indoors)	\$7.00 per square foot
Cultivation (Mix-Light)	\$3.00 per square foot
Cultivation (Outdoors)	\$0.50 per square foot
Nurseries	\$1.00 per square foot
Testing Laboratory	1.00% of gross receipts
Other	4.00% of gross receipts