

CANNABIS SPECIAL NOTICE

Cannabis - What You Need to Know about the Tax Rates and Registration

Beginning January 1, 2018, harvested cannabis is subject to a cultivation tax and both cannabis and cannabis products are subject to a cannabis excise tax. As a cannabis business, it is important you are aware of the new tax rates, how these taxes apply to your business activities, and your registration requirements.

What are the cultivation tax rates and who pays the tax?

The current cultivation tax rates are:

- \$9.25 per dry-weight ounce of cannabis flowers, and
- \$2.75 per dry-weight ounce of cannabis leaves.

Additional categories and rates may be specified at a later date in regulations and will be posted on our website at www.cdtfa.ca.gov.

The cultivation tax applies to all harvested cannabis that enters the commercial market. Cultivators are responsible for paying the cultivation tax to the distributor or to the manufacturer if the first transfer or sale of unprocessed cannabis is to a manufacturer. Manufacturers who collect the cultivation tax are required to pay the tax to the distributor. The distributor reports and pays the cultivation tax to the California Department of Tax and Fee Administration (CDTFA).

What is the cannabis excise tax rate and who pays the tax?

The cannabis excise tax is imposed upon purchasers of all cannabis and cannabis products at a rate of 15 percent of the *average market price* when purchased at retail. Retailers are responsible for collecting the cannabis excise tax from purchasers at the time of the retail sale and for paying the tax to the distributor. The distributor reports and pays the cannabis excise tax to the CDTFA.

How is the average market price determined?

- When the sale to the retailer is an arm's length transaction, meaning the consideration received reflects the fair market value between two parties under no requirement to participate in the transaction, the average market price is the *wholesale cost* of the cannabis or cannabis products sold or transferred to the retailer, plus a *mark-up* predetermined by the CDTFA (see heading below).
 - The wholesale cost is the amount paid by the retailer for the cannabis or cannabis products, including transportation charges and adding back in any discounts or trade allowances. In an arm's length transaction, the excise tax is not based on the retailer's gross receipts.
- When the sale or transaction is **not** at arm's length, the average market price is the cannabis retailer's gross receipts from the retail sale of the cannabis or cannabis products.

What is the mark-up rate on wholesale cost?

The current mark-up rate as set by the CDTFA is 60 percent for all cannabis and cannabis products.

CDTFA is required to determine the mark-up rate every six months. The rate will be posted on our website at www.cdtfa.ca.gov.

How does the distributor report and pay cultivation and cannabis excise taxes to the CDTFA?

- Distributors must register with the CDTFA for a cannabis tax permit to report and pay the cultivation tax and cannabis excise tax to the CDTFA.
- A microbusiness licensee is licensed to act as a distributor, among other things, and must comply with all the same requirements as a distributor.

How does sales and use tax apply?

- Sales and use tax applies to retail sales of cannabis and cannabis products, but does not apply to sales of medicinal cannabis and cannabis products where a purchaser provides his/her Medical Marijuana Identification Card issued by the California Department of Public Health and a valid government identification card.
- Gross receipts from the sale of cannabis and cannabis products for purposes of sales and use tax include the excise tax.
- Cannabis retailers, cultivators, manufacturers, and distributors making sales must register with the CDTFA for a seller's permit to report and pay any sales and use tax due to the CDTFA. If you already have a seller's permit that was issued by the Board of Equalization (BOE), it is not necessary to re-register for a seller's permit with the CDTFA.
- It is important that you timely obtain a valid resale certificate that is accepted in good faith from the purchaser if you make sales for resale.
- Current sales and use tax rates can be found on our website at www.cdtfa.ca.gov.

When may I register my cannabis business?

Beginning November 20, 2017, you can register for all the proper tax permits for your cannabis business on our website at www.cdtfa.ca.gov. From the CDTFA homepage, click the *Register* link, and follow the prompt. When registering your business activity, make sure to select box number 3, *Cannabis business activities*.

Where can I get more information?

The information provided here is general. The tax law can be complicated and there are very specific requirements for the cannabis industry. Read our *Tax Guide for Cannabis Businesses* at www.cdtfa.ca.gov/industry/cannabis.htm for helpful information on a variety of topics including: registration, invoice requirements, tax exemptions, recordkeeping, calculation of the tax due with examples, and other important resources.

If you have additional questions, you may call our Customer Service Center at 1-800-400-7115 (TTY:711) Monday through Friday, 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays.