



MEMORANDUM

TO:	Cannabis Regulatory Commission	FROM:	Rogers Agaba, Assistant Revenue & Tax Administrator
SUBJECT:	Cannabis Business Taxes	DATE:	July 28, 2023

INFORMATION

This annual report provides the Cannabis Regulatory Commission (“CRC”) the unaudited Business Taxes reported directly to the City of Oakland (“City”) and Sales & Use Taxes reported directly to the California Department of Tax & Fee Administration (“CDTFA”) by individuals and businesses engaging in commercial cannabis activities in Oakland.

BACKGROUND / LEGISLATIVE HISTORY

Oakland’s Cannabis Regulatory History

The City of Oakland has been a leader in regulating cannabis. After California voters legalized medical cannabis in 1996 via Proposition 215, the City established Oakland Cannabis Buyers Club (“OCBC”) as its medical cannabis provider in 1998 under Oakland Municipal Code (“OMC”) Chapter 8.46. Following the federal closure of OCBC, the City of Oakland enacted OMC Chapter 5.80 in 2004, which established the nation’s first permitting process for medical cannabis dispensaries. In 2011 the City of Oakland expanded the number of available dispensary permits from four to eight and attempted to establish a permitting process for the cultivation of medical cannabis under OMC Chapter 5.81; however, threats of federal intervention and the lack of comprehensive state law prevented any implementation of OMC Chapter 5.81.

After the passage of the Medical Cannabis Regulation and Safety Act (“MCRSA”) in 2015 and the Adult-Use of Marijuana (“AUMA”) or Proposition 64 in 2016, the City of Oakland adopted the nation’s first equity program through amendments to OMC Chapters 5.80 and 5.81 that also legalized the adult-use of cannabis and established a permitting process for the cannabis industry’s entire supply chain in the spring of 2017.

Oakland’s Cannabis Taxation History

In July 2009, Oakland voters approved Measure F making Oakland the first City in the nation to impose a tax on (medical) cannabis businesses. Measure F established a tax rate of \$18 per \$1,000, or 1.8 percent, of gross receipts.

In November 2010, Oakland voters approved the 2010 Measure V increasing the tax rate on medical cannabis businesses from 1.8% to five percent (5%) of annual gross receipts and creating a new tax rate of 10 percent (10%) of gross receipts on non-medical cannabis businesses, referred to as adult-use or recreational. The additional 10 percent adult-use tax rate

was put forth in anticipation of Proposition 19, which would have legalized adult use of cannabis in November 2010. Since Proposition 19 failed at the ballot box, Oakland did not implement the adult-use tax rate until January 1, 2018 following the passage of Proposition 64 and City Council’s legalization of adult use in 2017.

In November 2018, Oakland voters approved the 2018 Measure V allowing cannabis businesses to pay business taxes quarterly, cannabis manufacturing and/or cultivation businesses to deduct the value of raw materials from gross receipts in calculating business taxes and authorizing the City Council, without returning to voters, to amend medical or non- medical cannabis business taxes in any manner that does not increase the tax rate.

In December 2019, the Oakland City Council adopted Ordinance No. 13573 C.M.S. amending OMC Title 5, Chapter 5.04, Sections 5.04.480 and 5.04.481 to create a tiered and category-based tax structure for cannabis businesses beginning in 2020 and changing each year for 2021 and 2022 calendar years. Thereafter, the tax rate structure is scheduled to remain the same at the 2022 tax structure unless the City Council makes further changes as authorized in the 2018 Measure V.

In November 2022, the Oakland voters approved the 2022 Measure T repealing and replacing Chapter 5.04 of the Oakland Municipal Code with a new tiered, progressive business tax structure. “Measure T” created a new set of tiered progressive tax rates along with other key changes which became effective on January 1, 2023. The Cannabis Business Tax rates were not affected as the result of the passage of Measure T.

Table 1: 2023 & After Tax Rates

2023 & After Cannabis Business Tax Rates					
	Retail (store-front & delivery)	Indoor Cultivation	Outdoor Cultivation	Manufacturing Packaging & Storage	Distribution
Equity					
\$0 - \$1.5M	0.12%	0.12%	0.12%	0.12%	0.12%
\$1.5M - \$5M	5.00%	5.00%	4.50%	4.50%	3.00%
Over \$5M	5.00% (Non-Marginal)	5.00% (Non-Marginal)	5.00%	5.00%	4.00%
General (Non-Equity)					
\$0 - \$750K	0.12%	0.12%	0.12%	0.12%	0.12%
\$750K+ - \$1.5M	4.00%	4.00%	3.50%	3.50%	2.50%
\$1.5M+ = \$5M	5.00%	5.00%	4.50%	4.50%	3.00%
Over \$5M	5.00% (Non-Marginal)	5.00% (Non-Marginal)	5.00%	5.00%	4.00%

Oakland's Cannabis Equity Tax Rebate Program

In addition to the new tiered and category-based tax structure for cannabis businesses in December 2019, the City Council also adopted an Equity Tax Rebate Program for cannabis businesses. The program consists of four different tax rebates totaling nine separate and distinct conditions upon which a cannabis business would be entitled to the rebate of a portion of the taxes paid. The Equity Tax Rebate Program was not affected as the result of the passage of Measure T.

Table 2: 2023 Cannabis Tax Rebate Program

2023 CANNABIS BUSINESS TAX REBATE PROGRAMS			
Rebate Program	Rebate Conditions	Qualifying Period	Rebate Amount
Local Hiring Rebate (5.04.481.B.2.a.)	i. 30% of workforce consists of "Equity Employees"	182 Days	0.50%
	II. 25% of workforce consists of Equity Employees in "Essential Roles"	182 Days	0.50%
	III. 20% of workforce consists of Equity Employees in "Managerial Roles"	182 Days	0.50%
Equity Supply Chain (5.04.481.B.2.b.)	I. 30% of value of cannabis products delivered to the business were delivered by an Equity Businesses	365 Days	0.50%
	II. 25% of value of cannabis products delivered to the businesses were originally cultivated or manufactured by an Equity Business	365 Days	0.50%
Workforce Quality of Life (5.04.481.B.2.c.)	I. \$20/hr. with health benefits <u>or</u> \$25/hr. without health benefits for all employees employed	365 Days	0.50%
	II. 80% of total employees are full-time employees	365 Days	0.25%
Incubation (5.04.481.B.2.d.)	I. Provide free rent to Equity Business beyond the initial three-year period	Year 4th	0.5% - 1.50%*
	II. Provide free rent to Equity Business in the tax year but does not seek "permitting priority"	365 Days	0.5% - 1.50%*
	* Incubation Rebate Amount is based on 2021 total gross receipts: Less than \$2M = 1.5%; Up to \$7.5M = 1%; Greater than \$7.5M but less than \$12.5M = 0.5%; Greater than \$12.5M = no rebate.		
IMPORTANT NOTE: In no case will a business be entitled to any rebates that would reduce the overall tax rate of less than 2.5% for 2023 Tax Year or 2022 Tax Year for those cannabis businesses established in 2022; In other words, a cannabis business would be subject to pay the floor/minimum tax rate of 2.5% regardless of the number or the amount of the tax rebates.			

California Sales & Use Tax

Sales and Use Tax applies to the retail sale or use of “tangible personal property.” The total sales tax percentage in the City of Oakland is 10.25% meaning on a \$1 taxable purchase, the sales tax paid is 10.25 cents. The City receives 1% of the total sales, meaning the City receives 1 cent on a \$1 purchase. The remaining 9.25% is allocated to the state and local taxing districts.

California Cannabis Excise Taxes

The passage of Proposition 64 created two new State cannabis taxes. The tax rates for 2023 are:

1. A 15 percent excise tax imposed upon the purchasers of cannabis and cannabis products.
2. According to the CDTFA¹, “Beginning July 1, 2022, the cultivation tax no longer applies to cannabis or cannabis products entering the commercial market.”

CANNABIS BUSINESS TAX REVENUE & STATISTICS

Table 3 summarizes the reported cannabis business tax revenue for the calendar years 2015-2022 and the latest reported revenue for the current calendar year 2023.

Table 3: Cannabis Business Tax Revenue

Tax Year	Number of Business	Revenue
2023	266	\$5.64 million ²
2022	259	\$7.92 million
2021	187	\$13.47 million
2020	252	\$8.89 million
2019	195	\$12.85 million
2018	139	\$8.07 million
2017	85	\$7.48 million
2016	77	\$4.64 million
2015	70	\$3.61 million

General Statistics:

The following general statistics are intended to provide the CRC a snapshot of key information as of the date of this report. Certain statistics for prior years, such as the number of retailers vs. non-retailers, equity vs. non-equity businesses, are not available because the tax rates were fixed prior to 2019 tax year regardless of the type of operation or activity. The tax rates applicable to individual activity or segment of the cannabis industry (store front, delivery, cultivation, manufacturing, distribution, etc.) did not become effective until 2020. For businesses engaging in multiple activities, such as those grouped under Micro-business, the applicable tax is the tax rate that produces the highest amount of the taxes owed based on the

¹ Source: <https://www.cdtfa.ca.gov/formspubs/L856.pdf>

² Through July 24, 2023: Total \$5.64M (Paid = \$2.63 million: Outstanding Balance = \$3.01 million)

total gross receipts generated by the business without respect to the portion of gross receipts generated from any particular taxable activity (Oakland Municipal Code § 5.04.480.C).

Table 4: Retail vs. Non-Retail Operation

Tax Year	Retail	Non-Retail	Total
2023	121	145	266
2022	127	132	259
2021	93	94	187
2020	112	140	252
2019	73	122	195

Table 5: Equity vs. Non-Equity Operation

Tax Year	Equity	Non-Equity	Total
2023	106	160	266
2022	107	152	259
2021	54	133	187
2020	78	174	252
2019	Not Tracking		

Table 6: Payment Plan vs. Non-Payment Plan

Tax Year	Payment Plan	Non-Payment Plan	Total
2023	33	233	266
2022	40	219	259
2021	30	157	187
2020	42	210	252
2019	57	138	195

Table 7: Business by Gross Receipts and Percentage of Reported Revenue

Gross Receipts	2019		2020		2021		2022		2023	
	No. of Business	Percentage of Revenue	No. of Business	Percentage of Revenue	No. of Business	Percentage of Revenue	No. of Business	Percentage of Revenue	No. of Business	Percentage of Revenue
Up to \$500K	151	7.75%	195	8.94%	115	6.72%	165	0.33%	176	0.49%
\$500K+ - \$1.5M	19	15.40%	27	8.88%	35	13.26%	51	4.66%	55	4.57%
\$1.5M+ - \$5M	18	29.92%	26	39.46%	26	29.01%	32	33.42%	28	35.36%
Over \$5M	7	46.93%	4	42.72%	11	51.01%	11	61.59%	7	59.59%
Total	195	100%	252	100%	187	100%	253	100%	266	100%

SALES & USE TAX REVENUE

Table 8: Adjusted Sales Tax reported to the CDTFA

Calendar Year	Number of Business	Revenue
2023 ³	99	\$423,000 ⁴
2022	124	\$1.35 million
2021	103	\$1.54 million
2020	103	\$1.56 million
2019	121	\$1.30 million
2018	79	\$1.16 million

Table 9: Reported number of Employees

Calendar Year	Full Time	Part Time	Total Employees
2023	1818	424	2242
2022	2094	287	2381

³ There is an interval of time lag of approximately 2 – 2 ½ months from the close of the quarter to the date the City receives the Sales & Use Tax data. For example, the City expects to receive the sales tax data for the second quarter 2023 (April-June 2023) in August 2023. The time lag represents the interval needed for filers to prepare their returns and remit their payments to the CDTFA, and for the CDTFA to process returns and prepare the data for the City.

⁴ From January 1, 2023 through March 31, 2023

Table 10: Annual Gross Receipts Tax Years (2018 – 2023)

Year	2018	2019	2020	2021	2022	2023
Equity	N/A	N/A	\$21,141,465.27	\$35,974,745.13	\$37,803,609.10	\$37,609,413.12
General	N/A	N/A	\$152,193,969.69	\$235,610,581.28	\$207,113,784.78	\$163,441,215.46
Total Gross Receipts	\$171,546,992.15	\$165,351,330.15	\$173,335,434.96	\$271,585,326.41	\$244,917,393.88	\$201,050,628.58

Table 11: Equity Cannabis Gross Receipts by Activity (2020 – 2023)

Equity Business	2020			2021			2022			2023		
	No. of business	Total Gross Receipts	Average Gross Receipts	No. of business	Total Gross Receipts	Average Gross Receipts	No. of business	Total Gross Receipts	Average Gross Receipts	No. of business	Total Gross Receipts	Average Gross Receipts
Retail	44	\$19,476,090.16	\$902,851.51	38	\$24,221,032.76	\$2,732,820.88	47	\$22,612,021.65	\$732,643.69	41	\$24,710,178.92	\$602,687.29
Indoor Cultivation	8	\$169,262.99	\$5,289.47	14	\$2,879,508.58	\$477,908.64	14	\$2,455,154.00	\$537,299.29	14	\$4,763,305.81	\$340,236.13
Outdoor Cultivation	0	\$0.00	\$0.00	0	\$0.00	\$0.00	0	\$0.00	\$0.00	0	\$0.00	\$0.00
Manufacturing	5	\$0.00	\$0.00	11	\$1,699,036.67	\$397,444.65	19	\$3,686,342.49	\$776,582.21	17	\$2,474,189.19	\$145,540.54
Distribution	24	\$1,041,583.12	\$10,849.83	12	\$3,048,013.82	\$227,366.57	17	\$2,721,496.74	\$250,898.42	14	\$2,388,487.07	\$170,606.22
Micro-business	3	\$454,529.00	\$37,877.39	19	\$4,127,153.30	\$662,749.03	18	\$6,328,594.22	\$877,402.91	20	\$3,273,252.13	\$163,662.61
Total	84	\$21,141,465.27		94	\$35,974,745.13		115	\$37,803,609.10		106	\$37,609,413.12	

Table 12: General Cannabis Gross Receipts by Activity (2020 – 2023)

General Business	2020			2021			2022			2023		
	No. of business	Total Gross Receipts	Average Gross Receipts	No. of business	Total Gross Receipts	Average Gross Receipts	No. of business	Total Gross Receipts	Average Gross Receipts	No. of business	Total Gross Receipts	Average Gross Receipts
Retail	70	\$83,001,443.64	\$4,130,348.89	59	\$139,280,304.77	\$3,859,870.21	58	\$114,588,282.50	\$3,460,412.86	58	\$65,854,042.78	\$1,135,414.53
Indoor Cultivation	31	\$15,260,122.08	\$974,366.71	34	\$44,462,812.01	\$2,776,361.97	41	\$38,158,778.58	\$2,254,026.79	53	\$50,193,953.97	\$947,055.74
Outdoor Cultivation	0	\$0.00	\$0.00	0	\$0.00	\$0.00	0	\$0.00	\$0.00	0	\$0.00	\$0.00
Manufacturing	25	\$12,270,412.93	\$1,129,569.29	18	\$9,884,469.23	\$1,219,128.89	24	\$14,468,329.56	\$1,122,505.62	19	\$12,777,799.25	\$672,515.75
Distribution	36	\$26,323,038.59	\$951,131.63	29	\$20,351,761.86	\$2,117,523.67	15	\$16,401,492.31	\$2,674,659.38	19	\$25,360,291.38	\$1,334,752.18
Micro-business	13	\$15,338,952.45	\$2,686,589.01	13	\$21,631,233.41	\$4,458,398.73	23	\$23,496,901.83	\$3,248,223.87	11	\$9,255,128.08	\$841,375.28
Total	175	\$152,193,969.69		153	\$235,610,581.28		161	\$207,113,784.78		160	\$163,441,215.46	

Table 13: Year-Over-Year (“YOY”) Changes Annual Gross Receipts (2020 – 2023)

Business Type	2020	2021	YOY Change (in \$)	YOY Change (in %)	2022	YOY Change (in \$)	YOY Change (in %)	2023	YOY Change (in \$)	YOY Change (in %)
	Total Gross Receipts	Total Gross Receipts			Total Gross Receipts			Total Gross Receipts		
Equity	\$21,141,465.27	\$35,974,745.13	\$14,833,279.86	70.16%	\$37,803,609.10	\$1,828,863.97	5.08%	\$37,609,413.12	-\$194,195.98	-0.51%
General	\$152,193,969.69	\$235,610,581.28	\$83,416,611.59	54.81%	\$207,113,784.78	-\$28,496,796.50	-12.09%	\$163,441,215.46	-\$43,672,569.32	-21.09%
Total	\$173,335,434.96	\$271,585,326.41	\$98,249,891.45		\$244,917,393.88	-\$26,667,932.53		\$201,050,628.58	-\$43,866,765.30	

Table 14: Year-Over-Year (“YOY”) Changes by Activity - Retail Gross Receipts (2020 – 2023)

Retail	2020	2021	YOY Change (in \$)	YOY Change (in %)	2022	YOY Change (in \$)	YOY Change (in %)	2023	YOY Change (in \$)	YOY Change (in %)
	Total Gross Receipts	Total Gross Receipts			Total Gross Receipts			Total Gross Receipts		
Equity	\$19,476,090.16	\$24,221,032.76	\$4,744,942.60	24.36%	\$22,612,021.65	-\$1,609,011.11	-6.64%	\$24,710,178.92	\$2,098,157.27	9.28%
General	\$83,001,443.64	\$139,280,304.77	\$56,278,861.13	67.80%	\$114,588,282.50	-\$24,692,022.27	-17.73%	\$65,854,042.78	-\$48,734,239.72	-42.53%
Total	\$102,477,533.80	\$163,501,337.53	\$61,023,803.73		\$137,200,304.15	-\$26,301,033.38		\$90,564,221.70	-\$46,636,082.45	

Table 15: Year-Over-Year (“YOY”) Changes by Activity - Indoor Cultivation Gross Receipts (2020 – 2023)

Indoor Cultivation	2020	2021	YOY Change (in \$)	YOY Change (in %)	2022	YOY Change (in \$)	YOY Change (in %)	2023	YOY Change (in \$)	YOY Change (in %)
	Total Gross Receipts	Total Gross Receipts			Total Gross Receipts			Total Gross Receipts		
Equity	\$169,262.99	\$2,879,508.58	\$2,710,245.59	1601.20%	\$2,455,154.00	-\$424,354.58	-14.74%	\$4,763,305.81	\$2,308,151.81	94.01%
General	\$15,260,122.08	\$44,462,812.01	\$29,202,689.93	191.37%	\$38,158,778.58	-\$6,304,033.43	-14.18%	\$50,193,953.97	\$12,035,175.39	31.54%
Total	\$15,429,385.07	\$47,342,320.59	\$31,912,935.52		\$40,613,932.58	-\$6,728,388.01		\$54,957,259.78	\$14,343,327.20	

Table 16: Year-Over-Year (“YOY”) Changes by Activity - Manufacturing Gross Receipts (2020 – 2023)

Manufacturing	2020	2021	YOY Change (in \$)	YOY Change (in %)	2022	YOY Change (in \$)	YOY Change (in %)	2023	YOY Change (in \$)	YOY Change (in %)
	Total Gross Receipts	Total Gross Receipts			Total Gross Receipts			Total Gross Receipts		
Equity	\$0.00	\$1,699,036.67	\$1,699,036.67	NA	\$3,686,342.49	\$1,987,305.82	116.97%	\$2,474,189.19	-\$1,212,153.30	-32.88%
General	\$12,270,412.93	\$9,884,469.23	-\$2,385,943.70	-19.44%	\$14,468,329.56	\$4,583,860.33	46.37%	\$12,777,799.25	-\$1,690,530.31	-11.68%
Total	\$12,270,412.93	\$11,583,505.90	-\$686,907.03		\$18,154,672.05	\$6,571,166.15		\$15,251,988.44	-\$2,902,683.61	

Table 17: Year-Over-Year (“YOY”) Changes by Activity - Distribution Gross Receipts (2020 – 2023)


Distribution	2020	2021	YOY Change (in \$)	YOY Change (in %)	2022	YOY Change (in \$)	YOY Change (in %)	2023	YOY Change (in \$)	YOY Change (in %)
	Total Gross Receipts	Total Gross Receipts			Total Gross Receipts			Total Gross Receipts		
Equity	\$1,041,583.12	\$3,048,013.82	\$2,006,430.70	192.63%	\$2,721,496.74	-\$326,517.08	-10.71%	\$2,388,487.07	-\$333,009.67	-12.24%
General	\$26,323,038.59	\$20,351,761.86	-\$5,971,276.73	-22.68%	\$16,401,492.31	-\$3,950,269.55	-19.41%	\$25,360,291.38	\$8,958,799.07	54.62%
Total	\$27,364,621.71	\$23,399,775.68	-\$3,964,846.03		\$19,122,989.05	-\$4,276,786.63		\$27,748,778.45	\$8,625,789.40	

Table 18: Year-Over-Year (“YOY”) Changes by Activity - Micro-business Gross Receipts (2020 – 2023)

Micro-business	2020	2021	YOY Change (in \$)	YOY Change (in %)	2022	YOY Change (in \$)	YOY Change (in %)	2023	YOY Change (in \$)	YOY Change (in %)
	Total Gross Receipts	Total Gross Receipts			Total Gross Receipts			Total Gross Receipts		
Equity	\$454,529.00	\$4,127,153.30	\$3,672,624.30	808.01%	\$6,328,594.22	\$2,201,440.92	53.34%	\$3,273,252.13	-\$3,055,342.09	-48.28%
General	\$15,338,952.45	\$21,631,233.41	\$6,292,280.96	41.02%	\$23,496,901.83	\$1,865,668.42	8.62%	\$9,255,128.08	-\$14,241,773.75	-60.61%
Total	\$15,793,481.45	\$25,758,386.71	\$9,964,905.26		\$29,825,496.05	\$4,067,109.34		\$12,528,380.21	-\$17,297,115.84	

Staff will be available to speak to the information provided herein at the August 3, 2023 CRC meeting. For questions regarding this report, please contact Nicole Andrino, Tax Auditor II, (510) 238-6767.

Respectfully submitted,


Rogers Agaba [Jul 27, 2023 14:19 PDT]

Rogers Agaba
Assistant Revenue and Tax Administrator
Finance Department