COMMERCIAL CANNABIS BUSINESS TAX
Frequently Asked Questions

What is the commercial cannabis business tax?
The commercial cannabis business tax is a tax due for engaging in commercial cannabis business in the unincorporated area of Monterey County. Commercial cannabis business is any commercial business activity related to cannabis, including but not limited to cultivating, transporting, distributing, manufacturing, compounding, converting, processing, preparing, storing, packaging, delivering, and selling (wholesale and/or retail sales) of cannabis and any ancillary products and accessories in the unincorporated area of the County, whether or not carried on for gain or profit.

Which Monterey County department/agency is responsible for collecting the commercial cannabis business tax?
The Monterey County Treasurer-Tax Collector is responsible for collecting the commercial cannabis business tax.

How do I know if I am required to pay the cannabis business tax?
The cannabis business tax is imposed on all commercial cannabis businesses in the unincorporated area of Monterey County. A commercial cannabis business is defined by Monterey County Code Section 7.100.040 (E) as “any commercial business activity related to cannabis, including but not limited to cultivating, transporting, distributing, manufacturing, compounding, converting, processing, preparing, storing, packaging, delivering, and selling (wholesale and/or retail sales) of cannabis and any ancillary products and accessories in the unincorporated area of the County, whether or not carried on for gain or profit.”

What is “cannabis”?
“Cannabis” is defined by Monterey County Code Section 7.100.040 (B) and “means all parts of the plant Cannabis sativa Linneaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” also means marijuana as defined by Section 11018 of the California Health and Safety Code and is not limited to medical cannabis.”

What is meant by the word “business”?
“Business” is defined by Monterey County Code Section 7.100.040 (A) as “all activities engaged in or caused to be engaged in within the unincorporated area of the County, including any commercial or industrial enterprise, trade, profession, occupation, vocation, calling, or livelihood, whether or not carried on for gain or profit, but shall not include the services rendered by an employee to his or her employer.”

What is my tax rate?
The tax rates for commercial cannabis business within the unincorporated area of Monterey County are established in MCC§ 7.100.050*. A summary of the tax rates, as amended on July 24, 2018, are provided below and should not be relied upon as a substitute for a full review of MCC§ 7.100.

Indoor Cultivation
- July 1, 2018 – June 30, 2020: The initial tax rate is eight dollars ($8.00) per fiscal year, per square foot of canopy authorized by each County permit, or by each state license in the absence of a county permit, not deducting for unutilized square footage.
- July 1, 2020 – June 30, 2026: Beginning on July 1, 2020, the tax rate shall automatically increase each fiscal year by one dollar ($1.00) per square foot of authorized canopy, not to exceed a rate of fifteen dollars ($15.00) per square foot.
- July 1, 2026 and thereafter: Beginning on July 1, 2026 and on July 1 of each succeeding fiscal year thereafter, the amount of the tax shall be increased by the most recent change in the annual average of the Consumer Price Index (“CPI”) for all urban

* Tax rates subject to change.
consumers in the San Francisco-Oakland-San Jose areas as published by the United States Government Bureau of Labor Statistics. However, no CPI adjustment resulting in a decrease of the tax will be made.

**Mixed Light Cultivation**
- July 1, 2018 – June 30, 2020: The initial tax rate is five dollars ($5.00) per fiscal year, per square foot of canopy authorized by each County permit, or by each state license in the absence of a County permit, not deducting for unutilized square footage.
- July 1, 2020 – June 30, 2029: Beginning on July 1, 2020, the tax rate shall automatically increase each fiscal year by one dollar ($1.00) per square foot of authorized canopy, not to exceed a rate of fifteen dollars ($15.00) per square foot.
- July 1, 2029 and thereafter: Beginning on July 1, 2029 and on July 1 of each succeeding fiscal year thereafter, the amount of the tax shall be increased by the most recent change in the annual average of the Consumer Price Index (“CPI”) for all urban consumers in the San Francisco-Oakland-San Jose areas as published by the United States Government Bureau of Labor Statistics. However, no CPI adjustment resulting in a decrease of the tax imposed by this section shall be made.

**Nursery Cultivation**
- July 1, 2018 – June 30, 2020: The initial tax rate is one dollar ($1.00) per square foot of canopy authorized by each County permit, or by each state license in the absence of a County permit, not deducting for unutilized square footage.
- July 1, 2020 – June 30, 2024: Beginning on July 1, 2020, the tax rate shall automatically increase each fiscal year by one dollar ($1.00) per square foot of canopy for cannabis cultivation as a nursery, not to exceed the maximum tax rate of five dollars ($5.00) per square foot.
- July 1, 2024 and thereafter: Beginning on July 1, 2024 and on each July 1 of each succeeding fiscal year thereafter, the amount of each commercial cannabis business tax shall be increased by the most recent change in the annual average of the Consumer Price Index (“CPI”) for all urban consumers in the San Francisco-Oakland-San Jose areas as published by the United States Government Bureau of Labor Statistics. However, no CPI adjustment resulting in a decrease of the tax will be made.

**Manufacturers**
- July 1, 2018 - June 30, 2019: The initial tax rate is two and one-half percent (2.5%) of the gross receipts per fiscal year.
- July 1, 2019 and thereafter: Beginning on July 1, 2019, the tax rate will increase each fiscal year by one percent (1%), not to exceed a maximum tax rate of ten percent (10%) per fiscal year on gross receipts.

**Distributors/Distribution Facilities**
- July 1, 2018 - June 30, 2019: The initial tax rate is two percent (2%) of the gross receipts per fiscal year.
- July 1, 2019 and thereafter: Beginning on July 1, 2019, the tax rate will increase each fiscal year by one percent (1%), not to exceed a maximum tax rate of ten percent (10%) per fiscal year on gross receipts.

**Testing Laboratories**
- The tax rate, effective July 1, 2018, is one percent (1%) of the gross receipts per fiscal year.

**Dispensaries**
- July 1, 2018 - June 30, 2019: The initial tax rate is four percent (4%) of the gross receipts per fiscal year.
- July 1, 2019 and thereafter: Beginning on July 1, 2019, the tax rate will increase each fiscal year by one-half percent (0.5%), not to exceed a maximum tax rate of ten percent (10%) per fiscal year on gross receipts.

**Personal Cultivation/Personal Use**
- Personal cultivation and personal use as defined by MCC § 7.95 is exempt from the commercial cannabis business tax.

**My tax rate is based on cultivation. What is meant by square foot or square footage of canopy?**
“Square foot” or “square footage” is defined by Monterey County Code Section 7.100.040 (X) as “the maximum amount of canopy for commercial cannabis cultivation authorized by a County permit issued to a person engaging in commercial cannabis business, or by a state license in the absence of a County permit or license, not deducting for un-utilized square footage, and shall be the basis for the tax base for cultivation.” The term “canopy” is defined by Monterey County Code Section 7.100.040 (D) as “all areas occupied by any portion of a cannabis plant, inclusive of all vertical planes, whether contiguous or noncontiguous on any one site. The plant canopy does not need to be continuous on any premise in determining the total square footage which will be subject to tax.”

**My tax rate is based on cultivation. What if I don’t use all of my permitted space or my crop fails? Will my taxes be reduced?**
No. The tax rate is based on the square feet of canopy authorized by each County permit and is not deducted or reduced for un-utilized or non-productive square footage.
What is meant by nursery cultivation?
For taxation purposes in Monterey County pursuant to Chapter 7.100.040(s), nursery cultivation is defined as “a person that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.” The presence of immature plants on a cultivation site may not meet the definition of nursery cultivation. Cultivators requesting taxation as a nursery must intend to apply for a Type 4 Nursery cultivation license from the state for cultivation solely as a nursery.

What are “gross receipts”?
“Gross receipts” is defined by Monterey County Code Section 7.100.040 (Q) as “the total amount actually received or receivable from all sales; the total amount or compensation actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a change is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, wares or merchandise; discounts, rents, royalties, fees, commissions, dividends, and gains realized from trading in stocks or bonds, however designated. Included in “gross receipts” shall be all receipts, cash, credits and property of any kind or nature, without any deduction there from on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, losses or other expenses” except for the allowed exclusions. If a business subject to the tax is operating both within and outside the unincorporated County, it is the intent of the county to apply the commercial cannabis business tax so that the measure of the tax fairly reflects the proportion of the taxed activity actually carried on in the County. Monterey County Code Section 7.100.170.

Part of my business includes non-cannabis related merchandise or services. Can I exclude the revenue generated from those sales and services from my gross receipts total?
No. The cannabis business tax is based on the gross receipts for all sales or compensation received by the business, not just the cannabis portion of the business. For more detailed information, please review the definition of “gross receipts” provided by Monterey County Code Section 7.100.040 (Q).

Are there any allowed exclusions from gross receipts?
There are a limited number of items that can be excluded from the gross receipts total for purposes of the commercial cannabis business tax. The exclusions are listed in Monterey County Code Section 7.100.040 (Q), which provides that the following shall be excluded from gross receipts:

1. Cash discounts where allowed and taken on sales;
2. Credit allowed on property accepted as part of the purchase price and which may later be sold, at which time the sales price shall be included as gross receipts;
3. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
4. Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;
5. Receipts from investments where the holder of the investment received only interest and/or dividends, royalties, annuities and gains from the sale or exchange of stock or securities solely for a person’s own account, not derived in the ordinary course of a business;
6. Receipts derived from the occasional sale of used, obsolete or surplus trade fixtures, machinery or other equipment used by the taxpayer in the regular course of the taxpayer’s business;
7. Cash value of sales, trades or transactions between departments or units of the same business;
8. Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a subsequent year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected they shall be included in the amount of gross receipts for the period when they are recovered;
9. Transactions between a partnership and its partners;
10. Receipts from services or sales in transactions between affiliated corporations, as defined by Monterey County Code Section 7.100.040 (Q)(10).
11. Transactions between a limited liability company and its member(s), provided the limited liability company has elected to file as a Subchapter K entity under the Internal Revenue Code and that such transaction(s) shall be treated the same as between a partnership and its partner(s) as specified in Subsection (9) above;

12. Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded when in excess of one dollar;

13. Amounts collected for others where the business is acting as an agent or trustee and to the extent that such amounts are paid to those for whom collected. These agents or trustees must provide the finance department with the names and the addresses of the others and the amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustees.

When is the cannabis business tax due?
The commercial cannabis business tax is imposed on a fiscal year basis and is due and payable in quarterly installments as detailed in Monterey County Code Section 7.100.060. Monterey County operates on a fiscal year which runs from July 1 through June 30. The commercial cannabis business tax shall be remitted on or before the last day of the month following the close of each fiscal quarter. The tax due shall be no less than the quarterly installment due. However, the taxpayer may at any time elect to pay the tax for the full fiscal year. (MCC Sec. 7.100.060). The tax must be received by the tax collector’s office by the due date. A postmark will not be accepted as timely remittance. If the due date falls on a Saturday, Sunday or a holiday, the due date shall be the next regular business day on which the County is open to the public.

Below is a quick reference of the fiscal quarters and the corresponding tax deadlines, which you may find helpful.

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<th>QUARTERLY PERIOD</th>
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<td>April, May, June</td>
<td>July 31</td>
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What happens if there is a late payment, no payment or insufficient payment?
Any person or entity engaged in commercial cannabis business activities that does not report or pay the commercial cannabis business tax will be subject to penalties and interest pursuant to Monterey County Code Section 7.100.100. More specifically, a penalty equal to ten percent (10%)* of the amount of the tax, in addition to the amount of the tax, plus interest on the unpaid tax calculated from the due date of the tax at the rate of one and one-half percent (1.5%) per month. If the tax remains unpaid for a period exceeding one calendar month beyond the due date, an additional penalty equal to ten percent (10%)* of the amount of the tax, plus interest at the rate of one and one-half percent (1.5%) per month on the unpaid tax and on the unpaid penalties. Interest shall be applied at the rate of one and one-half percent (1.5%) per month on the first full day of the month for the full month, and will continue to accrue monthly on the tax and penalty until the balance is paid in full. *MCC § 7.100.100 as amended July 24, 2018.

Fraud: If the Tax Collector determines that the nonpayment of any remittance is due to fraud, a penalty of twenty-five (25%) of the amount of the tax shall be added thereto in addition to the penalties identified in Section 7.100.100.

Can penalties and interest be waived?
Any taxpayer aggrieved by any decision of the Treasurer-Tax Collector with respect to the amount of the tax, interest, penalties and fees, if any, due may appeal to the Board of Supervisors by filing a notice of appeal with the Clerk of the Board of Supervisors within fifteen (15) days of the serving or mailing of the determination of the tax due. The Clerk shall give notice in writing to such operator at the last known place of address. The finding of the Board of Supervisors shall be final and conclusive and shall be served upon the appellant in the manner prescribed by Monterey County Code Section 7.100 for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of the notice.

Are there any exemptions from the cannabis business tax?
Yes. Personal cultivation and personal use as defined by Monterey County Code Section 7.95 is exempt from the commercial cannabis business tax.
What are the general recordkeeping and compliance requirements as it relates to inspections and audits?
The Treasurer-Tax Collector has the power to audit and examine all books and records of the persons engaged in cannabis businesses, including both state and federal income tax returns, California sales tax returns, or other evidence documenting the gross receipts of persons engaged in cannabis businesses, and all equipment, of any person engaged in cannabis businesses in the County, for the purpose of ascertaining the amount of commercial cannabis business tax required to be paid and for determining the validity of statements filed with respect to the tax.

It is the duty of every person liable for the collection and payment of the commercial cannabis business tax to keep and preserve, for a period of at least three (3) years, all records as may be necessary to determine the amount of the tax for which they are liable.

What if I don’t receive a statement, bill or tax return from the Tax Collector?
You are required to remit and pay the tax by the due date, even if you do not receive a statement, bill or tax return from the Tax Collector. Pursuant to Monterey County Code Section 7.100.090, the Treasurer-Tax Collector is not required to send a delinquency or other notice or bill to any person subject to the tax. Failure to receive a notice or bill does not affect the validity of any tax or penalty due.

Note: This information is provided as a summary of Monterey County Code, Chapter 7.100 and should not be relied upon as conclusive or complete information related to the Monterey County Commercial Cannabis Business Tax.