

April 19, 2018

### **ANALYSIS: Measure C Cannabis Cultivation Tax – When Taxes Become Due**

On November 8, 2016, Lake County residents voted to approve Measure C, which imposed the “Lake County Cannabis Cultivation Operations Tax” on “legally-authorized” cannabis cultivation in the County. Measure C imposes a tax of \$1.00 per square foot of outdoor cultivation, \$2.00 per square foot of mixed-light cultivation, and \$3.00 per square foot of indoor cultivation. (Lake County Code, § 18-51.)

Measure C provides that “taxes shall begin to accrue **on the date on which a person becomes engaged in legally-authorized cannabis cultivation** in accordance with the applicable provisions of the Lake County Code and all other applicable state and federal laws and regulations.” (Lake County Code, § 18-54 [emphasis added].) In short, the tax is triggered by “legally-authorized cannabis cultivation”, which is a defined term.

Measure C defines “legally-authorized cannabis cultivation” to mean “cannabis **cultivation** performed in compliance with local and state laws and regulations.” (Lake County Code, § 18-49 [emphasis added].) “Cultivation” is further defined to mean “the germinating, cloning, seed production, planting, growing, and harvesting of cannabis plants and the on-site drying, curing, grading, or trimming of cannabis plants.” (Lake County Code, § 18-49.) Once a cultivator begins any activity included within Measure C’s definition of “cultivation”, then the tax rate is imposed based on whether the cultivation activity occurs outdoors, indoors, or under mixed-light. (Lake County Code, § 18-51.)

Lake County cultivators should be aware that a recent, undated press release issued by the County Administrative Officer titled “County Preparing to Collect Cannabis Cultivation Taxes, Revenues Uncertain,” states that “[c]ultivators’ first tax payment will be due **upon issuance of a County permit.**” (Emphasis added.) For the reasons set out above, this statement is incorrect under Measure C. The Measure C tax is triggered only when a cultivator actually begins “cultivation” in compliance with a County permit and state laws and regulations. Permit issuance alone, without actual “cultivation”, does not trigger payment of the Measure C tax.

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