



County of Santa Cruz

COUNTY ADMINISTRATIVE OFFICE

701 OCEAN STREET, SUITE 520, SANTA CRUZ, CA 95060-4073

(831) 454-2100 FAX: (831) 454-3420 TDD: (831) 454-2123

SUSAN MAURIELLO, J.D., COUNTY ADMINISTRATIVE OFFICER

July 28, 2014

Agenda: August 5, 2014

BOARD OF SUPERVISORS

County of Santa Cruz

701 Ocean Street

Santa Cruz, CA 95060

REVISED RESOLUTION REQUESTING THE PLACEMENT OF A CANNABIS BUSINESS TAX ON THE NOVEMBER 4, 2014 GUBERNATORIAL GENERAL BALLOT

Dear Members of the Board:

On June 10, 2014, your Board adopted a resolution to place before the voters a cannabis business tax which would impose a tax of up to 10% on the gross receipts on medical marijuana businesses in the unincorporated area, with the rate set at 7% at the time of enactment. After review, it was determined that the measure exceeded the number of words allowed. A revised question is included in a strikeout/format.

It is therefore RECOMMENDED that your Board take the following actions:

1. Adopt the attached revised Resolution calling and providing for a Special Election to be held on Tuesday, November 4, 2014 for the purpose of submitting to the qualified voters of the County of Santa Cruz a Countywide Measure asking whether an Ordinance establishing a Cannabis Business Tax should be adopted, and consolidating said Special County Election with the Gubernatorial General Election to be held on November 4, 2014; and
2. Direct the Clerk of the Board to submit the Resolution to the County Clerk no later than 5:00 p.m. August 8, 2014.

Very truly yours,

Susan A. Mauriello

County Administrative Officer

SAM/sp/s:marijuana/boardletters/2014 08 05 revised resolutionfinal.docx

Attachments

Copy to: County Counsel
County Clerk
County Auditor-Controller
City Manager, Santa Cruz
City Manager, Watsonville

BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO. _____

On the motion of Supervisor
Duly seconded by Supervisor
The following resolution is adopted

RESOLUTION CALLING FOR A SPECIAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 4, 2014, TO SUBMIT TO THE QUALIFIED ELECTORS OF THE COUNTY OF SANTA CRUZ A COUNTYWIDE MEASURE OF WHETHER AN ORDINANCE ESTABLISHING A CANNABIS BUSINESS TAX SHOULD BE ADOPTED AND CONSOLIDATING SAID SPECIAL COUNTY ELECTION WITH THE GUBERNATORIAL GENERAL ELECTION TO BE HELD ON NOVEMBER 4, 2014.

WHEREAS, the Board of Supervisors of Santa Cruz County desires to submit to the electors of the County of Santa Cruz at a Special Election an ordinance adding Chapter 4.06 to the Santa Cruz County Code to establish a Cannabis Business Tax; and

WHEREAS, the Cannabis Business Tax is enacted solely to raise revenue for the general governmental purposes of the County and not for purposes of regulation or of raising revenues for regulatory purposes, in that all of the proceeds from the tax imposed by this ordinance shall be placed in the County's general fund and be used for the usual current expenses of the County; and

WHEREAS, the Board of Supervisors has determined it is in the best interest of the County and its residents to submit to the voters a proposed ordinance authorizing the levy of a Cannabis Business Tax on cannabis businesses operating in the unincorporated area of the County at a rate of up to 10% of gross receipts, for general purposes to provide funding for essential County services such as police, fire, emergency response, street maintenance and pothole repair, health services, parks, libraries, youth and senior programs, animal care, economic development and job creation, affordable housing, and other essential county services; and

WHEREAS, subsection (b) of § 2 of Article XIII C of the California Constitution and section 53723 of the California Government Code require that before the County may impose a general tax, the tax must be submitted to the electorate and approved by a majority vote of the voters; and

WHEREAS, pursuant to section 9140 of the California Elections Code, the Board of Supervisors may submit to the voters, without petition, a measure relating to the enactment or amendment of any ordinance; and

WHEREAS, it is necessary that a special County election be held in accordance with law for the purpose of submitting to the qualified electors of the County a measure on whether to approve the proposed establishment of a Cannabis Business Tax on Cannabis businesses located in the unincorporated areas of the County at a rate of up to 10% of gross receipts. The actual language of the proposed Ordinance amending the County Code is attached to this ordinance as Exhibit A.

NOW, THEREFORE BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of Santa Cruz as follows:

1. That a special election shall be and the same is hereby called and ordered to be held throughout the County on Tuesday, November 4, 2014 for the purpose of submitting to the qualified electors of the County the following Ballot Measure Question:

Measure " " Cannabis Business Tax

To protect the quality of life in Santa Cruz County and to fund essential county services such as police, fire, emergency response, health services, youth and senior programs, job creation, housing, environmental protection, and animal shelter programs; ~~and adoption~~; shall an ordinance be adopted to impose a tax of no more than 10% (7% when enacted) on gross receipts of cannabis (medical marijuana) businesses in the unincorporated county, subject to audits, with all funds staying local?

Yes _____ No _____

2. The Board of Supervisors submits to the qualified electors said Ballot Measure Question as set forth in Paragraph 1 of this resolution and designates and refers to said measure as the measure to be set forth on the ballots for use in said election. The full text of the measure is as set forth in Exhibit A:

3. Said special County election shall be held and conducted, and the votes thereat received and canvassed, and the returns thereof made and the result thereof ascertained and determined in accordance with law.

4. Said special County election hereby called shall be and is hereby consolidated with the Gubernatorial General Election to be held throughout the County on Tuesday, November 4, 2014, in all respects and all as required by and pursuant to law.

5. In accordance with the provisions of Section 9160 (b) of the California Elections Code, the County Counsel is hereby directed to prepare an impartial analysis of this measure.

6. In accordance with the provisions of Section 9160 (c) of the California Elections Code, the County Auditor is hereby directed to prepare a fiscal impact statement of this measure.

7. Arguments for and against this measure may be submitted in conformance with California Elections Code Section 9161 and following.

8. The Clerk of the Board of Supervisors shall file a copy of this Resolution with the County Clerk.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this _____ day of _____, 2014, by the following vote:

AYES: SUPERVISORS
 NOES: SUPERVISORS
 ABSENT: SUPERVISORS
 ABSTAIN: SUPERVISORS

 Chairperson of the Board of Supervisors

ATTEST: _____
 Clerk of the Board

Approved as to form:

 County Counsel

DISTRIBUTION: County Administrative Officer
 County Counsel
 Clerk of the Board
 County Clerk-Registrar of Voters
 Auditor-Controller Treasurer Tax Collector
 Each City Manager

BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

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WHEREAS, the Board of Supervisors has determined it is in the best interest of the County and its residents to submit to the voters a proposed ordinance authorizing the levy of a Cannabis Business Tax on cannabis businesses operating in the unincorporated area of the County at a rate of up to 10% of gross receipts, for general purposes to provide funding for essential County services such as police, fire, emergency response, street maintenance and pothole repair, health services, parks, libraries, youth and senior programs, animal care, economic development and job creation, affordable housing, and other essential county services; and

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WHEREAS, it is necessary that a special County election be held in accordance with law for the purpose of submitting to the qualified electors of the County a measure on whether to approve the proposed establishment of a Cannabis Business Tax on Cannabis businesses located in the unincorporated areas of the County at a rate of up to 10% of gross receipts. The actual language of the proposed Ordinance amending the County Code is attached to this ordinance as Exhibit A.

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Measure " " Cannabis Business Tax

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Yes _____ No _____

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8. The Clerk of the Board of Supervisors shall file a copy of this Resolution with the County Clerk.


PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this ____ day of _____, 2014, by the following vote:

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 NOES: SUPERVISORS
 ABSENT: SUPERVISORS
 ABSTAIN: SUPERVISORS

 Chairperson of the Board of Supervisors

ATTEST: _____
 Clerk of the Board

Approved as to form:



 County Counsel

DISTRIBUTION: County Administrative Officer
 County Counsel
 Clerk of the Board
 County Clerk-Registrar of Voters
 Auditor-Controller Treasurer Tax Collector
 Each City Manager

CANNABIS BUSINESS TAX

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF SANTA CRUZ:

Title 4 of the Santa Cruz County Code is hereby amended to add a new Chapter to be numbered, entitled and to read as follows:

**Chapter 4.06
CANNABIS BUSINESS TAX**

Sections:

- 4.06.010 Purpose of chapter.**
- 4.06.020 Tax imposed.**
- 4.06.030 Definitions.**
- 4.06.040 Other licenses, permits, taxes, fees or charges.**
- 4.06.050 Payment of tax does not authorize unlawful business.**
- 4.06.060 Payment - Location.**
- 4.06.070 Amount of business tax owed.**
- 4.06.080 Payment - Time limits.**
- 4.06.090 Payments and communications made by mail - Proof of timely submittal.**
- 4.06.100 Payment - When taxes deemed delinquent.**
- 4.06.110 Notice not required by county.**
- 4.06.120 Payment - Penalty for delinquency.**
- 4.06.130 Waiver of penalties.**
- 4.06.140 Refunds - Credits.**
- 4.06.150 Refunds and procedures.**
- 4.06.160 Exemptions - Application - Issuance conditions.**
- 4.06.170 Exemptions - General.**
- 4.06.180 Exemptions - Occasional transactions.**
- 4.06.190 Enforcement - Duties of tax administrator and sheriff.**
- 4.06.200 Rules and regulations.**
- 4.06.210 Apportionment.**
- 4.06.220 Audit and examination of records and equipment.**
- 4.06.230 Tax deemed debt to county.**
- 4.06.240 Deficiency determinations.**
- 4.06.250 Tax assessment - Authorized when - Nonpayment - Fraud.**
- 4.06.260 Tax assessment - Notice requirements.**
- 4.06.270 Tax assessment - Hearing - Application and determination.**

- 4.06.280 Conviction for chapter violation - Taxes not waived.**
- 4.06.290 Violation deemed misdemeanor - Penalty.**
- 4.06.300 Severability.**
- 4.06.310 Effect of state and federal reference/authorization.**
- 4.06.320 Remedies cumulative.**
- 4.06.330 Amendment or repeal.**

4.06.010 Purpose of chapter.

This chapter shall be known as the "cannabis business tax" and is enacted solely to raise revenue for the general governmental purposes of the County and not for purposes of regulation or of raising revenues for regulatory purposes. All of the proceeds from the tax imposed by this chapter shall be placed in the County's general fund and used for the usual current expenses of the County.

4.06.020 Tax imposed.

There is established and imposed, a business tax at the rate set forth in this chapter.

4.06.030 Definitions.

The definitions set forth in this part shall govern the application and interpretation of this chapter.

(A) "Business" shall include 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.

(C) "Employee" means each and every person engaged in the operation or conduct of any business, whether as owner, member of the owner's family, partner, associate, agent, manager or solicitor, and each and every other person employed or working in such business for a wage, salary, commission or room and board.

(D) "Engaged in business" means the commencing, conducting, operating, managing or carrying on of a Cannabis business and the exercise of corporate or franchise powers, whether done as owner, or by means of an officer, agent, manager, employee, or otherwise, whether operating from a fixed location in the unincorporated area of the county or coming into the unincorporated area of the county from an outside location to engage in such activities. A person shall be deemed engaged in business within the unincorporated area of the county area of the county if:

(1) Such person or person's employee maintains a fixed place of business within the unincorporated area of the county for the benefit or partial benefit of such person;

(2) Such person or person's employee owns or leases real property within the unincorporated area of the county for business purposes;

(3) Such person or person's employee regularly maintains a stock of tangible personal property in the unincorporated area of the county for sale in the ordinary course of business;

(4) Such person or person's employee regularly conducts solicitation of business within the unincorporated area of the county;

(5) Such person or person's employee performs work or renders services in the unincorporated area of the county on a regular and continuous basis involving more than five working days per year;

(6) Such person or person's employee utilizes the streets within the unincorporated area of the county in connection with the operation of motor vehicles for business purposes.

The foregoing specified activities shall not be a limitation on the meaning of "engaged in business."

(E) "Evidence of doing business" means whenever any person shall, by use of signs, circulars, cards or any other advertising media, including the use of internet or telephone solicitation, represent that such person is engaged in Cannabis business in the unincorporated area then these facts may be used as evidence that such person is engaged in business in the unincorporated area.

(F) "Gross receipts," except as otherwise specifically provided, means 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 charge 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, or losses or other expenses whatsoever, except that the following shall be excluded there from:

(1) Cash discounts allowed and taken on sales;

(2) Credit allowed on property accepted as part of the purchase price and which property 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 receives 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. An affiliated corporation is a corporation:

(a) The voting and non-voting stock of which is owned at least eighty percent by such other corporation with which such transaction is had; or

(b) Which owns at least eighty percent of the voting and non-voting stock of such other corporation; or

(c) At least eighty percent of the voting and non-voting stock of which is owned by a common parent corporation which also has such ownership of the corporation with which such transaction is had;

(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.

"Gross receipts" subject to the business tax shall be that portion of gross receipts relating to business conducted within the unincorporated area of the county.

(G) "Cannabis" means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin.

(H) "Cannabis business" or "medical marijuana business" means business activity as defined by subsection (G) of section 7.124.020 of this Code, including but not limited to, transporting, manufacturing, compounding, converting, processing, preparing, storing, packaging, wholesale, and/or retail sales of Cannabis and any ancillary products in the unincorporated area of the county, whether or not carried on for gain or profit.

(I) "Cannabis business tax", "Business tax" or "Cannabis tax" means the tax due for engaging in Cannabis business in the unincorporated area of Santa Cruz County.

(J) "Person" means, without limitation, any natural individual, organization, firm, trust, common law trust, estate, partnership of any kind, association, syndicate, club, joint stock company, joint venture, limited liability company, corporation (including foreign, domestic, and nonprofit), cooperative, receiver, trustee, guardian, or other representative appointed by order of any court.

(K) "Sale" means and includes any sale, exchange, or barter.

(L) "Tax Administrator" or "administrator" means the Auditor-Controller-Treasurer-Tax Collector or such other administrator designated by the County Administrative Officer to administer this chapter

4.06.040 Other licenses, permits, taxes, fees or charges.

Nothing contained in this Chapter 4.06 shall be deemed to repeal, amend, be in lieu of, replace or in any way affect any requirements for any license or permit required by, under or by virtue of any provision of any other title or chapter of this code or any other ordinance or resolution of the county, nor be deemed to repeal, amend, be in lieu of, replace or in any way affect any tax, fee or other charge imposed, assessed or required by, under or by virtue of any other title or chapter of this code or any other ordinance or resolution of the county. Any references made or contained in any other title or chapter of this code to any licenses, license taxes, fees or charges, or to any schedule of license fees, shall be deemed to refer to the licenses, license taxes, fees or charges, or schedule of license fees, provided for in other titles or chapters of this code.

4.06.050 Payment of tax does not authorize unlawful business.

(A) The payment of a business tax required by this chapter, and its acceptance by the county, shall not entitle any person to carry on any Cannabis business unless the person has complied with all of the requirements of this code and all other applicable laws, nor to carry on any Cannabis business in any building or on any premises in the event that such building or premises are situated in a zone or locality in which the conduct of such Cannabis business is in violation of any law.

(B) No tax paid under the provisions of this chapter shall be construed as authorizing the conduct or continuance of any illegal or unlawful business, or any business in violation of any ordinance of the county.

4.06.060 Payment - Location.

The tax imposed under this chapter shall be paid to the administrator in lawful money of the United States, at the Offices of the County Auditor-Controller-Treasurer-Tax Collector in Santa Cruz, California. Lawful money shall mean any coin, currency or

negotiable instrument, exchangeable for said coin or currency, which the United States Congress has declared to be a national legal tender.

4.06.070 Amount of business tax owed.

(A) Every person engaged in Cannabis business in the unincorporated area of the county shall pay a business tax at a rate of up to ten percent of gross receipts. The tax under this chapter shall not be imposed on Cannabis businesses unless and until the Board of Supervisors, by ordinance, takes action to set a tax rate not to exceed ten percent of gross receipts.

(B) Notwithstanding the maximum tax rate of ten percent of gross receipts imposed under Subsection A., the Board of Supervisors may, in its discretion, at any time by ordinance, implement a lower tax rate for all Cannabis businesses or establish differing tax rates for different categories of Cannabis businesses, as defined in such ordinance, subject to the maximum rate of ten percent of gross receipts. The Board of Supervisors may, by ordinance, also increase any such tax rate from time to time, not to exceed the maximum tax rate of ten percent of gross receipts established under Subsection (A).

(C) Pursuant to Subsection (A), the Cannabis business tax is set at seven percent of gross receipts. Commencing on the operative date of this chapter, every person engaged in Cannabis business in the unincorporated area of the county shall pay a Cannabis business tax at the rate of seven percent of gross receipts.

4.06.080 Payment - Time limits.

The business tax imposed by this chapter shall be due and payable as follows:

(A) Each person owing a tax under this chapter shall, on or before the last day of each calendar month, prepare a tax statement to the administrator of the total gross receipts and the amount of tax owed for the preceding calendar month. At the time the tax statement is filed, the full amount of the tax owed for the preceding calendar month shall be remitted to the administrator.

(B) All tax statement shall be completed on forms provided by the administrator.

(C) Tax statements and payments for all outstanding taxes owed the county are immediately due to the administrator upon cessation of business for any reason.

4.06.090 Payments and communications made by mail - Proof of timely submittal.

Whenever any payment, statement, report, request or other communication received by the administrator is received after the time prescribed by this chapter for the receipt thereof, but is in an envelope bearing a postmark showing that it was mailed on or prior to the date prescribed in this chapter for the receipt thereof, or whenever the

administrator is furnished substantial proof that the payment, statement, report, request or other communication was in fact deposited in the United States mail on or prior to the date prescribed for receipt thereof, the administrator may regard such payment, statement, report, request or other communication as having been timely received. If the due day falls on Saturday, Sunday or a holiday, the due day shall be the next regular business day on which the County Building at 701 Ocean Street, Santa Cruz is open to the public.

4.06.100 Payment - When taxes deemed delinquent.

Unless otherwise specifically provided under other provisions of this chapter, the taxes required to be paid pursuant to this chapter shall be deemed delinquent if not paid on or before the due date specified in Section 4.06.080.

4.06.110 Notice not required by county.

The administrator is not required to send a delinquency or other notice or bill to any person subject to the provisions of this chapter and failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this chapter.

4.06.120 Payment - Penalty for delinquency.

(A) Any person who fails or refuses to pay any business tax required to be paid pursuant to this chapter on or before the due date shall pay penalties and interest as follows:

(1) A penalty equal to twenty-five percent 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 a rate established by resolution of the Board of Supervisors; and

(2) An additional penalty equal to twenty-five percent of the amount of the tax if the tax remains unpaid for a period exceeding one calendar month beyond the due date, plus interest on the unpaid tax and on the unpaid penalties, calculated at the rate established by resolution of the Board of Supervisors.

(3) Interest shall be applied at the monthly rate on the first 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.

(4) Only payments for the full amount due shall be accepted. Partial payments shall not be accepted.

(B) Whenever a check is submitted in payment of a business tax and the check is subsequently returned unpaid by the bank upon which the check is drawn, and the check is not redeemed prior to the due date, the taxpayer will be liable for the tax amount due plus the return check fee; penalties and interest as provided for in this section; and any amount allowed under state law.

(C) The business tax due shall be that amount due and payable from the first date on which the person was engaged in Cannabis business in the unincorporated area of the county, together with applicable penalties and interest calculated in accordance with Subsection(A) above.

4.06.130 Waiver of penalties.

The administrator may waive the first and second penalties of twenty-five percent each imposed upon any person if:

(A) The person provides evidence satisfactory to the administrator that failure to pay timely was due to circumstances beyond the control of the person and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, and the person paid the delinquent business tax and accrued interest owed the county prior to applying to the administrator for a waiver.

(B) The waiver provisions specified in this subsection shall not apply to interest accrued on the delinquent tax and a waiver shall be granted only once during any twenty-four month period.

4.06.140 Refunds - Credits.

(A) No refund shall be made of any tax collected pursuant to this chapter, except as provided in Section 4.06.150.

(B) No refund of any tax collected pursuant to this chapter shall be made because of the discontinuation, dissolution or other termination of a business.

(C) Any person entitled to a refund of taxes paid pursuant to this chapter may elect in writing to have such refund applied as a credit against such person's business taxes for the next calendar month.

4.06.150 Refunds and procedures.

(A) Whenever the amount of any business tax, penalty or interest has been overpaid, paid more than once, or has been erroneously or illegally collected or received by the county under this chapter, it may be refunded to the claimant who paid the tax provided that a written claim for refund is filed with the administrator within three years of the date the tax was originally due and payable, and the provisions of Chapter 1.05 are satisfied.

(B) The administrator or the administrator's authorized agent shall have the right to examine and audit all the books and business records of the claimant in order to determine the eligibility of the claimant to the claimed refund. No claim for refund shall

be allowed if the claimant refuses to allow such examination of claimant's books and business records after request by the administrator to do so.

(C) In the event that the business tax was erroneously paid and the error is attributable to the county, the entire amount of the tax erroneously paid shall be refunded to the claimant. If the error is attributable to the claimant, the county shall retain the amount set forth in the schedule of fees and charges established by resolution of the Board of Supervisors from the amount to be refunded to cover expenses.

4.06.160 Exemptions - Application - Issuance conditions.

Any person desiring to claim exemption from the payment of the tax set forth in this chapter shall make application upon forms prescribed by the administrator and shall furnish such information and make such affidavits as may be required by the administrator.

4.06.170 Exemptions - General.

Except as may be otherwise specifically provided in this chapter, the terms hereof shall not be deemed or construed to apply to any person when imposition of the tax upon that person would violate the Constitution of the United States or that of the State of California or preemptive federal or state law.

4.06.180 Exemptions - Occasional transactions.

(A) The provisions of this chapter shall not apply to persons having no fixed place of business within the unincorporated area of the county who come into the unincorporated area for the purpose of transacting a specific item of business at the request of a specific patient, client or customer, provided that such person does not come into the unincorporated area for the purpose of transacting business on more than five days during any calendar year.

(B) For any person not having a fixed place of business within the unincorporated area of the county who comes into the county for the purpose of transacting business and who is not exempt as provided in Subsection (A) of this section, the business tax payable by such person may be apportioned by the administrator in accordance with Section 4.06.210.

4.06.190 Enforcement - Duties of tax administrator and sheriff.

It shall be the duty of the administrator to enforce each and all of the provisions of this chapter, and the sheriff shall render such assistance in the enforcement of this chapter as may from time to time be required by the administrator.

4.06.200 Rules and regulations.

For purposes of apportionment as may be required by law and for purposes of administration and enforcement of this chapter generally, the administrator, with the concurrence of the county counsel, may from time to time promulgate administrative rules and regulations.

4.06.210 Apportionment.

(A) None of the tax provided for by this chapter shall be applied so as to occasion an undue burden upon interstate commerce or be violative of the equal protection and due process clauses of the Constitutions of the United States or the State of California.

(B) If any case where a business tax is believed by a taxpayer to place an undue burden upon interstate commerce or be violative of such constitutional clauses, the taxpayer may apply to the administrator for an adjustment of the tax. It shall be the taxpayer's obligation to request in writing for an adjustment within one year after the date of payment of the tax. If the taxpayer does not request in writing within one year from the date of payment, then taxpayer shall be conclusively deemed to have waived any adjustment for that year and all prior years.

(C) The taxpayer shall, by sworn statement and supporting testimony, show the method of business and the gross volume of business and such other information as the administrator may deem necessary in order to determine the extent, if any, of such undue burden or violation. The administrator shall then conduct an investigation, and shall fix as the tax for the taxpayer an amount that is reasonable and nondiscriminatory, or if the tax has already been paid, shall order a refund of the amount over and above the tax so fixed. In fixing the tax to be charged, the administrator shall have the power to base the tax upon a percentage of gross receipts or any other measure which will assure that the tax assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the tax as prescribed by this chapter.

(D) Should the administrator determine that the gross receipt measure of tax to be the proper basis, the administrator may require the taxpayer to submit a sworn statement of the gross receipts and pay the amount of tax as determined by the administrator.

4.06.220 Audit and examination of records and equipment.

(A) The administrator shall have the power to audit and examine all books and records of persons engaged in Cannabis business including both state and federal income tax returns, California sales tax returns, or other evidence documenting the gross receipts of persons engaged in Cannabis business, and, where necessary, all equipment, of any person engaged in Cannabis business in the county, for the purpose of ascertaining the amount of business tax, if any, required to be paid by the provisions hereof, and for the purpose of verifying any statements or any item thereof when filed by any person pursuant to the provisions of this chapter. If such person, after written demand by the administrator, refuses to make available for audit, examination or verification such books, records or equipment as the administrator requests, the administrator may, after full consideration of all information within his or her knowledge concerning the Cannabis business and activities of the person so refusing, make an assessment in the manner provided in Sections 4.06.250 through 4.06.270 of any taxes estimated to be due.

(B) It shall be the duty of every person liable for the collection and payment to the County of any tax imposed by this chapter to keep and preserve, for a period of at least three years, all records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the County, which records the administrator shall have the right to inspect at all reasonable times.

4.06.230 Tax deemed debt to county.

The amount of any tax, penalties and interest imposed by the provisions of this chapter shall be deemed a debt to the county and any person carrying on any Cannabis business without first having paid such tax shall be liable in an action in the name of the county in any court of competent jurisdiction for the amount of the tax, and penalties and interest imposed on such business.

4.06.240 Deficiency determinations.

If the administrator is not satisfied that any statement filed as required under the provisions of this chapter is correct, or that the amount of tax is correctly computed, he or she may compute and determine the amount to be paid and make a deficiency determination upon the basis of the facts contained in the statement or upon the basis of any information in his or her possession or that may come into his or her possession within three years of the date the tax was originally due and payable. One or more deficiency determinations of the amount of tax due for a period or periods may be made. When a person discontinues engaging in a business, a deficiency determination may be made at any time within three years thereafter as to any liability arising from engaging in such business whether or not a deficiency determination is issued prior to the date the tax would otherwise be due. Whenever a deficiency determination is

made, a notice shall be given to the person concerned in the same manner as notices of assessment are given under Sections 4.06.250 through 4.06.270.

4.06.250 Tax assessment - Authorized when - Nonpayment - Fraud.

(A) Under any of the following circumstances, the administrator may make and give notice of an assessment of the amount of tax owed by a person under this chapter at any time:

- (1) If the person has not filed any statement required under the provisions of this chapter;
- (2) If the person has not paid any tax due under the provisions of this chapter;
- (3) If the person has not, after demand by the administrator, filed a corrected statement, or furnished to the administrator adequate substantiation of the information contained in a statement already filed, or paid any additional amount of tax due under the provisions of this chapter;
- (4) If the administrator determines that the nonpayment of any business tax due under this chapter is due to fraud, a penalty of twenty-five percent of the amount of the tax shall be added thereto in addition to penalties and interest otherwise stated in this chapter.

(B) The notice of assessment shall separately set forth the amount of any tax known by the administrator to be due or estimated by the administrator, after consideration of all information within the administrator's knowledge concerning the business and activities of the person assessed, to be due under each applicable section of this chapter, and shall include the amount of any penalties or interest accrued on each amount to the date of the notice of assessment.

4.06.260 Tax assessment - Notice requirements.

The notice of assessment shall be served upon the person either by handing it to him or her personally, or by a deposit of the notice in the United States mail, postage prepaid thereon, addressed to the person at the address of the location of the business or to such other address as he or she shall register with the administrator for the purpose of receiving notices provided under this chapter; or, should the person have no address registered with the administrator for such purpose, then to such person's last known address. For the purposes of this section, a service by mail is complete at the time of deposit in the United States mail.

4.06.270 Tax assessment - Hearing - Application and determination.

Within ten days after the date of service the person may apply in writing to the administrator for a hearing on the assessment. If application for a hearing before the county is not made within the time herein prescribed, the tax assessed by the

administrator shall become final and conclusive. Within thirty days of the receipt of any such application for hearing, the administrator shall cause the matter to be set for hearing before him or her not later than thirty-five days after the receipt of the application, unless a later date is agreed to by the administrator and the person requesting the hearing. Notice of such hearing shall be given by the administrator to the person requesting such hearing not later than five days prior to such hearing. At such hearing said applicant may appear and offer evidence why the assessment as made by the administrator should not be confirmed and fixed as the tax due. After such hearing the administrator shall determine and reassess the proper tax to be charged and shall give written notice to the person in the manner prescribed in Section 4.06.260 for giving notice of assessment.

4.06.280 Conviction for chapter violation - Taxes not waived.

The conviction and punishment of any person for failure to pay the required tax shall not excuse or exempt such person from any civil action for the tax debt unpaid at the time of such conviction. No civil action shall prevent a criminal prosecution for any violation of the provisions of this chapter or of any state law requiring the payment of all taxes.

4.06.290 Violation deemed misdemeanor - Penalty.

Any person violating any of the provisions of this chapter or any regulation or rule passed in accordance herewith, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars or by imprisonment for a period of not more than six months, or by both such fine and imprisonment.

4.06.300 Severability.

Should any provision of this chapter, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this chapter or the application of this chapter to any other person or circumstance and, to that end, the provisions hereof are severable.

4.06.310 Effect of state and federal reference/ authorization.

(A) Unless specifically provided otherwise, any reference to a state or federal statute in this chapter shall mean such statute as it may be amended from time to time, provided that such reference to a statute herein shall not include any amendment thereto, or to any change of interpretation thereto by a state or federal agency or court of law with the duty to interpret such law, to the extent that such amendment or change of interpretation would, under California law, require voter approval of such amendment or interpretation, or to the extent that such change would result in a tax decrease. To

the extent voter approval would otherwise be required or a tax decrease would result, the prior version of the statute (or interpretation) shall remain applicable; for any application or situation that would not require voter approval or result in a decrease of a tax, provisions of the amended statute (or new interpretation) shall be applicable to the maximum possible extent.

(B) To the extent that the county's authorization to collect or impose any tax imposed under this chapter is expanded as a result of changes in state or federal law, no amendment or modification of this chapter shall be required to conform the tax to those changes, and the tax shall be imposed and collected to the full extent of the authorization up to the full amount of the tax imposed under this chapter.

4.06.320 Remedies cumulative.

All remedies and penalties prescribed by this chapter or which are available under any other provision of law or equity, including but not limited to the California False Claims Act (Government Code Section 12650 et seq.) and the California Unfair Practices Act (Business and Professions Code Section 17070 et seq.), are cumulative. The use of one or more remedies by the county shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter.

4.06.330 Amendment or repeal.

Chapter 4.06 of the Santa Cruz County Code may be repealed or amended by the Board of Supervisors without a vote of the people. However, as required by Chapter XIII C of the California Constitution, voter approval is required for any amendment provision that would increase the rate of any tax levied pursuant to this chapter. The people of the County of Santa Cruz affirm that the following actions shall not constitute an increase of the rate of a tax:

(A) The restoration of the rate of the tax to a rate that is no higher than that set by this chapter, if the Board of Supervisors has acted to reduce the rate of the tax;

(B) An action that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this chapter;

(C) The establishment of a class of person that is exempt or excepted from the tax or the discontinuation of any such exemption or exception (other than the discontinuation of an exemption or exception specifically set forth in this chapter); or

(D) The collection of the tax imposed by this chapter, even if the county had, for some period of time, failed to collect the tax.