



CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

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EDMUND G. BROWN JR.  
Governor

MARYBEL BATJER  
Secretary, Government Operations Agency

NICOLAS MADUROS  
Director

April 23, 2018

VIA INTERNET

Dear Interested Party:

The Compliance Policy and Procedures Manual (CPPM) is a guide for the California Department of Tax and Fee Administration (CDTFA) staff in administering tax and fee programs. It is available to the public and can be accessed from the CDTFA web page at <http://www.cdtfa.ca.gov/taxes-and-fees/staxmanuals.htm>.

The Business Tax and Fee Division is proposing to add and revise several sections of the CPPM to incorporate current policies and procedures relating to Cannabis Taxes and the Lead-Acid Battery Fee. The revision material is provided on the following pages for the convenience of interested parties who may wish to submit comments or suggestions. Please feel free to publish this information on your website or otherwise distribute it to your association/members.

If you have any comments or suggestions related to the proposed CPPM revisions, you may contact the CDTFA at [CPPMRev@cdtfa.ca.gov](mailto:CPPMRev@cdtfa.ca.gov). Your comments or suggestions must be received by the CDTFA no later than **May 23, 2018**, in order to be considered by staff. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Trista Gonzalez".

Trista Gonzalez, Chief  
Tax Policy Bureau  
Business Tax and Fee Division

## **LEAD-ACID BATTERY FEE**

**110.140**

The Lead-Acid Battery Recycling Act of 2016 imposes a \$1.00 California battery fee on consumers, and a \$1.00 manufacturer battery fee on manufacturers of lead-acid batteries. Both fees apply to batteries typically designed for use in vehicles, watercraft, aircraft or equipment that are purchased or sold in California. The California battery fee will increase to \$2.00 on April 1, 2022, and the manufacturer battery fee will end on March 31, 2022.

Dealers of replacement lead-acid batteries are required to charge and collect the California battery fee from consumers at the time of the sale. A dealer is a person who sells replacement lead-acid batteries at retail in California, including sales made online in California.

Manufacturers of lead-acid batteries are required to collect the manufacturer battery fee at the time of sale. Only one person is considered the manufacturer and liable for the manufacturer battery fee. A manufacturer is generally the person who manufactures the battery and who sells, offers for sale, or distributes the lead-acid battery in California. However, an importer (i.e., retailer, wholesaler, other person who imports the lead-acid battery into California for sale or distribution) is responsible for the manufacturer battery fee if the manufacturer is not subject to jurisdiction in California.

The California Department of Tax and Fee Administration (CDTFA) is responsible for the administration of the lead-acid battery fees in cooperation with the Department of Toxic Substances Control. Additional information about these fees is available in the *Tax Guide for Lead-Acid Battery Fees*, which is available on the CDTFA website.

## **CANNABIS TAXES**

**110.150**

Effective January 1, 2018, two new taxes were imposed that apply to cannabis and cannabis products. The first is a cultivation tax imposed on cultivators of cannabis, and the second is an excise tax imposed upon purchasers of cannabis and cannabis products sold at retail. The registration, reporting, and remittance requirements are imposed on the cannabis distributor.

Please note that *sellers* of cannabis and cannabis products are subject to the registration, reporting, and remittance requirements for the sales and use taxes, which are separate from the cannabis taxes. In addition, there is an exemption from sales and use tax on the sales of medicinal cannabis and cannabis products when the purchaser provides a valid Medical Marijuana Identification Card (MMIC) issued by the California Department of Public Health and a valid government issued identification card (see CPPM section 255.065).

### **Cultivation Tax**

The cultivation tax is imposed upon cultivators and applies to all harvested cannabis that enters the commercial market. Cannabis has “entered the commercial market” when the cannabis or cannabis products, except for immature cannabis plants and seeds, have completed and comply with a quality assurance review and testing. The current rates are posted on the CDTFA website.

### **Excise Tax**

The excise tax is imposed on purchasers of all cannabis and cannabis products at a rate of fifteen percent (15%) of the average market price of any retail sale by a

cannabis retailer of cannabis or cannabis products, including medicinal and adult-use cannabis. The average market price is determined by the type of transaction that occurred when the cannabis or cannabis product was sold to the retailer. There are two types of transactions that can take place; either an “arm’s length transaction,” or a “non-arm’s length transaction.”

An arm’s length transaction is a sale that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction. In an arm’s length transaction, the average market price means the average retail price determined by the wholesale cost of the cannabis or cannabis products sold or transferred to a cannabis retailer, plus a mark-up. The mark-up is to be determined by the CDTFA every six months. The mark-up rates are available on the CDTFA website. Cannabis businesses will be notified by special notice when the mark-up rate changes. In a non-arm’s length transaction, the average market price refers to the cannabis retailer’s gross receipts from the retail sale of the cannabis or cannabis products.

Additional information is available in the *Tax Guide for Cannabis Businesses*, available on the CDTFA website.

**CANNABIS SELLERS**

**255.063**

A sale occurs when the transfer of cannabis and cannabis products are made for consideration, regardless of whether the seller is an individual, corporation, LLC, cooperative, association, collective, or any other organization. Sellers of cannabis and cannabis products are required to register for a seller’s permit.

Sales of cannabis and cannabis products are generally subject to sales and use tax, as well as the cannabis excise tax. The sales and use tax applies to the gross receipts of the retail sale of cannabis and cannabis products. Gross receipts include the cannabis excise tax. The seller must provide their customer an invoice, receipt or other document that contains the statement: “The cannabis excise taxes are included in the total amount of this invoice.” The cannabis excise tax is imposed on the purchaser, collected by the cannabis retailer, and paid to the licensed cannabis distributor. The cannabis distributor reports and remits the cannabis excise tax to CDTFA. The cannabis excise tax is not reported on the sales and use tax return. See CPPM section 295.130 for information regarding cannabis distributors.

Account Characteristic Code (ACC) 46 is added automatically when an account is registered online, and should be added for existing accounts selling cannabis or cannabis products.

**Cannabis Certification Letter**

Only cannabis businesses that do not make sales (i.e. testing facilities and distributors which only provide transportation services) are not required to obtain a seller’s permit. The California Bureau of Cannabis Control requires all license applicants to either have a seller’s permit or a letter from the CDTFA verifying that a seller’s permit is not required in order for the applicants to obtain their commercial cannabis licenses.

Online registration for cannabis businesses requests information to determine whether the business makes sales of tangible personal property, including cannabis or cannabis products. If the business does not sell tangible personal property, they will be directed to request a certification letter from the CDTFA by emailing CDTFA.Cannabis.Reg@cdtfa.ca.gov and providing the following information:

- Owner name and DBA
- Business address
- Contact name and phone number
- Description of the business activities

The Audit and Information Section (AIS) will review the incoming email requests and respond by providing a CDTFA-5003, Certification: Seller’s Permit Not Required, when appropriate. The certification letter will be valid as long as the business receiving the letter does not make sales of tangible personal property. AIS will maintain a log of the certification letters issued.

**MEDICAL CANNABIS SELLERS**

**255.065**

~~A sale occurs when the transfer of medical cannabis is made for consideration, regardless of whether the seller is an individual, corporation, LLC, cooperative, association, collective, or any other organization.~~

~~Since medical cannabis dispensaries generally transfer title of medical cannabis to a person for consideration, they are required to maintain a seller’s permit, file sales and~~

## CPPM Chapter 2, Registration

~~use tax returns, and report and remit tax on their taxable sales/distributions of medical cannabis.~~

~~Account Characteristic Code (ACC) 46 should be added for accounts selling medical cannabis (or any cannabis product) when there is information about such sales in the public domain. Public domain means that anyone could find the information by searching the web, seeing the information in a phone book listing or advertisement, or when there is a store front location. If no information exists in the public domain, the ACC should not be added. This ACC will not be added automatically during the registration process pursuant to the CDTFA's existing policy against requiring information as part of the registration process that could be viewed as incriminating under federal law.~~

Certain sales of medicinal cannabis are exempt from the sales and use tax. The sales and use tax exemption applies to the retail sales of medicinal cannabis, medicinal cannabis concentrate, edible medicinal cannabis products, or topical medicinal cannabis as those terms are defined in the Business and Professions Code section 26001. To obtain the exemption, qualified patients or their primary caregiver must furnish

- Valid Medical Marijuana Identification Card (MMIC) issued by the California Department of Public Health, and
- Valid government issued identification card at the time of purchase.

Sellers must maintain the purchaser's nine-digit identification number and expiration date as shown on the unexpired MMIC, and the related sales invoice or other original record of sale. Sellers may verify the validity of the MMIC number on the California Department of Public Health's website. Other marijuana or cannabis cards or recommendations from physicians are not sufficient to qualify for the tax exemption.

Sales of "edibles" such as brownies, cookies, gummies, etc. containing cannabis do not qualify as "food products" and are subject to sales and use tax, unless the sale is an exempt sale of medicinal cannabis as described above. In addition, if the seller provides samples of any cannabis product free of charge, the seller must report and remit use tax measured by the cost of the cannabis or cannabis products.

The retail sale of seeds and plants are subject to sales and use tax. As provided in Regulation 1588, *Seeds, Plants and Fertilizer*, sales and use tax does not apply to sales of seeds, annual plants, and non-annual plants when the products grown from them will be resold as part of the purchaser's regular business activities. The purchaser must provide the seller with a valid and timely resale certificate to support that the seeds and/or plants are purchased for resale.

~~**SPECIAL TAXES AND FLOOR TAXABLE ACTIVITY TYPES — 290.000**~~

~~**SPECIAL TAXES AND FEES OVERVIEW — 290.005**~~

~~The special taxes and fees are administered by the Property and Special Taxes Department (PSTD). Specific information about each program can be found on the Special Taxes and Fees page on the BOE website. These special taxes and fees include the following:~~

- ~~• Alcoholic Beverage Tax~~
- ~~• California Tire Fee~~
- ~~• Childhood Lead Poisoning Prevention Fee~~
- ~~• Cigarette & Tobacco Products Licensing Program~~
- ~~• Cigarette & Tobacco Products Tax~~
- ~~• Cigarette Tax Stamp Program~~
- ~~• Covered Electronic Waste Recycling Fee~~
- ~~• Diesel Fuel Tax~~
- ~~• Emergency Telephone Users Surcharge~~
- ~~• Energy Resources (Electrical) Surcharge~~
- ~~• Fire Prevention Fee~~
- ~~• Hazardous Waste Activity Fee~~
- ~~• Hazardous Waste Disposal Fee~~
- ~~• Hazardous Waste Environmental Fee~~
- ~~• Hazardous Waste Facility Fee~~
- ~~• Hazardous Waste Generator Fee~~
- ~~• Integrated Waste Management Fee (Solid Waste & Wood Waste)~~
- ~~• Jet Fuel Tax~~
- ~~• Marine Invasive Species (Ballast Water) Fee~~
- ~~• Motor Vehicle Fuel Tax~~
- ~~• Natural Gas Surcharge~~
- ~~• Occupational Lead Poisoning Prevention Fee~~
- ~~• Oil Spill Prevention, Response and Administration Fees~~
- ~~• Tax on Insurers~~
- ~~• Underground Storage Tank Maintenance Fee~~
- ~~• Water Rights Fee~~

~~**Motor Carrier Office**~~

~~The Motor Carrier Office administers the following programs:~~

- ~~• Diesel Fuel Tax (Exempt Bus Operators & Govt. Entities)~~
- ~~• International Fuel Tax Agreement (IFTA)~~
- ~~• Interstate User Diesel Fuel Tax (DI)~~
- ~~• Use Fuel Tax~~

~~**APPLICATION PROCEDURES — 290.010**~~

~~PSTD personnel are responsible for all audit and compliance functions for their programs, with the exception of floor tax activities (see CPPM 292.000). Field offices do not stock application forms for any special taxes programs. Taxpayers who contact field offices for special taxes information or permits will be referred to the BOE website or to PSTD.~~

**CANNABIS DISTRIBUTORS**

**295.130**

A cannabis tax account and permit will be issued to distributors and microbusinesses upon completion of the online registration process. Cannabis distributor accounts are given Taxable Activity Type (TAT) CD, and require separate registration and filing from all other TATs.

Distributors receive a distributor license number(s) from the Bureau of Cannabis Control. This number is requested, but not required, at the time of registration. If the number is provided, it will be stored under the “Other Agency Number” in the registration system. If the number is not supplied, staff can update the registration screen to include the distributor license number if provided at a later date.

A cannabis tax permit can be printed by the taxpayer from the registration packet that is provided at the end of the online registration. Staff may assist applicants who are unable to register online by using the current manual registration procedures. Staff has the ability to manually print a cannabis tax permit along with a cover letter through Doc Management.

- CDTFA-2145-CD, Cover letter for the cannabis tax permit
- CDTFA-442-CD, Cannabis tax permit

In addition to the cannabis tax permit, distributors and microbusinesses are generally required to obtain a seller’s permit if they do not already have one. However, certain distributors may not be required to hold a seller’s permit. For example, if they only transport cannabis and/or cannabis products, and do not make sales, they do not need to have a seller’s permit. They would instead be required to obtain a Cannabis Certification Letter from the CDTFA (see CPPM section 255.063).