

CANNABIS SPECIAL NOTICE

Important Information for Cannabis Distributors

As a cannabis distributor, you must electronically file your cannabis tax returns and pay the cultivation tax and cannabis excise tax due to the California Department of Tax and Fee Administration (CDTFA). Below is an overview of the reporting and invoicing requirements for cannabis distributors as well as information on how to avoid substantial penalties for failure to pay the cannabis taxes due.

Cannabis tax return

As a cannabis distributor, you are required to electronically report and pay both the cultivation tax and cannabis excise tax on your cannabis tax return. The cannabis tax return filing and payment of the cannabis taxes are due April 30, 2018, for the first quarter reporting period (January 1, 2018, through March 31, 2018).

You may request to file your returns and pay the cannabis taxes on a monthly basis instead of quarterly beginning April 1, 2018. To request a monthly reporting period, call our Customer Service Center at 1-800-400-7115 (TTY:711) and select Special Taxes and Fees from the menu. If your request for a monthly reporting period is approved, please remember that the return and payment of the cannabis taxes are due on the last day of the month following each reporting period.

Reporting the cultivation tax

The cultivation tax must be reported:

- For the reporting period in which the cannabis or cannabis products enter the commercial market.
- In ounces, including partial ounces rounded to the nearest hundredth, based on the category of dried flowers, dried leaves, or fresh cannabis plant as listed on the invoice from the original cultivator, less any cannabis that was used for testing.
 - You are required to enter adult-use ounces separately from medicinal ounces for each category.
 - You will need to obtain additional information from manufacturers on the category and ounces of cannabis used to manufacture the cannabis products to report the cultivation tax properly.

Reporting the cannabis excise tax

The cannabis excise tax must be reported:

- For the reporting period in which you sell or transfer the cannabis or cannabis products to the cannabis retailer.
 - For example, the total average market price of your sales or transfers within the first quarter of 2018 (January 1, 2018, through March 31, 2018) must be reported on the first quarter 2018 return.
- Based on the average market price of the cannabis or cannabis products.
 - When you calculate the average market price in an *arm's length transaction* (retailer's wholesale cost plus the mark-up determined by the CDTFA, currently 60 percent), you are not required to reconcile the average market price you calculate with the retailer's actual retail selling price.
- As "excess excise tax collected" on your cannabis tax return if the tax is collected from retailers for any inventory they purchased *prior* to January 1, 2018, and sold at retail on or after January 1, 2018.
 - For these types of transactions, the retailer will collect the cannabis excise tax from their customers and pay the amount collected to you, a cannabis distributor.
 - For specific invoice requirements related to these types of transactions, please see our *Tax Guide for Cannabis Businesses* at www.cdtfa.ca.gov/industry/cannabis.htm.

Invoicing requirements for the cannabis taxes

As a cannabis distributor, you must properly document the amount of the cultivation tax and the cannabis excise tax you collect. When collecting the cultivation tax from cultivators or manufacturers, or the cannabis excise tax from retailers, you must provide an invoice, receipt, or other similar document that contains the following:

- Your name, as the distributor.
- The name of the other licensee (that is, the cultivator, manufacturer, retailer).
- The associated unique identifier for the cannabis or cannabis product.
- The amount of cannabis tax collected.
- The date of the sale or transfer.

These invoices or receipts serve as verification to cultivators, manufacturers, and retailers that the cannabis taxes were paid to a distributor and relieves them of their cannabis taxes liability.

50 percent penalty for failure to pay the cannabis taxes due

In general, the law imposes a 10 percent penalty on taxpayers and fee payers for failure to timely pay the tax or fee due, or for filing a late return. In addition to these 10 percent penalties, the cannabis tax law imposes a mandatory 50 percent penalty for failure to pay the cultivation tax or cannabis excise tax due. Therefore, it is very important that you report and pay the cannabis taxes on or before the due date for each reporting period.

You may be relieved of the penalties assessed, including the 50 percent penalty, if the CDTFA finds that your failure to timely pay the tax was due to reasonable cause and circumstances beyond your control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect. In order to be relieved of the mandatory penalties assessed, including the 50 percent penalty for failure to pay the cannabis taxes, you, as the cannabis distributor, must file an online request for relief of the penalty by filing a statement with the CDTFA, signed under penalty of perjury, which states the facts upon which the request for penalty relief is based. You may request relief of penalty by visiting our *Online Services* page at www.cdtfa.ca.gov/services/, and following the directions under the *Request Relief* tab.

Sales and use tax return

If you make sales of tangible personal property, you are required to hold a seller's permit. As a cannabis distributor, you are responsible for electronically filing *both* your sales and use tax return and your cannabis tax return by the filing due dates. You must still file a sales and use tax return by the due date even if you do not make taxable sales (for example, all your sales are for resale). If you sell cannabis or cannabis products for resale to other licensees, make sure the purchaser gives you a timely and valid resale certificate. For more information regarding sales for resale, please see our publication 103, *Sales for Resale*, at www.cdtfa.ca.gov/formspubs/pub103/.

The CDTFA's online guide, *Tax Guide for Cannabis Businesses*, is your best resource

Not all requirements for the cannabis industry can be addressed within one single special notice. For more comprehensive information, we encourage you to read our *Tax Guide for Cannabis Businesses* at www.cdtfa.ca.gov/industry/cannabis.htm which has separate tabs with important information, including videos, for distributors, retailers, cultivators, and manufacturers. If you have additional questions, you may call our Customer Service Center at 1-800-400-7115 (TTY:711) Monday through Friday, 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays.