



Legislation Details (With Text)

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Type: Action Item **Status:** Agenda Ready

File created: 2/27/2020 **In control:** BOARD OF SUPERVISORS

On agenda: 3/3/2020 **Final action:**

Title: 9:45 A.M. - (a) Discussion of Cannabis Tax Revenues and Accrual Methodology; and (b) Report from County Counsel on Proration of Cannabis Cultivation Taxes

Sponsors: Administrative Office, County Counsel

Indexes:

Code sections:

Attachments: 1. Report from County Counsel

Date	Ver.	Action By	Action	Result
3/3/2020	1	BOARD OF SUPERVISORS		

Memorandum

Date: March 3, 2020

To: The Honorable Moke Simon, Chair, Lake County Board of Supervisors

From: Carol J. Huchingson, County Administrative Officer

Subject: Discussion of Cannabis Tax Revenues and Accrual Methodology

Executive Summary: (include fiscal and staffing impact narrative):

At the previous Board of Supervisors meeting on February 25, 2020, there was a request for follow up on whether any type of proration would be applied to a tax bill. There are two applicable sets of circumstances that are described below.

Initial Issuance of the Permit

On May 14, 2019, the Board of Supervisors passed Resolution 2019-70. This resolution provided an option to set a cultivation start date other than the permit issuance date. Before this resolution, taxes began to accrue from the date of permit issuance, rather than the start of cultivation. The resolution reiterated that pursuant to the ordinance, taxes begin to accrue on the date on which a person becomes engaged in legally-authorized cannabis cultivation.

In this situation, the possibility of proration would exist for cultivators just receiving their permit. If their permit were to be issued on the last day of a billing cycle, or if they were to declare their commencement date as being the last day of that billing cycle, they would receive a prorated bill for that period. Rather than being billed the entire annual tax assessment for that day of operation, they would be charged 0.27% of that annual cost.

Under the current structure, this possibility of proration could only occur once, and that would be in

the first year of operation for a cultivator. After the first year, there remains only the option to provide a declaration of non-cultivation to avoid a tax bill, meaning that a cultivator is either paying the full annual assessment or nothing at all as will be discussed below.

Declaration of Non-Cultivation (“Opt-out”)

On November 5, 2019, the Board of Supervisors passed Resolution 2019-162. The resolution authorized cultivators to provide written notice that they would completely opt-out from all cannabis cultivation operations for a specified time. This notice must be provided before June 1st to be valid. A form has been created for cultivators to use and this notice will be shared with all applicable agencies and departments.

Cultivators will only be allowed to opt out for the year in its entirety, so in this scenario there would be no proration of the annual tax. Therefore, any cultivator who has previously engaged in cultivation must completely cease cultivation in a given year to avoid the tax bill. Cultivation is defined as the: germinating, cloning, seed production, planting, growing, and harvesting of cannabis plants and the on-site drying, curing, grading, or trimming of cannabis plants. If cultivators were to engage in any of these activities, even if only momentarily, they would owe the entire annual tax bill.

Upcoming Billing Cycle

Due to the change in billing structure, the next tax bills will not be sent until July, so there is still time to make adjustments to the model discussed above. As indicated, the more complicated period is when cultivators are initially issued their permits and set a cultivation start date. Staff requests Board direction as to how to proceed.

If not budgeted, fill in the blanks below only:

Estimated Cost: _____ Amount Budgeted: _____ Additional Requested: _____ Future Annual Cost: _____

Consistency with Vision 2028 and/or Fiscal Crisis Management Plan (check all that apply):

- | | | | |
|--------------------------------------------------|------------------------------------------------------|-------------------------------------------|----------------------------------------------------------------|
| <input type="checkbox"/> Well-being of Residents | <input type="checkbox"/> Public Safety | <input type="checkbox"/> Infrastructure | <input type="checkbox"/> Not applicable |
| <input type="checkbox"/> Economic Development | <input type="checkbox"/> Disaster Recovery | <input type="checkbox"/> County Workforce | <input checked="" type="checkbox"/> <i>Technology Upgrades</i> |
| <input type="checkbox"/> Community Collaboration | <input type="checkbox"/> Business Process Efficiency | <input type="checkbox"/> Clear Lake | <input checked="" type="checkbox"/> <i>Revenue Generation</i> |
| | | | <input type="checkbox"/> <i>Cost Savings</i> |

If request for exemption from competitive bid in accordance with County Code Chapter 2 Sec. 2-38, fill in blanks below:

Which exemption is being requested?
How long has Agreement been in place?
When was purchase last rebid?
Reason for request to waive bid?

Recommended Action: Provide direction to staff.