



**COUNTY OF SAN LUIS OBISPO
BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Auditor-Controller-Treasurer- Tax Collector	(2) MEETING DATE 5/21/2024	(3) CONTACT/PHONE Jim Hamilton 805-781-5043 Kari Lekvold 805-781-4846	
(4) SUBJECT Submittal of a report of the tax compliance audits of operators subject to the County Commercial Cannabis Business Tax Ordinance for the period July 1, 2021, through June 30, 2022.			
(5) RECOMMENDED ACTION It is recommended that the Board receive, review, and file the report of the tax compliance audits of operators subject to the County Commercial Cannabis Business Tax Ordinance for the period July 1, 2021, through June 30, 2022.			
(6) FUNDING SOURCE(S) Fees	(7) CURRENT YEAR FINANCIAL IMPACT \$0	(8) ANNUAL FINANCIAL IMPACT \$0	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Presentation <input type="checkbox"/> Hearing (Time Est. _____) <input type="checkbox"/> Board Business (Time Est. _____)			
(11) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input checked="" type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP N/A	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input checked="" type="checkbox"/> N/A Date _____	
(17) ADMINISTRATIVE OFFICE REVIEW Zachary A. Lute			
(18) SUPERVISOR DISTRICT(S)			



COUNTY OF SAN LUIS OBISPO

TO: Board of Supervisors

FROM: James W. Hamilton, CPA, Auditor – Controller – Treasurer – Tax Collector

DATE: May 21, 2024

SUBJECT: Submittal of a report of the tax compliance audits of operators subject to the County Commercial Cannabis Business Tax Ordinance for the period July 1, 2021, through June 30, 2022.

RECOMMENDATION

It is recommended that the Board receive, review, and file the report of the tax compliance audits of operators subject to the County Commercial Cannabis Business Tax Ordinance for the period July 1, 2021, through June 30, 2022.

DISCUSSION

The Cannabis Business Tax (CBT) was established on June 5, 2018, following the approval of Measure B-18 by 76.37% of San Luis Obispo County Voters. The County currently collects a 6% Commercial Cannabis Business Tax from cannabis operators throughout the unincorporated area. As of April 2024, there are 25 operators and 36 Cannabis Business licenses in the unincorporated area.

The objective of our audits was to verify the accuracy of the Commercial Cannabis Business Tax amounts remitted to the County and to ensure that the tax calculated was in accordance with Chapter 3.05 of the San Luis Obispo County regulations. To achieve this, we engaged HdL Companies (HdL), an experienced cannabis auditing firm, to conduct tax compliance audits and site visits of cultivation, manufacturing, distribution, and delivery licenses. ACTTC and HdL conducted site visits and reviewed the operators' reporting systems to ascertain if the gross receipts reported to the County were accurate, the Commercial Cannabis Business Tax owed was calculated correctly, and there was no diversion of product or cash.

Out of the five establishments audited, three were found to owe a total of \$6,222. One establishment overpaid by \$6,886 and will be issued a refund. Findings by establishment are provided in the attached Summary of Monetary Audit Findings.

The reasons for underreporting revenue were not always identifiable, but in some instances, they stemmed from incomplete revenue documentation and unauthorized deduction of product expenses. Conversely, overreporting of revenue occurred due to misclassification of taxable items, assessing local tax on state tax, and reporting of sales beyond the unincorporated area of the County. Per the regulations outlined in the County Commercial Cannabis Business Tax Ordinance, these sales are exempt from CBT.

Additional audit observations are comprised of the following:

- Incorrectly excluding medical cannabis sales, which are exempt from state taxes, but are not exempt from local taxes.
- Incorrectly applying the local cannabis tax to non-cannabis items.
- Failure to clearly identify whether tax-exempt sales were categorized as medical.
- Inconsistent computation of state sales tax; customers were charged sales tax according to their delivery address, while the operator reported sales tax based on the business's zip code.
- Insufficient documentation regarding the transfer of cannabis products, as mandated by California Code of Regulations §15049.2.
- Inability to resolve inconsistencies in inventory samples as stipulated by California Code of Regulations §15424.

HdL provided operators with recommendations to address all findings and additional observations. The Auditor-Controller-Treasurer-Tax Collector-Public Administrator will continue to enhance the County's Commercial Cannabis Tax Compliance Monitoring Program using HdL's services to conduct additional tax compliance audits.

OTHER AGENCY INVOLVEMENT/IMPACT

Individualized audit reports were issued to each operator. The Sheriff's Office and Planning and Building were involved in the risk assessment. The Sheriff's Office will continue site visit inspections which enhance the County's Commercial Cannabis Tax Compliance Monitoring Program.

FINANCIAL CONSIDERATIONS

The following is a recap of the Commercial Cannabis Business Tax collected for the last six fiscal years:

Fiscal Year	Commercial Cannabis Business Tax Collected*	Cannabis Business Tax Rate
2018-19	\$ 82,317	4%
2019-20	338,783	4%
2020-21	518,130	6%
2021-22	348,840	6%
2022-23	597,747	8%
2023-24 April YTD	643,349	6%
Total	\$ 2,529,166	

*Tax collected is a factor of market price and volume. Detailed market price information is available at www.cannabisbenchmarks.com.

RESULTS

Tax compliance audits are one of the tools used to monitor the accurate receipts of tax in the unincorporated area which help maintain accountability and contribute to the County's vision of a prosperous and well-governed community.

ATTACHMENTS

- 1 Cannabis Business Tax Compliance Summary of Monetary Audit Findings

**County of San Luis Obispo
Commercial Cannabis Business Tax Audits
Summary of Monetary Audit Findings**

<u>TAXABLE REVENUES</u>						<u>AMOUNT DUE BY AUDIT FINDINGS</u>			
Establishment *	Period Under Review	Reported	Audited	Difference	% of Reported Amount	Taxes/Fees			Total
						Due/(Refund)	Penalties**	Interest**	Due/(Refund)
1	FY 2021-22	114,895	205,895	91,000	79.2%	5,460	-	-	5,460
2	FY 2021-22	543,258	543,258	-	0.0%	-	-	-	-
3	FY 2021-22	632,461	635,335	2,873	0.5%	172	-	-	172
4	FY 2021-22	489,542	374,771	(114,771)	-23.4%	(6,886)	-	-	(6,886)
5	FY 2021-22	250,837	260,675	9,838	3.9%	590	-	-	590
		\$ 2,030,993	\$ 2,019,934	\$ (11,059)		\$ (664)	\$ -	\$ -	\$ (664)

* Establishment names have been removed for purposes of confidentiality.

** The County will not assess penalties and interest on additional taxes due for the first cannabis audit if paid within thirty days of final report date.