
ADMINISTRATIVE POLICIES AND PROCEDURES

APP NO.: 3 (Revised 4/28/2022)

WHEN THE GROSS RECEIPTS TAX ON CANNABIS DISPENSARIES APPLIES TO PERSONS ENGAGED IN THE BUSINESS OF SELLING CANNABIS PRODUCTS DERIVED FROM INDUSTRIAL HEMP

I. Purpose and Applicability

Every person who is engaged in business as a dispensary in the City of Bellflower must pay an annual commercial cannabis tax based on a percentage of gross receipts per fiscal year.¹ For purposes of Title 3, Chapter 3.37 (the "Cannabis Tax Ordinance"), "dispensary" is defined as "a facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers cannabis and cannabis products as part of a retail sale."² For purposes of the Cannabis Tax Ordinance, "cannabis" is defined as:

"[A]ll parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" also means marijuana as defined by Health and Safety Code Section 11018 and is not limited to medical cannabis."³

By contrast, for purposes of Title 14 (Cannabis-Related Businesses) "cannabis" is defined as set forth in Business & Professions Code section 26001(f). That section provides:

"'Cannabis' means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. 'Cannabis' also means the separated resin, whether crude or purified, obtained from cannabis. 'Cannabis' does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this division, 'cannabis'

¹ BMC § 3.37.060(D)(1).

² BMC § 3.37.020.

³ BMC § 3.37.020.

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does not mean 'industrial hemp' as defined by Section 11018.5 of the Health and Safety Code."

The definition of "cannabis" in the Cannabis Tax Ordinance is broader insofar as it does not exclude "industrial hemp." Accordingly, references to "cannabis" and "cannabis products" in the Cannabis Tax Ordinance necessarily include industrial hemp and industrial hemp-derived products.

Health and Safety Code section 11018.5 defines "industrial hemp" as

"a crop that is limited to types of the plant *Cannabis sativa* L. having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; the seeds of the plant; 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 produced therefrom."

In the Agriculture Improvement Act of 2018 (the "Farm Bill"), effective January 1, 2019, Congress removed industrial hemp-derived products from Schedule I status under the Controlled Substances Act, provided that the hemp is produced in a manner consistent with the Farm Bill, federal regulations, state regulations, and by a licensed grower. Division 24 of the California Food and Agriculture Code provides for the cultivation of industrial hemp by registered growers and established agricultural research institutions.

Industrial hemp-derived products have soared in popularity recently, particularly cannabidiol (CBD) oil and products infused with CBD oil. An increasing number of retail establishments are incorporating these industrial-hemp derived goods into their product mix and some retail establishments are choosing to specialize in the sale of industrial hemp-derived products, making them the focus of their business model.

This policy addresses the question of when a retail establishment selling cannabis products derived from industrial hemp becomes a "dispensary" for purposes of the Cannabis Tax Ordinance and, therefore, subject to the applicable gross receipts tax. This policy does not apply to any person or retail establishment engaged in the business of selling cannabis or cannabis products that are not derived from industrial hemp.

II. Definitions

Unless the contrary is stated or clearly appears from the context, the words and phrases used herein have the meaning set forth in BMC Chapter 3.37.

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III. Administration

For purposes of the Cannabis Tax Ordinance, a retail establishment is a “dispensary” for purposes of BMC § 3.37.060(D)(1)⁴, and therefore subject to the applicable gross receipts tax, if more than 50% of the establishment’s overall gross receipts⁵ are attributable to the sale of cannabis products derived from industrial hemp.

Reference: BMC § 3.37.060(D)(1)

Authority: BMC § 3.37.120

APPROVED: _____
City Manager

APPROVED AS TO FORM: _____
City Attorney

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⁴ This does not mean the establishment would necessarily be classified as a “dispensary” for purposes of Title 14 and, therefore, require a Cannabis Business Permit to operate lawfully. Because “industrial hemp” is not within the definition of “cannabis” as used in Title 14, a cannabis business permit is not required for the sale of cannabis products derived from industrial hemp.

⁵ In this context, “overall gross receipts” means the total gross receipts of the retail establishment.