



Update on Cannabis Tax Relief Plan

City Council Meeting – January 23, 2024

Background

April 18, 2023 – City Council approved the following recommendation:

Request the City Manager to work with the Office of Cannabis Oversight to develop a tax relief plan to help stimulate the growth of local cannabis retail establishments with structured incentives that promote community benefits, local hiring, livable wages, and fair labor standards, and return to the City Council as part of the FY 24 budget process.

Background

August 8, 2023 – Budget Oversight Committee received a presentation on the proposed tax relief plan and projected fiscal impacts to the General Fund.

September 5, 2023 – City Council approved the proposed plan and fiscal impacts as part of the Adopted FY 24 Budget.

November 29, 2023 – Memorandum released to City Council detailing the Cannabis Tax Relief Plan including implementation next steps, overview of staff research, and good standing requirements and eligibility criteria for the proposed Tax Credit Program.

Research – City of Oakland

December 10, 2019 – Adopted the Cannabis Equity Tax Rebate Program, which is based on a rebate of taxes paid for the previous tax year. A business must meet nine separate and distinct conditions within four rebate categories to qualify for a tax rebate.

Rebate Program	Rebate Conditions	Qualifying Period	Rebate Amount
Local Hiring	• 30% of workforce consists of "Equity Employees"	182 Days	0.50%
	• 25% of workforce consists of Equity Employees in "Essential Roles"		
	• 20% of workforce consists of Equity Employees in "Managerial Roles"		
Equity Supply Chain	• 30% of value of cannabis products delivered to the business were delivered by an Equity Businesses	365 Days	0.50%
	• 25% of value of cannabis products delivered to the businesses were originally cultivated or manufactured by an Equity Business		0.25%
Workforce Quality of Life	• \$20/hr. with health benefits or \$25/hr. without health benefits for all employees employed	365 Days	0.50%
	• 80% of total employees are full-time employees		0.25%
Incubation	• Provide free rent to Equity Business beyond the initial three-year period	Year 4	0.5%-1.50%
	• Provide free rent to Equity Business in the tax year but does not seek "permitting priority"	365 Days	

October 4, 2022 – Adopted several cannabis regulatory and tax updates, including a 5% gross receipts tax reduction (6% to 1%) for cultivation, manufacturing, and distribution businesses, and a 1% gross receipts tax reduction (8% to 7%) for adult-use retail businesses.

A cannabis retail business may be eligible for additional 2% tax reduction (7% to 5%) and certified as a *Qualified Social Equity Commercial Cannabis Business Operator* if they satisfy and commit to 7 social equity measures.

Research - City of Santa Ana Cont'd

Social Equity Measure	Description
Full-Time Jobs	60% of its workforce is hired for full-time work
Wages	Employees, not including supervisors, must receive wages that exceed 115% of the California minimum wage at the time of hire.
Delivery Drivers	Delivery drivers must be reimbursed for mileage according to the Internal Revenue Service's Standard Mileage Rates.
High Road Training Partnership	Applicant participates in a High Road Training Partnership of the sort defined by Unemployment Insurance Code Section 14005 as amended from time to time and that is recognized by the State of California.
Local Hiring	The commercial cannabis business owner demonstrates that: a) Beginning January 1, 2023, the cannabis retail business owner demonstrates that 20% of its employees reside within the City of Santa Ana, then b) Beginning January 1, 2024, the cannabis retail business owner demonstrates that 40% of its employees reside within the City of Santa Ana.

Research - City of Santa Ana Cont'd

Social Equity Measure	Description
<p>Social Equity Policy</p>	<p>The commercial cannabis retail business owner maintains a written social equity policy that describes:</p> <ul style="list-style-type: none"> a) How the cannabis retail business owner aims to recruit, hire, and retain employees who reside in low-income census tracts in Santa Ana where at least 51% of the current residents have a household income at or below 80% of the County Area Median Income; b) How the cannabis retail business owner will partner with Community Benefit Organizations or its High Road Training Program to recruit, hire, and retain employees arrested or convicted for a crime relating to the sale, possession, use or cultivation of cannabis prior to November 8, 2016, that could have been prosecuted as a misdemeanor or citation under Current California law, or currently receiving unemployment benefits. c) Any other measures or employee benefits aimed to address the disproportionate impact of the War on Drugs in certain communities affected by it.
<p>Equity Opportunities</p>	<p>On or before Jan 1, 2024, Applicants must demonstrate that 40% of all employees employed in the last tax period were Equity Employees, or demonstrating that hourly, non-supervisory employees receive employee stock ownership options or other equity.</p>

City of Long Beach - Current Tax Structure

Type of Business	Maximum Tax Rate Allowable	Current Tax Rate
Medical/Adult-Use Cannabis Cultivation	\$15.00 per square foot	\$14.96 per square foot
Medical/Adult-Use Cannabis Manufacturing	8% of gross receipts	1% of gross receipts
Medical/Adult-Use Cannabis Distribution	8% of gross receipts	1% of gross receipts
Medical/Adult-Use Cannabis Lab Testing	8% of gross receipts	1% of gross receipts
Adult-Use Cannabis Retail Storefront	12% of gross receipts	8% of gross receipts
Medical Cannabis Retail Storefront	8% of gross receipts	6% of gross receipts
All cannabis businesses are required to pay a minimum tax of \$1,000 annually.		

City Council may amend the cannabis business license tax rates set forth in Section 3.80.261 of LBMC, as long as the change does not result in increased tax rates beyond the maximum rates allowed.

Cannabis Tax Relief Plan

Overview

- Using a two-tiered approach, adult-use retail and cultivation businesses may be eligible for a **combined 4% in tax relief**.
- The combined tax relief under Tier 1 and Tier 2 may not result in a tax rate less than 2% (or equivalent) for adult-use retail and cultivation businesses.
- The tax relief will not be made retroactive. Once effective, the tax relief must be passed onto the customer.

Tier 1 – Tax Reduction (1%)

Under Tier 1, adult-use retail and cultivation businesses will receive a 1% tax reduction (or amount equivalent).

Tax Rate	Current Tax Rate	Reduced Tax Rate
Adult-Use Retail	8% of gross receipts	7% of gross receipts
Adult-Use & Medical Cultivation	\$14.96 per sq. ft.	\$13.09 per sq. ft.

Tier 2 – Pilot Tax Credit Program

Under Tier 2, a business may receive tax credit of 3% upon meeting good standing requirements and eligibility criteria.

Good Standing Requirements

- Be compliant with the regulations set by Section 3.80.261 of the LBMC and California Department of Tax and Fee Administration (CDTFA), and **cannot have outstanding taxes and fees for any cannabis license associated with the business**
- Be complaint with the regulations set in Chapter 5.90 and Chapter 5.92 of the LBMC and **cannot have pending enforcement action(s) for any cannabis license associated with the business**
- Be compliant with the regulations set by the Department of Cannabis Control, including the issuance of an active provisional or annual state license

Tier 2 – Pilot Tax Credit Program Cont'd

Eligibility Criteria	
Local Hiring	<ul style="list-style-type: none"> • 50% of employees reside within Long Beach
Workforce Quality of Life	<p><i>At least two (2) of the following:</i></p> <ul style="list-style-type: none"> • 70% of workforce are full-time employees • Part-time employees receive wages that exceed 55% of the state minimum wage at the time of hire • Full-time employees receive wages that exceed 125% of the state minimum wage at the time of hire
Training	<ul style="list-style-type: none"> • Proof of participation in a High Road Training Partnership
Equity Business Support	<p><i>At least one (1) of the following:</i></p> <ul style="list-style-type: none"> • 15% of shelf space reserved for cannabis goods cultivated, manufactured, or delivered by an equity business • Provide 50 hours of incubation support per year to equity businesses

Tier 2 – Pilot Tax Credit Program Cont'd

Implementation

Tax credits will be applied upon remittance of quarterly gross receipts reports and taxes for adult-use retail businesses and annually for cultivators upon remittance of taxes for square footage of canopy under cultivation.

These requirements are in alignment with current tax collection practices in the Business License Division and ensures that the local hiring, workforce quality of life, training, and equity business support criteria are being met at the time of tax remittance.

Fiscal Impacts

Projected Impacts on the General Fund in FY 24

Tax Relief	Fiscal Impact (reduction of budgeted revenue)
Tier 1 – Tax Reduction (1%)	\$1,080,000
Tier 2 – Pilot Tax Credit Program (3%)	\$1,980,000
Total	\$3,060,000

The budget impact will be offset on a one-time basis with previously set-aside cannabis related and other reserves.

Measure MA Revenues by Fiscal Year

Summary of Measure MA Revenues FY 18 – FY 24

FY 18 Actuals	FY 19 Actuals	FY 20 Actuals	FY 21 Actuals	FY 22 Actuals	FY 23 Actuals*	FY 24 Budget**
\$1,321,479	\$4,684,986	\$9,979,940	\$12,099,297	\$13,101,056	\$13,380,887	\$10,920,000

**Funds over \$12 million will be recommended to be reserved to support the Cannabis Tax Credit Program and other related cannabis program needs.*

***Projected impact of tax reduction/pilot program included in budget projections; actual impact will be monitored as part of annual review processes.*

Measure MA Revenues by License Category

License Category	FY 23 Actuals	Percentage of Total Revenue
Adult-Use Cannabis Dispensary	\$8,945,594	66.85%
Medical Cannabis Cultivation	\$1,684,985	12.59%
Adult-Use Cannabis Distribution	\$1,134,570	8.48%
Adult-Use Cannabis Cultivation	\$551,134	4.12%
Medical Cannabis Distribution	\$347,279	2.60%
Adult-Use Cannabis Manufacturing	\$295,148	2.21%
Medical Cannabis Dispensary	\$258,405	1.93%
Medical Cannabis Lab Testing	\$97,302	0.73%
Medical Cannabis Manufacturing	\$54,672	0.41%
Adult-Use Cannabis Cultivation Equity	\$6,761	0.05%
Adult-Use Cannabis Lab Testing	\$4,096	0.03%
Adult-Use Cannabis Distribution Equity	\$940	0.01%
Total	\$13,380,887	100%

Measure MA - Tax Delinquency

Coming out of the pandemic, many cannabis businesses (mostly retailers) are behind on tax payments, totaling at least an estimated \$6.6 million in unpaid taxes.

In general, these taxes are not paid by the retailers but paid by the customer and it is the responsibility of the dispensary to collect the tax and pass it on to the City. Each retailer with unpaid taxes has been notified (at least twice) of outstanding balances.

Collection efforts will increase in February 2024, and payment plans will continue to be offered. It is staff's goal that between collection efforts and incentive to receive the tax credits once they are in good standing, that collection will significantly improve.

Feedback from Local Organizations

Local Hiring

- Reduce criterion from 50% to 40%

Workforce Qualify of Life

- Keep workforce to 70% full-time and reduce wage requirement to exceed 15% of state minimum wage for both part-time and full-time or
- Increase workforce to 80% full-time and reduce wage requirement to exceed 10% of state minimum wage for both part-time and full-time

Other

- Requested leniency for delinquent businesses on extended payment plans to be considered as being in “good standing” for the Pilot Tax Credit Program
- Expressed concern over equity business support criterion

Policy Options for City Council

1. Direct staff to move forward with staff's proposal
2. Adjust criteria for Pilot Tax Credit Program categories and provide direction tonight on specific changes
3. Direct staff to come back with a tiered approach for the Pilot Tax Credit Program:
 - 3% tax credit for staff's current proposal, and
 - 2% tax credit for lower levels of local hires and wages and provide direction tonight on those lower requirements

Next Steps

Upon approval of a Cannabis Tax Relief Plan, the Office of Cannabis Oversight will work with the City Attorney's Office to return to City Council with the first reading of the ordinance amendments to Section 3.80.261 of the LBMC.

Staff will monitor over the next two years to assess whether these actions are successful in achieving policy objectives and what the longer-term fiscal impacts are to determine the feasibility of these actions continuing in the future.



Thank you

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