



January 11, 2021

**IMPORTANT NOTIFICATION
2021 CANNABIS BUSINESS TAX RENEWAL NOTICE**

OFFICE IS CLOSED DUE TO COVID-19

Please review this notice carefully as it outlines the requirements for your filing and paying the City of Oakland 2021 Business Tax, and, if applicable, your 2020 Business Tax. **Business Tax payment is required to maintain any local authorization or permit from the City of Oakland for cannabis activities.**

CANNABIS BUSINESS TAX RATES SCHEDULE

On December 10, 2019, the Oakland City Council adopted Ordinance No. 13573 C.M.S. amending the Oakland Municipal Code (“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. The new tiered and category-based tax structure for 2021 Tax Year, and if applicable, for a business newly established in calendar year 2020, is as follows:

2021 Cannabis Business Tax Rates					
	Retail (store-front & delivery)	Indoor Cultivation	Outdoor Cultivation	Manufacturing Packaging & Storage	Distribution
General (Non-Equity) Cannabis Business					
\$0 - \$500K	0.12%	0.12%	0.12%	0.12%	0.12%
\$500K+ - \$5M	5.00%	5.00%	5.00%	5.00%	4.50%
Over \$5M	5.00% (medical) 8.00% (non-medical) (Non-Marginal)	5.00% (Non-Marginal)	5.00%	5.00%	4.50%
Equity Cannabis Business					
\$0 - \$1.5M	0.12%	0.12%	0.12%	0.12%	0.12%
\$1.5M+ - \$5M	5.00%	5.00%	5.00%	5.00%	4.50%
Over \$5M	5.00% (medical) 8.00% (non-medical) (Non-Marginal)	5.00% (Non-Marginal)	5.00%	5.00%	4.50%

CANNABIS BUSINESS TAX REBATE PROGRAMS

In addition to the new tiered and category-based tax structure, the City Council also adopted four different tax rebate programs totaling nine separate and distinct conditions upon which a cannabis business would be entitled to the rebate of a portion of the taxes paid for 2021 Tax Year and, if applicable, 2020 Tax Year for a business newly established in calendar year 2020 if the business meets the required conditions. The rebate programs are as follows:

2021 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 Business	365 Days	0.50%
	II. 25% of value of cannabis products delivered to the business 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	1.50%
	II. Provide free rent to Equity Business in the tax year but does not seek "permitting priority"	365 Days	1.50%
<u>IMPORTANT NOTE:</u> In no case will a business be entitled to any rebates that would reduce the overall tax rate of less than 3.5% for 2021 Tax Year or 2020 Tax Year for those cannabis businesses established in 2020; In other words, a cannabis business would be subject to pay the floor/minimum tax rate of 3.5% regardless of the number or the amount of the tax rebates.			

Form of Rebate: Any cannabis business entitled to rebates may elect to be paid by check or to be paid in the form of a credit for any future business taxes owed. If the business elected for the rebates to be paid by check, the City shall make such payment to any business entitled to a rebate within sixty (60) days of the business submitting all documentation requested.

CANNABIS BUSINESS TAX RENEWAL FILING AND PAYMENT DUE DATE

Oakland Municipal Code Sections 5.04.110 and 5.04.120 outline the requirements for the payment of Business Tax and the annual renewal payment thereof as follows:

Businesses established **BEFORE 2020:**

- Choose either Equity or Non-Equity Declaration Form (see Cannabis Business Tax Declaration Forms below for additional information)
- Complete the appropriate sections for 2021 Tax Year
- Mail the completed declaration **and** payment by **March 1, 2021**

Businesses established IN 2020:

- Choose either Equity Only or Non-Equity Declaration Form (see Cannabis Business Tax Declaration Forms below for additional information)
- Complete the appropriate sections for 2020 **and** 2021 Tax Years
 - For 2020 Tax Year: Line 14 should be the actual gross receipts generated in 2020
 - For 2021 Tax Year: Line 14 should be the estimated gross receipts to be generated in 2021
- Mail the completed declaration by **March 1, 2021**.
- Expect to receive an invoice no later than March 31, 2021
- Pay the invoice no later than April 12, 2021

CANNABIS BUSINESS TAX DECLARATION FORMS

The form number is located at the top right-hand corner of the form.

Form 2021, General (Non-Equity) Cannabis Business: Applicable to cannabis businesses not certified as equity business.

Form 2021, Equity Cannabis Business: Applicable to Equity Cannabis Businesses Only. To be eligible for the Equity-only tax rate, Equity Cannabis Business must have already submitted a completed application and received a confirmation email from the City Administrator’s Office of Cannabis Permits (see enclosed Sample Equity Cannabis Confirmation Email). A copy of confirmation email must accompany the Declaration form to receive the Equity-Only tax rate.

Oakland Municipal Code Sections 5.80 and 5.81 define an “Equity Business” whose ownership or owner:

- is an Oakland resident; and,
- in the last year, had an annual income at or less than 80 percent of Oakland Average Medium Income, which is to be adjusted for household size; and,
- either has lived in any combination of Oakland’s Police Beat 2X, 2Y, 6X, 7X, 19X, 21X, 216, 23X, 26Y, 27X, 27Y, 29X, 30X, 30Y, 31Y, 32X, 33X, 34X, 5X, 8X AND 35X for at least 10 of the last 20 years or was arrested after November 5, 1996 and convicted of a cannabis crime committed in Oakland.

CALCULATION OF CANNABIS BUSINESS TAXES

Marginal vs. Non-Marginal Tax Rates:

Generally, marginal tax rate applies different tax rate at different level of gross receipts while non-marginal tax rate applies the tax rate to the entire amount of gross receipts. The adopted 2021 Cannabis Business Tax Rates are marginal tax rates. The non-marginal tax rates apply only to those cannabis businesses engaging in the sale of cannabis (store-front retail/delivery) or indoor cultivation of cannabis and generated more than \$5M in total gross receipts in 2020 or estimated to generate more than \$5M in total gross receipts in 2021.

VERTICALLY INTEGRATED CANNABIS BUSINESSES

A “Vertically Integrated Cannabis Business” is a business that generates gross receipts from more than one taxable activities or operations, such as those that are licensed as a Microbusiness from the California Cannabis Bureau of Control.

The applicable tax rate is the tax rate that produces the highest amount of the taxes owed based on the total gross receipts generated by the business without respect to the portion of gross receipts generated from any particular taxable activity (OMC § 5.04.480.C).

SUMMARY

The following is a matrix summarizing the above-mentioned requirements and the timeline upon which cannabis businesses need to timely report and/or pay the taxes in order to retain the local authorization for state licenses.

The Year in which the business established	Tax Years Needed to Pay	What to do by March 1, 2021	When to Pay
Before 2020	2021	Declare 2020 Gross Receipts	March 1, 2021
In 2020	2020 and 2021	Declare 2020 Gross Receipts and Estimated 2021 Gross Receipts	10 Days upon invoiced

CANNABIS BUSINESS TAX PAYMENT PLAN

Payment plans will continue to be provided for those with the 2021 tax obligation in excess of \$25,000. The maximum number of payments will remain at 10 equal payments, with the first payment begins in April 2021 and ends in January 2022 with the final payment.

Cannabis businesses with active payment plans are required to continue making payment as required.

DEDUCTIBLE COSTS

Cannabis businesses engaging in cultivation and manufacturing operations can deduct the cost of raw materials from the gross receipts. The costs of raw materials are for any materials, excluding pre-packaging or finished products, used in the cultivation and/or the manufacturing process of cannabis. No other costs can be deducted.

APPORTIONMENT GUIDELINES

Taxpayers who are engaged in business activities within and outside the city may be entitled to apportionment of gross receipts. Gross receipts are subject to apportionment only when the taxpayer can document that the gross receipts are attributed to substantial out-of-city activities. It is the responsibility of the taxpayer to request in writing for an apportionment of the gross receipts and provide the necessary documentation to support out-of-city activities. Otherwise, no apportionment and/or exclusion will be allowed.

OMC Section 5.04.520 gives the Director of Finance the authority to adopt and promulgate rules and regulations pertaining to the collection of the Oakland Business Tax and the enforcement of the provisions of the Business Tax Ordinance.

For Apportionment Guideline that applies to cannabis businesses, please visit <https://cao-94612.s3.amazonaws.com/documents/ruling10.pdf> for information. If apportionment is claimed, please attach a separate sheet detailing 1) the total gross receipts; 2) the amount of gross receipts apportioned from the total gross receipts; 3) the local jurisdiction(s) in which the business activities

occur; and 4) the applicable business license number or business tax certificate number issued from the local jurisdiction(s) from which your company engages in the business.

PRIOR UNPAID TAXES

Businesses with prior unpaid taxes should contact the Finance Department to make arrangement for the payment of unpaid taxes to avoid the possibility of having the City's permit and local authorization for state license(s) revoked, assessment of taxes and charges that could be substantial and possible legal action.

QUESTIONS

If you require assistance in the calculation of the tax or have questions, please contact the Finance Department – Revenue Audit Unit at (510) 238-3084 or at Audit@OaklandCA.gov.

As always, the City of Oakland values its business relationship with and looks forward to working with you to ensure your timely filing and paying the Business Tax to retain the local authorization for your state license.

Encl.

City of Oakland 2021 Cannabis Business Tax Declaration Forms
Sample Equity Cannabis Confirmation Email