



silicon valley cannabis alliance

Assembly Member Jacqui Irwin
Chair of the Committee on Revenue and Taxation
1020 N Street, Room 167A
Sacramento, CA 95814

SB 512: Senator Bradford Cannabis Taxation; gross receipts

Position: Strong support

This coalition of cannabis associations strongly support SB 512 (Bradford) which clarifies and resolves two massive taxation conflicts that jeopardize the viability of all cannabis retailers.

- 1) It resolves Compounding Triple Taxation (Tax on Tax on Tax) where as of January 1, 2023, the state’s 15% excise tax extemporaneously now seeks to also tax the local cannabis tax and now both of those taxes are further taxed by Sales Tax. Creating a Tax on Tax on Tax and severely disadvantaging legal retailers who continue to struggle against the large and thriving illicit market.
- 2) SB 512 also clarifies that the state tax is the final tax. In many notable jurisdictions, most noticeably Los Angeles which has over 25% of the state’s legal cannabis retailers, local cannabis tax law states that they shall tax the state excise taxes, while the CDTFA maintains that the state’s excise tax shall tax the local tax. This conflict between state and local makes it impossible for operators to properly calculate and remit their taxes, which will lead to unfair penalties and the inability to renew a license

Tax on Tax:

California Assembly Bill [AB 195](#) was passed and signed by Governor Newsom last year. AB 195 sought to bring tax relief to California's struggling cannabis industry by eliminating the cultivation tax and transferring the collection of the 15% excise tax from the distributor to the retailer.

These changes prompted the California Department of Tax and Fee Administration (CDTFA) to issue a notice titled "[New Responsibilities for Cannabis Retailers Beginning January 1, 2023.](#)" The notice clarified how the excise tax was to be calculated stating the following:

Collect the cannabis excise tax

Beginning January 1, 2023, cannabis retailers are responsible for collecting the 15 percent cannabis excise tax from purchasers based on gross receipts from the retail sale of cannabis or cannabis products.

- *Gross receipts include the sales price of the cannabis or cannabis products and all charges related to the sale, such as delivery fees and any local cannabis taxes listed separately on the invoice or receipt provided to the purchaser.*
- *Gross receipts for cannabis excise tax purposes do not include sales tax or the gross receipts from the retail sale of any noncannabis item.*
- *The cannabis excise tax must be listed separately on the receipt or invoice provided to the retail purchaser and included in gross receipts subject to sales and use tax.*

For an example on how the cannabis excise tax will be calculated, please see our Tax Guide for Cannabis Businesses under the Retailers tab at <http://www.cdtfa.ca.gov/industry/cannabis.htm>

The example provided clarified the concerns we had on how the tax was to be calculated. Namely that the excise tax was also taxing the local tax, treating local cannabis tax, is as if it's a cannabis good to be taxed at 15%. Similarly doing the same with items such as the Delivery Fee.

Excise tax calculation:

Selling price of cannabis	\$35.00
Cannabis business tax	\$3.50
Delivery	\$5.00
Cannabis excise tax rate	x 15%
Excise tax (\$43.50 x 15%)	\$6.53

The cannabis excise tax applies to the subtotal of \$43.50, making the excise tax of \$6.53 due for this example.

Taking this example a step further, we can now calculate the sales tax for this transaction. Gross receipts for purposes of calculating the sales tax include the cannabis excise tax. Therefore, the subtotal of \$43.50 and the cannabis excise tax due of \$6.53 are added to calculate the gross receipts subject to sales tax.

Sales tax computation:

Subtotal (\$43.50 + \$6.53)	\$50.03
Sales tax (\$50.03 x 8.5%)	\$4.25
Total due (\$50.03 + \$4.25)	\$54.28

The sales tax applies to the subtotal of \$50.03, making the sales tax of \$4.25 due for this example, and the total amount due from the purchaser is \$54.28.

The below comparison calculation shows how these extemporaneous consequences have resulted in a tax increase and not a decrease. Local Cannabis Taxes were never meant to be taxed by the State's Excise Tax. Taxing the Taxes and ultimately increasing purchase price disincentivizes the consumer from purchasing from legal retailers, and only exacerbates the continued struggles of cannabis retailers.

Taxation Before and After the Passing of AB 195

	2022 Tax Calculation	2023 Tax Calculation
Cannabis Product	\$40	\$40
Delivery Fee	\$5.00	\$5.00
Local Tax (10%)	\$4.50	\$4.50
Excise Tax (15%)	- built into cost	\$7.43
Subtotal	\$49.50	\$56.93
Sales Tax (10%)	\$4.95	\$5.69
Grand Total	\$54.45	\$62.62

Conflict of State vs Local Taxes:

Compounding the issue of taxing the taxes, many jurisdictions have local cannabis tax laws that are now in direct conflict with the new guidance issued by the CDTFA. For example the City of Los Angeles' definition of their gross receipts tax is in direct conflict with the CDTFA's guidance on how to calculate this properly.

LA Municipal Code:
Section 21.51. (a) 4

4. "**Gross receipts**" shall have the same meaning as set forth in [Section 21.00\(a\)](#) of this Article and shall include without limitation, membership dues, value of in kind contributions, reimbursements, **the amount of any tax imposed by the state**, county or rapid transit district whether imposed upon the retailer or the consumer, and any other property received by the business in its ordinary course.

This definition states that the local government of the City of Los Angeles is seeking to tax all of the state taxes in order to calculate the local gross receipts tax.

These policies are in complete conflict with each other. UCBA recently had a meeting with CDTFA to discuss this issue and it was shared with us that prior to our call they had met with the City of LA's Office of Finance to discuss this issue, ultimately coming to no new conclusions or further guidance for licensed cannabis operators. UCBA has scheduled a meeting with the LA Office of Finance to address these concerns, however prior to this meeting we received a response that stated the following:

"While we're certainly willing to discuss the State's taxation change, it's important to note that the change has no impact on how the City is enforcing its gross receipts tax, or who/how the tax gets paid."

This conflict between state and local jurisdictions endangers cannabis retailers who are unable to properly calculate their taxes.

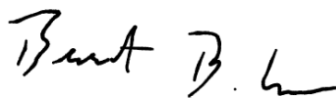
- Failure for a cannabis business to pay taxes to the state results in a 60% penalty.
- Failure to pay the City of Los Angeles its proper taxes results in the inability to renew your license.

SB 512 clarifies the taxation requirements of cannabis retailers throughout the state. The United Cannabis Business Associations, The Long Beach Collective Association, The Coachella Valley Cannabis Alliance Network, The San Francisco Cannabis Retailers Association, Silicon Valley Cannabis Alliance, Angeles Emeralds, California Minority Alliance, and Social Equity Los Angeles, strongly support SB 512.

We respectfully ask for your vote on SB 512 to be approved by the Committee. For questions, contact our Legislative Advocacy Chair, Jerred Kiloh from United Cannabis Business Association at (707) 235-8474.



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