

Legislation Details (With Text)

File #: 2017-170 **Version:** 1 **Name:**
Type: Resolution **Status:** Action Items
File created: 4/18/2017 **In control:** City Council
On agenda: 4/26/2017 **Final action:**
Title: Resolution Establishing Tax Rates for Cannabis Cultivation and Manufacturing Businesses
Sponsors: City Manager, Charles McClendon
Indexes:
Code sections:
Attachments: 1. CC Reso 2015-50, 2. Range of Cannabis Taxes, 3. Resolution Lowering Cannabis Tax Rates

Date	Ver.	Action By	Action	Result
4/26/2017	1	City Council	approved	Pass

City Council**MEETING DATE: 4/26/2017****TITLE:****Resolution Establishing Tax Rates for Cannabis Cultivation and Manufacturing Businesses****FROM:**

Charlie McClendon, City Manager

RECOMMENDATION:

Staff recommends the City Council approve a resolution establishing tax rates for Cannabis cultivation and manufacturing businesses consistent with authorization approved by Cathedral City voters on November 8, 2016.

BACKGROUND:

The voters of the Cathedral City approved Measure N at the November 4, 2014 general municipal election. Measure N authorizes the City to impose a tax on the proceeds of cannabis and marijuana collectives as defined in the Ordinance in the amount of fifteen cents (15) for every dollar of proceeds. The Ordinance provides the Council with the authority to set the tax at a rate that is less than 15% and to establish exemptions, incentives, or other reductions, and penalties and interest charges or assessments for failure to pay the tax in a timely manner. On August 26, 2015 Council approved Resolution 2015-50 setting the tax rate on dispensaries at 10% of gross proceeds.

At the November 8, 2016 general election the voters of Cathedral City approved Measure P. The ballot language for Measure P stated "To help fund municipal services, including police protection and crime suppression services, fire prevention and suppression services, emergency medical

services, park, recreation, and library facilities and services, shall an ordinance amending the existing cannabis tax be adopted that would expand the tax to apply to recreational cannabis, if legalized, and apply a tax of \$25 per square foot of cultivation space, and \$1.00 for every gram of cannabis concentrate and every unit of cannabis-infused product?"

Council held a discussion in study session on January 25, 2017 on tax rates for Cannabis cultivation and manufacturing businesses and, at that time asked staff to refer the question to the Cannabis Task Force for their input.

DISCUSSION:

Council has flexibility in establishing tax rates for cultivation and manufacturing operations up to the maximum rates approved by the voters.

The City Attorney's office conducted some research on cannabis tax rates in effect throughout the state. The report is attached. Generally, the findings in the report correspond to information provided by members of the Cannabis Task Force.

The task force met most recently on April 10, 2017 for the purpose of discussing taxes and making recommendations to the City Council.

DISPENSARIES: Regarding dispensaries the task force was told that the Council had not indicated a desire to revisit the 10% gross proceeds tax on dispensaries. There was some discussion around the fact that the market for dispensaries, since they are the retail outlets, is much more localized given that customers are unlikely to drive a long way to save a percentage or two on taxes. There was also a general agreement that in the Coachella Valley market the current 10% gross proceeds tax is not out of line with the rate being charged by other cities.

CULTIVATION: The task force discussed cultivation taxes fairly extensively. There was agreement that the voter-authorized maximum tax of \$25 per square foot might place local cultivators at a competitive disadvantage. If the industry is to be successful in Cathedral City and produce substantial revenue to support services to the community there was agreement that the tax rate needs to be reduced so the local growers can compete. Some in the industry favored a rate as low as \$10 per square foot. By the time the discussion was complete, however, there was a general consensus around recommending a cultivation tax rate of \$15 per square foot.

MANUFACTURING: Manufacturing proved to be the most difficult area for the task force to come to agreement. No comparable cities were found, which tax manufacturing based on the volume of product produced. Coupled with the fact that there appears to be wide variation in the value or sales price of the products produced, the result was that the task force struggled with determining what a competitive tax rate for manufacturing should be. For example, industry representatives pointed out that some extracts produced sell for as little as \$3.50 per gram, in which case a \$.35 per gram tax equates to a 10% tax. On other products that sell for more the same tax would equate to a lower percentage. For example on an extract selling for \$35.00 per gram the same \$.35 tax would equate

to only 1%. Industry representatives reported that Los Angeles recently set manufacturing tax rates at 2% gross proceeds and recommended a 2-3% gross proceeds tax in Cathedral City. The voter authorized language does not appear to authorize a gross proceeds tax. However, the same tax of \$.35 per gram would equate to a gross proceeds tax of 2% or less on any products selling for \$17.50 per gram or more. After a lengthy discussion the task force agreed to report a recommended tax rate ranging from \$.25 per gram or unit to \$.50 per gram or unit. In general industry representatives and some of the resident members favored the \$.25 rate while generally speaking the City representatives favored the \$.50 rate. Anything in between those ranges would be a viable alternative.

In general, there seemed to be a recognition of the position many of the current license holders for cultivation and manufacturing are taking of waiting to see where the tax rates land before taking the final steps to open. The task force also discussed the added option, which appears to have been authorized by the voters, of developing further individualized tax incentive agreements with businesses in exchange for long term commitments to the City, local first hiring agreements and other benefits to the community.

FISCAL IMPACT:

The City currently has two cultivation businesses in operation totaling 6,475 square feet. The tax reduction to these two businesses will result in a reduction in revenue from them of \$64,750 annually. It is unknown if any additional cultivators will open at the current tax rate. Conditional Use Permits have been approved for a total of 615,500 square feet of cultivation space. At the recommended rate of \$15 per square foot a total of \$9,232,500 annually would result if they all stay and open in Cathedral City and if there are no tax rebate agreements put into place. Eight conditional use permits for manufacturing have been approved. It appears the business owners are waiting to open pending decisions on tax rates. A manufacturer producing 500,000 grams per year at a tax rate of \$.35 would pay \$175,000 in tax per year or \$1,400,000 for all eight if they all opened and produced that volume of product and there are no tax rebate agreements put into place.

ATTACHMENTS:

Resolution 2015-50
Comparable tax rate report
Proposed resolution