

**Los Angeles County
Advisory Working Group
on Cannabis Regulation**

Meeting Six:
**TAXATION AND ECONOMIC
DEVELOPMENT**
AUGUST 17, 2017

PREPARATION PACKET

Table of Contents

Section 1: Taxation

- I. ISSUE BACKGROUND..... 1
- II. CONSIDERATIONS RELATED TO TAXATION..... 1
 - A. Purposes of taxing cannabis 1
 - B. Determining an appropriate tax rate..... 2
 - 1. Competition from the illicit market..... 2
 - 2. Parity with nearby cities 2
 - 3. Different tax rates for medical vs. non-medical cannabis..... 2
 - 4. Allowing for tax rate adjustments within a range 2
 - C. Tax structures 3
- III. CANNABIS TAXATION IN DENVER, SEATTLE, AND PORTLAND..... 4
 - A. Tax rates 4
 - B. Tax revenues and distribution 4
 - 1. State of Colorado 4
 - 2. City of Denver 5
 - 3. State of Washington..... 5
 - 4. City of Seattle 6
 - 5. State of Oregon..... 6
 - 6. City of Portland 7
- IV. CANNABIS TAXATION IN CALIFORNIA..... 8
 - A. State taxes 8
 - B. Other cities in Los Angeles County 9
 - 1. City of Los Angeles 9
 - 2. City of Long Beach..... 9
 - 3. City of Bellflower 9
 - 4. City of Carson 10
- V. CONSIDERATIONS AND POTENTIAL ACTIONS FOR LA COUNTY..... 11

Section 2: Economic Development

- I. ISSUE BACKGROUND..... 12
- II. ESTIMATING THE SIZE OF THE CANNABIS INDUSTRY 12
 - A. Market trends and patterns in Colorado 12
 - B. Predictions for the California market 13
 - C. Predictions for the Los Angeles Market..... 13
- III. THE CANNABIS INDUSTRY AND LOCAL REAL ESTATE MARKETS..... 14
 - A. Catalyst for revitalization or displacement? 14
 - B. Factors that influence where businesses locate..... 15
 - C. Community benefits agreements..... 15
- IV. SUMMARY OF RELEVANT STATE LAW PROVISIONS AND POTENTIAL LA COUNTY ACTIONS 16

- References.....18**

SECTION 1:

Taxation

Section Contents

I.	Issue background	1
II.	Considerations related to taxation	1
III.	Cannabis taxation in Denver, Seattle, and Portland	4
IV.	Cannabis taxation in California	8
V.	Considerations and potential actions for LA County	11

I. ISSUE BACKGROUND

In states that have recently legalized adult-use cannabis, media coverage has often highlighted the significant tax revenues expected to be generated. Some have cited these revenues as one of the primary arguments in favor of legalization.¹ However, it is important to consider these potential revenues in the context of overall budget amounts, and in comparison to costs associated with cannabis regulation, education, and enforcement.

A number of considerations should factor into the design of an overall approach to taxation, particularly given the emerging nature of the licensed cannabis industry. Broadly speaking, taxation structures should strive to be fair and equitable in their application, and not to be overly cumbersome in their administration. Tax rates should be sufficient to support regulatory costs, at a minimum, but not so high as to inhibit the transition from unregulated and illegal markets to the legal, regulated marketplace.

Taxes, fees, and fines each generate revenues for state and local governments, however there are some differences. Taxes are the broadest of the three, generally applying to anyone who purchases or uses a product or service, and require voter approval. Fees are intended to recover the costs of performing a specific function, such as reviewing an application or conducting inspections at a business.² Fines are intended primarily as a punitive measure for those who fail to comply with laws or regulations.

II. CONSIDERATIONS RELATED TO TAXATION

A. Purposes of taxing cannabis

Taxes may serve different purposes. The primary purpose of most taxes is to generate revenues to fund government services. However, certain taxes are also intended to shape consumer behavior. Tax incentives are commonly offered to encourage consumers to take a certain action, such as purchasing an electric vehicle. Conversely, “sin taxes” are often levied on alcohol and tobacco in order to discourage individuals from consuming

these products, without actually making the use of these products illegal. While research has indicated that price is often a significant factor influencing consumer decisions, some have criticized “sin taxes” as a form of “social engineering” and for their regressive nature (meaning the less money a person makes, the larger percentage of his income these taxes consume).³

B. Determining an appropriate tax rate

1. Competition from the illicit market

When deciding a taxation rate for cannabis businesses, a variety of interconnected factors must be considered. One of the foremost considerations is to ensure that the licensed, regulated market remains competitive with the illicit, unlicensed market, the latter of which is entirely untaxed. This is a particular concern in the initial stages of licensing. As the legal marketplace becomes more established and economies of scale are realized, prices tend to fall, which may allow for a higher tax rate without the risk of driving consumers to the illicit market.⁴

2. Parity with nearby cities

Cannabis tax rates in nearby jurisdictions are another important consideration. If taxes are significantly lower in nearby cities or states where cannabis is legalized, consumers are likely to purchase cannabis there, in much the same way that jurisdictions with less restrictive hours of operation may attract a larger share of business.

3. Different tax rates for medical vs. non-medical cannabis

Many states, counties, and cities have established different tax rates for medical and non-medical cannabis. The rationale for such a policy is that those who need cannabis for medical purposes should be able to obtain it at a reasonably affordable price. Proponents of this viewpoint cite the fact that medical and pharmaceutical products generally are exempt from taxation.

One concern with having a lower tax rate for medical cannabis is that individuals without a legitimate medical need for cannabis will falsely claim to have such a medical condition, in order to take advantage of the lower tax rate. This is most likely to be an issue when there is a significant differential between the medical and non-medical tax rates, and when the qualifying medical conditions are relatively broad or loosely defined.

In Washington state, certain low-THC medical cannabis products are exempt from sales and use taxes.⁵

4. Allowing for tax rate adjustments within a range

As described in the previous sections, it can be challenging to set cannabis tax rates that appropriately balance multiple objectives. Moreover, market dynamics tend to change

over time, particularly in the early stages of legalization, and this may require a periodic reevaluation of tax rates to ensure that they still adequately serve policy goals and revenue needs.

In general, any change in local tax rates requires voter approval. In the case of cannabis, some jurisdictions have adopted tax ordinances that specify a range of tax rates rather than one specific rate. Raising or lowering taxes within the range typically only requires a vote of the local governing body (e.g. City Council or Board of Supervisors). This approach allows for regulators to respond to rapidly changing market conditions in a more nimble way.

C. Tax structures

Complex tax structures have proven difficult to implement and enforce. Washington State initially adopted a three-tier tax structure for adult-use cannabis, imposing a separate 25% tax on cultivation, processing, and retail sale. This tax was problematic in several ways. Many argued the overall tax burden was too high, a problem that was compounded because the manner in which taxes were paid required cannabis businesses to report them as revenue to the federal government. When combined with local taxes, the overall tax rate was approximately 95%. At the same time, the medical cannabis market in Washington was largely unregulated. As a result, sales of adult-use cannabis in the legal marketplace were slow to take off. In response to these problems, state legislators substantially revamped the tax rates and structure one year after legal sales began. Instead of taxing at three different points in the supply chain, Washington only taxes retail sales under the new system, and funds that businesses pay in state taxes are no longer reportable as income to the federal government.⁶

On the other hand, taxing various types of cannabis businesses separately does provide local governments with additional certainty in terms of how much revenue they can expect to take in. If a jurisdiction elects to tax cannabis retailers only, but other cannabis businesses (e.g. cultivators and manufacturers) become the dominant form of the industry there, the tax structure may not allow for sufficient revenue collection.

Another consideration when structuring a cannabis taxation scheme is what basis will be used to calculate the amount of tax imposed. In Colorado, taxes on cannabis sales are calculated based on the *average* market price (as calculated by the state at regular intervals), rather than the *actual* price paid in any one transaction. California will also use this approach for taxing cannabis sales starting in 2018.

In the case of cannabis cultivation, some jurisdictions impose a tax based on square footage of canopy, rather than value or volume of cannabis produced. The cities of Los Angeles and Long Beach are two local examples of jurisdictions that impose this type of tax on cultivation.

For retail sales, one novel approach would be a potency-based tax, based on the milligrams of THC (or for edible products, THC “equivalent”). Such an approach would

arguably be better-suited to the increasing variety of non-traditional forms that cannabis products can take, such as concentrates. However, calculating a potency-based tax would likely be more complicated than a tax based on value or weight. There is also some evidence that market prices align naturally with potency, meaning that consumers will pay the same amount for a milligram of THC regardless of form, in which case a potency-based tax might have effectively the same results as a standard tax.

III. CANNABIS TAXATION IN DENVER, SEATTLE, AND PORTLAND

A. Tax rates

As demonstrated in the following table showing cannabis tax rates in Denver, Seattle, and Portland, there is significant variation among the total tax rate, and the differential between adult-use and medical tax rates.

Note that the tax rates shown below do not include taxes on cultivation, manufacturing, testing, or distribution, nor do they include exemptions on certain medical cannabis products.

	Denver, CO		Seattle, WA		Portland, OR	
	<i>Adult-use</i>	<i>Medical</i>	<i>Adult-use</i>	<i>Medical</i>	<i>Adult-use</i>	<i>Medical</i>
State taxes	25%	2.9%	43.5%	37%	17%	0%
Local taxes	7.15%	3.65%	3.6%	0%	3%	0%
Total tax rate	32.15%	6.55%	44.1%	37%	20%	0%
% of sales	66%	34%	88%	12%	73%	27%

SOURCES: Leafly, “Cannabis Tax Rates: A State-By-State Guide,” accessed at <https://www.leafly.com/news/industry/marijuana-tax-rates-by-state>; City and County of Denver, “Colorado Tax Guide No. 95,” accessed at https://www.denvergov.org/content/dam/denvergov/Portals/571/documents/TaxGuide/Marijuana-Medical_and_Retail.pdf; Colorado Department of Revenue, “Sales Tax on Marijuana,” accessed at <https://www.colorado.gov/pacific/sites/default/files/Sales93.pdf>; City of Portland Office of Management & Finance, “Portland Marijuana Tax,” accessed at <https://www.portlandoregon.gov/revenue/article/620894>; Washington State Department of Revenue, “Taxes due on marijuana,” accessed at <http://dor.wa.gov/Content/FindTaxesAndRates/marijuana/Default.aspx>; Marijuana Policy Group

B. Tax revenues and distribution

1. State of Colorado

In fiscal year 2015 to 2016, cannabis taxes and fees in Colorado totaled approximately \$156.7 million.⁷ In fiscal year 2016 to 2017, that number increased to \$223.5 million⁸. For

comparison, the 2017-2018 total Colorado state budget was \$28.5 billion⁹ (including federal pass-through funds), meaning that cannabis tax revenue accounts for less than 1% of the Colorado budget.

Colorado cannabis tax revenues are distributed as follows: ¹⁰

- 55 percent for public school construction and renovations
- 40 percent for health care, health education, substance abuse prevention and treatment programs, and law enforcement
- 5 percent for distributions to local governments

2. City of Denver

Denver received \$29 million in cannabis tax revenues in 2016.¹¹ Denver's total budget is approximately \$3 billion annually (including federal and state pass-through dollars).¹²

	Denver, CO		
	2014	2015	2016
Annual Cannabis Tax Revenue	\$17 million	\$22.5 million	\$29 million

SOURCE:

https://www.denvergov.org/content/dam/denvergov/Portals/344/documents/Financial_Reports/Sales_Tax_by_Category.pdf

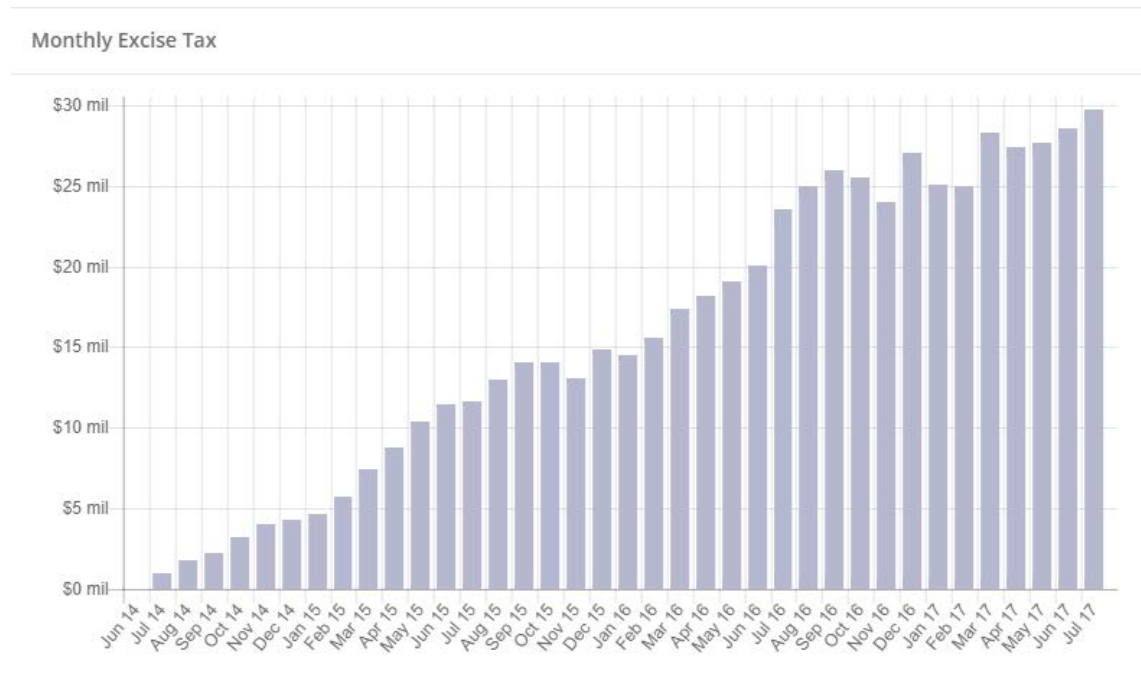
3. State of Washington

Washington state is projected to receive an estimated \$725 million in cannabis tax revenue for fiscal years 2017 to 2019 (Washington budgets for 2-year periods).¹³ Over that same time, Washington total budget is projected to be \$108.7 billion (including federal pass-through dollars).¹⁴ Similar to Colorado, cannabis tax revenue accounts for less than 1% of the total budget.

Washington state cannabis tax revenues are distributed as follows:¹⁵

- 42 percent for health care
- 31 percent for the state's general fund
- 12 percent for youth drug prevention
- 8 percent for public health education
- 6 percent for local general funds
- 2 percent for research, evaluation, and administration

State of Washington: Monthly Cannabis Tax Receipts



SOURCE: <https://502data.com/>

4. City of Seattle

In Seattle, the general sales/use tax is imposed on adult-use cannabis but not medical cannabis. Unlike in Denver and Portland, there is no cannabis-specific tax imposed at the local level, and therefore there are no revenue data to report.¹⁶

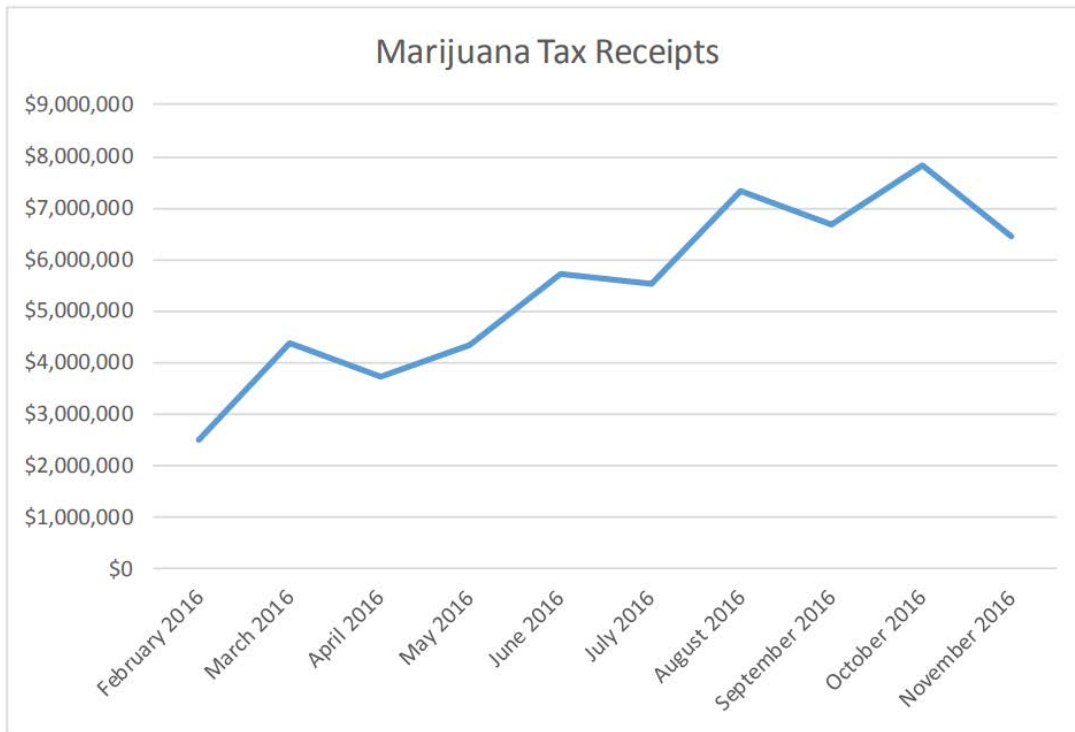
5. State of Oregon

Cannabis tax revenues in the state of Oregon totaled \$20.7 million in fiscal year 2016, and \$70.3 million in fiscal year 2017.

Oregon State cannabis tax revenues (minus administration costs) will be distributed as follows:¹⁷

- 40 percent for education
- 20 percent for purposes for mental health, alcoholism, and drug services
- 15 percent for state law enforcement
- 10 percent to cities, based on population and number of licensees
- 10 percent to counties, based on total available grow canopy size and number of licensees
- 5 percent for alcohol and drug abuse prevention, early intervention, and treatment services

State of Oregon: Monthly Cannabis Tax Receipts



SOURCE: http://www.oregon.gov/DOR/programs/gov-research/Documents/marijuana_tax_report-2016-Q1.pdf

6. City of Portland

In the City of Portland, voters established a 3% tax on recreational cannabis sales on November 8, 2016. Revenues from this tax are allocated to drug and alcohol treatment, public safety investments, and support for neighborhood small businesses.¹⁸ Data on the amount of cannabis tax revenue collected to date in Portland is unavailable at this time.

IV. CANNABIS TAXATION IN CALIFORNIA

A. State taxes

Beginning on January 1, 2018, California will impose a state excise tax of 15% on all retail sales of cannabis and cannabis products (both medical and non-medical), and a cultivation tax of \$9.25 per ounce of flowers and \$2.75 per ounce of leaves (dry-weight). Sales of non-medical cannabis will also be subject to state and local sales taxes (currently 9.25% in unincorporated Los Angeles County), however medical cannabis will be exempt from sales taxes. According to state law, cannabis distributors are the entity responsible for calculating and collecting cannabis excise taxes from cultivators, manufacturers, and retailers, and remitting these funds to the state.¹⁹

State law also allows counties and cities to impose local taxes “on the privilege of cultivating, manufacturing, producing, processing, preparing, storing, providing, donating, selling, or distributing cannabis or cannabis products by a licensee.” Any such local taxes would need to be approved by voters within that county or city.²⁰

The allocation of revenues from state taxes on cannabis is specified by law, as follows:²¹

- First, revenue will be used to cover the State’s costs to administer and enforce cannabis regulation. Then:
- \$10 million per year for 11 years to public California universities to research and evaluate the impacts of adult-use cannabis legalization
- \$3 million per year for five years to the California Highway Patrol to establish and adopt protocols to detect impaired driving
- \$10 million per year, increasing each year by \$10 million reaching \$50 million in 2022, for grants to local health departments and community-based nonprofits supporting “job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address barriers to reentry, and linkages to medical care for communities disproportionately affected by past federal and state drug policies
- \$2 million per year to the University of California at San Diego Center for Medical Cannabis Research to study medical cannabis
- Remaining revenues will be distributed as follows:
 - 60% to youth programs, including drug education, prevention, and treatment
 - 20% to remediate environmental damage from illegal cannabis cultivation
 - 20% to programs designed to reduce driving under the influence of cannabis, including training programs for law enforcement

The state Legislative Analyst estimates that total state and local revenues from cannabis taxation could range “from the high hundreds of millions of dollars to over \$1 billion annually,” but notes that it will likely take several years for revenues to reach these levels.²²

B. Other cities in Los Angeles County

1. City of Los Angeles

On March 7, 2017, voters in the City of Los Angeles approved Measure M, which established the following taxes on cannabis businesses:

- **Cultivation, manufacturers** – 2% of gross receipts
- **Testing, distribution** – 1% of gross receipts
- **Retailers** – 5% of gross receipts (medical), 10% of gross receipts (non-medical)

2. City of Long Beach

Voters in Long Beach approved Measure MA on November 8, 2016, which established the following taxes on cannabis businesses:²³

- **Cultivation** – \$12-15 per square foot
- **Manufacturers, testing, distribution, and delivery** – 6-8% of gross receipts
- **Retailers** – 6-8% of gross receipts (medical), 8-12% of gross receipts (non-medical)
- All cannabis businesses are required to pay a minimum tax of \$1,000 annually.

The taxes set by Measure MA could be increased or decreased within the established ranges by the City Council, and were initially set at the minimum within each respective range. The tax rates established by Measure MA are lower than those established by an ordinance the city adopted in 2014, but higher than those proposed by a competing measure on the same ballot. Measure MA requires annual expenditure reports by the City Manager, and is expected to raise approximately \$13 million annually in general fund revenue.²⁴

3. City of Bellflower

On March 7, 2017, voters in the City of Bellflower approved Measure B, which established the following taxes on cannabis businesses:²⁵

- **Cultivation, excluding nurseries** – \$15 per square foot of canopy, based on the maximum square footage allowed by the city permit. Beginning in 2020, tax will increase \$2.50 yearly, to a maximum rate of \$25 per square foot. Tax will increase based on CPI beginning in 2024.

- **Nurseries** – \$2 per square foot of canopy, based on the maximum square footage allowed by the city permit. Beginning in 2020, tax will increase \$1.50 yearly, to a maximum of \$5 per square foot. Tax will increase based on CPI beginning in 2024.
- **Transportation** – \$1,500 annual tax on all transportation businesses.
- **Retailers, manufacturers, testing, distribution, and delivery** – 5% of gross receipts, increasing by 2.5% each year beginning in 2020 to a maximum rate of 10%.

Apart from setting these tax rates, Measure B did not establish regulations for cannabis businesses in Bellflower, however at the time of the election, the City Council was considering another ordinance to allow up to 12 cannabis dispensaries in the city.²⁶

Proponents of the measure estimated that these taxes would raise up to \$3 million per year. Because Measure B imposed a general tax, “all tax revenue would be available for use by the City to pay for general City operations and services. The City would not be legally bound in any way to use the tax monies for any special purpose or for any particular facilities or programs.” The official argument in favor of the measure stated that these funds could be used for “law enforcement, including additional neighborhood patrols, parks and recreation and after-school programs.”²⁷

4. City of Carson

Voters in the City of Carson approved Measure KK on November 8, 2016, establishing a tax of 18% of gross receipts for cannabis cultivation, manufacturing, distribution, testing, and retail sales, and a \$25 per square foot tax for cannabis cultivation. At the time the tax measure was approved, the City Council was not considering allowing cannabis businesses in the city, however the measure would apply “if a future Carson City Council or if voters of Carson through another ballot measure permit cannabis business activities.”²⁸ Proponents of the measure emphasized its purpose as youth prevention rather than revenue generation, stating that “it is important for us to discourage purchasing marijuana among price-sensitive groups.”²⁹

V. CONSIDERATIONS AND POTENTIAL ACTIONS FOR LA COUNTY

Taxation	
Considerations	Potential County Actions
<ul style="list-style-type: none"> Any local tax would require voter approval The cumulative amount of local and state taxes should be considered in order to avoid inhibiting the transition from unregulated to regulated markets 	<ul style="list-style-type: none"> Establish a local tax for cannabis and cannabis products Prioritize the allocation of local tax revenues for funding specific programs or services

Discussion Questions

- Besides retail sales, should the County tax cannabis at other points in the supply chain (e.g. cultivation, manufacturing, lab testing, distribution)? Why or why not?
- Should the County consider a tax based on the potency (THC content) of cannabis and cannabis products?
- Should the County tax medical and non-medical cannabis at different rates?
- Do you have concerns about tax compliance, and if so, how can the County ensure that businesses accurately report all taxable transactions?
- With consideration to how *state* tax revenues will be allocated, which programs or services would you prioritize for funding by *local* tax revenues, if the county adopts a cannabis tax?

SECTION 2:

Economic Development

Section Contents

I.	Issue background	12
II.	Estimating the size of the cannabis industry	12
III.	The cannabis industry and local real estate markets	14
IV.	Summary of relevant state law provisions and potential LA County actions	16

I. ISSUE BACKGROUND

Along with the potential to generate new tax revenues, another frequently cited argument in favor of cannabis legalization is the potential for the cannabis industry to create new jobs and revitalize areas currently suffering from a lack of investment.³⁰

Conversely, opponents of cannabis legalization have argued that legalization will worsen existing conditions in communities already suffering from high rates of unemployment and blight. Others worry that cannabis businesses could displace other community-serving businesses such as family restaurants, small grocers, and laundromats, if cannabis businesses are willing and able to pay higher rent rates as compared to other businesses.

Even among those who believe that the cannabis industry will promote economic development, there is some concern that those benefits will not accrue to local communities, but will instead be reaped by distant investors. Many jurisdictions that have licensed cannabis businesses have taken measures to ensure that economic benefits remain within the communities in which these businesses are located.

II. ESTIMATING THE SIZE OF THE CANNABIS INDUSTRY

A. Market trends and patterns in Colorado

There is a limited amount of available data on the size and economic impacts of the cannabis industry, partly because labor and economic statistics are typically tracked by the federal government rather than state and local governments. Among the few studies that have been published to date, there are major variations in terms of the assumptions used for economic modeling and the resulting forecasts. Therefore, numbers for the cannabis industry should be understood as rough estimates with a potentially large margin of error. As more data is collected on the cannabis industry in an increasing number of states, this data should become more reliable in the years to come.

Marijuana Policy Group, an economic and policy consulting firm, released a study in October 2016 that attempted to quantify the economic impacts associated with the cannabis industry in Colorado.³¹ Some of the key findings from the study are as follows:

- In 2015, Colorado's cannabis industry direct and indirectly generated 18,005 jobs and \$2.39 billion in economic activity (total sales were \$996 million).
- Demand for cannabis is projected to grow by 11.3% per year through 2020, driven by factors including the ongoing shift from an illicit market to a legal market and growth in cannabis-related tourism. However, this annual growth rate is substantially less than what was seen in the initial years of legalization (e.g. 42.4% increase in sales from 2014 to 2015), and the Colorado market will become saturated by 2020.
- Because the cannabis industry is wholly confined within Colorado (due to laws prohibiting cannabis commerce across state lines), spending on cannabis creates more output and employment per dollar spent than 90% of industries in Colorado.

B. Predictions for the California market

Another study, issued by ICF International in April 2016, examined demand estimates and industry trends from Colorado and applied these to California in order to predict the future scale of the in-state cannabis industry. Some of the study's findings include:

- With the legalization of adult-use cannabis, annual sales in California could reach \$15.9 to 20.2 billion, based on an annual demand of 2.9 to 3.7 million pounds of cannabis.
- The cannabis industry could directly and indirectly generate between 81,000 and 103,000 total jobs, with total labor income (wages and salaries) ranging between \$3.6 and \$4.5 billion.

A more recent study, commissioned by the California Department of Food and Agriculture and prepared by ERA Economics in January 2017, came up with a slightly lower estimate for in-state cannabis demand, ranging between 2.2 and 2.6 million pounds.³²

C. Predictions for the Los Angeles Market

A November 2016 study prepared by the Marijuana Policy Group estimated the cannabis demand and market value for Los Angeles County as a whole, including both the incorporated cities and unincorporated areas. The report forecasts that annual demand from residents and visitors in the county will be approximately 474,000 pounds (215.2 metric tons). Of this amount, the report estimates that 70%, or approximately 332,000 pounds (150.6 metric tons) will be sold through regulated markets, representing a market value of \$1.68 billion. The table below breaks down these numbers in further detail.³³

Marijuana Product Market Share, by Regulated Market

Product Type	Demand (Metric Tons of Flower Equivalent)	Average Price	Market Value (\$ Millions)
Medical Marijuana			
Flower	71.7	\$6.00 Per Gram	\$430.0
Concentrates	6.0	\$25.00 Per Gram	\$29.3
Infused Edibles	6.4	\$10.00 Per 50mg Unit	\$130.5
Infused Non-Edibles	1.3	\$8.00 Per Unit	\$104.4
Total	85.3	-	\$694.3
Recreational Marijuana			
Flower	48.3	\$10.00 Per Gram	\$483.3
Concentrates	5.2	\$40.00 Per Gram	\$41.0
Infused Edibles	9.8	\$13.00 Per 50mg Unit	\$259.8
Infused Non-Edibles	2.0	\$10.00 Per Unit	\$199.8
Total	65.3	-	\$983.9
Grand Total LAC Marijuana Market Size	150.6		\$1,678.2

Source: MPG calculations based on Colorado and Washington market data, as well as review of California medical marijuana prices.

SOURCE: Marijuana Policy Group, "Los Angeles County Marijuana Market Size, Tax Revenues, and Regulatory Burden," accessed at http://file.lacounty.gov/SDSInter/bos/bc/1006442_2016-11-15-BoardMemoandReportRegardingthePassageofProp64.pdf

III. THE CANNABIS INDUSTRY AND LOCAL REAL ESTATE MARKETS

A. Catalyst for revitalization or displacement?

As cannabis businesses begin to locate in a given area, this could affect surrounding businesses (commercial/industrial districts) and real estate markets in a number of different ways:

- **Blight:** Primarily a concern related to retailers, particularly in areas already suffering from disinvestment.
 - o *See related discussions in week 2 (youth access/exposure), week 3 (public health/safety), and week 4 (retailers) meeting packets.*
- **Revitalization:** In places with high commercial/industrial vacancy rates, some hope the cannabis industry will fill empty warehouses, office parks, and storefronts.
- **Displacement:** In places with lower commercial vacancy rates, some worry that cannabis businesses will displace other neighborhood-serving businesses such as grocery stores and laundromats, because they will be able to afford higher rents.

B. Factors that influence where businesses locate

In deciding where to set up shop, any business must consider a variety of factors and weigh them against each other. Cannabis businesses are no exception. The specific considerations will vary between different business types such as retailers, cultivators, and manufacturers, and may include some or all of the following:

- Regional real estate economics, i.e. availability and price of appropriately zoned land and buildings
 - *Cultivators and manufacturers* may require specialized buildings and infrastructure. As a result, those businesses may be more likely to locate in new, purpose-built buildings at the urban periphery, rather than reusing existing buildings in urban centers.
 - *Retailers* have less specialized needs and so this is less likely to be an issue for them.
- Availability and ease of obtaining local licenses
- Proximity to suppliers and/or end markets / proximity to transportation
- Availability and price of labor
- Availability and price of power/water (for cultivators)
- Local tax rates
- Other local regulations

C. Community benefits agreements

A Community Benefits Agreement (CBA) is a legally enforceable, project-specific agreement between community groups and a developer, setting forth a range of community benefits that the developer agrees to provide as part of a development project. A CBA is typically created through a negotiation process between the developer and organized representatives of affected communities. The developer agrees to shape the development in a certain way or to provide specified community benefits, and in exchange, the community groups promise to support the proposed project. In the context of real estate development, examples of community benefits include providing subsidized commercial space or affordable housing units; constructing and maintaining public amenities such as parks and recreational facilities; inclusion of sustainable design features; cash or in-kind contributions to support local nonprofit organizations; and local worker hire and living wage requirements.³⁴

Some states and localities have chosen to require cannabis businesses to submit community benefits plans/agreements as part of the licensing process.³⁵ In California, cities such as Los Angeles, Berkeley, and San Leandro either require or incentivize cannabis businesses to submit community benefit agreements.³⁶

Community benefit agreements are one way to ensure that cannabis businesses do not negatively impact surrounding areas, and they may increase levels of community acceptance and support for cannabis businesses. However, if required, these agreements need to be crafted carefully and in a transparent manner, to ensure that

benefits do not accrue unequally to any one party. Another consideration is that the increased costs for cannabis businesses could encourage illicit market activity or encourage businesses to locate elsewhere.

IV. SUMMARY OF RELEVANT STATE LAW PROVISIONS AND POTENTIAL LA COUNTY ACTIONS

Economic Development		
State Law	Considerations	Potential County Actions
<p>After covering administrative and enforcement costs, the state will allocate excise tax revenue as follows:</p> <p><i>\$10 million per year to a public university or universities in California to fund research on topics including but not limited to:</i></p> <ul style="list-style-type: none"> • Whether additional protections are needed to prevent unlawful monopolies or anti-competitive behavior from occurring in the adult-use cannabis industry and, if so, recommendations as to the most effective measures for preventing such behavior. • The economic impacts in the private and public sectors, including, but not necessarily limited to, job creation, workplace safety, revenues, taxes generated for state and local budgets, and criminal justice impacts, including, but not necessarily limited to, impacts on law enforcement and public resources, short and long term consequences of involvement in the criminal justice system, and state and local government agency administrative costs and revenue. <p><i>\$10 million per year, increasing by an addition \$10 million per year up to a maximum of \$50 million per year:</i></p> <p>For the Governor's Office of Business and Economic Development, in consultation with the Labor and Workforce Development Agency and the State Department of Social Services, to administer a community reinvestments grants program to local health departments and at least 50 percent to qualified community-based nonprofit organizations to support job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address barriers to reentry, and linkages to medical care for communities disproportionately affected by past federal and state drug policies. The office shall solicit input from community-based job skills, job placement, and legal service providers with</p>	<ul style="list-style-type: none"> • Community benefit agreements need to be crafted carefully and in a transparent manner, to ensure that benefits do not accrue unequally to any one party. • Increased costs for cannabis businesses could encourage illicit market activity or encourage businesses to locate elsewhere. 	<ul style="list-style-type: none"> • If a local cannabis tax is imposed, a portion of the revenues could be allocated to economic development programs. • The County could require cannabis businesses to submit a community benefits agreement as a condition of licensing.

Economic Development		
State Law	Considerations	Potential County Actions
<p>relevant expertise as to the administration of the grants program. In addition, the office shall periodically evaluate the programs it is funding to determine the effectiveness of the programs, shall not spend more than 4 percent for administrative costs related to implementation, evaluation, and oversight of the programs, and shall award grants annually, beginning no later than January 1, 2020.</p> <p>[Cal. Revenue and Taxation Code § 34019]</p>		

- Discussion Questions***
1. Should the County require cannabis businesses to submit community benefit plans/agreements as a condition for licensing?
 2. What can be done to avoid displacement of other businesses?

References

- ¹ For example, see the “Argument in Favor of Proposition 64,” accessed at <http://vig.cdn.sos.ca.gov/2016/general/en/pdf/complete-vig.pdf>
- ² Michael Wolfe, “The Differences Between Taxes & Fees,” accessed at <http://smallbusiness.chron.com/differences-between-taxes-fees-17959.html>
- ³ Investopedia, “Sin Tax,” accessed at http://www.investopedia.com/terms/s/sin_tax.asp
- ⁴ “Reeferegulatory challenge,” *The Economist* (Feb. 13, 2016), accessed at <https://www.economist.com/news/briefing/21692873-growing-number-countries-are-deciding-ditch-prohibition-what-comes>
- ⁵ Washington State Department of Revenue, “Taxes due on marijuana,” accessed at <http://dor.wa.gov/Content/FindTaxesAndRates/marijuana/Default.aspx>
- ⁶ Rachel La Corte, “Washington state pot law overhaul: Marijuana tax reset at 37 percent,” *The Cannabist* (July 1, 2015), accessed at <http://www.thecannabist.co/2015/07/01/washington-state-pot-law-overhaul-marijuana-tax-reset-at-37-percent/37238/>
- ⁷ State of Colorado, “Marijuana Taxes, Licenses, and Fees Transfers and Distribution,” accessed at <https://www.colorado.gov/pacific/sites/default/files/0517%20Marijuana%20Tax%2C%20License%2C%20and%20Fees%20Report%20PUBLISH.pdf>
- ⁸ Ibid
- ⁹ State of Colorado, “Gov. Hickenlooper proposes FY 2017-18 State budget,” accessed at <https://www.colorado.gov/governor/news/%E2%80%8B%E2%80%8Bgov-hickenlooper-proposes-fy-2017-18-state-budget>
- ¹⁰ Colorado Legislative Council Staff, “Distribution Of Marijuana Tax Revenue,” accessed at https://www.colorado.gov/pacific/sites/default/files/16-04%20Distribution%20of%20Marijuana%20Tax%20Revenue%20Updated_2.pdf
- ¹¹ City and County of Denver, “The Denver Collaborative Approach: 2016 Report,” accessed at https://www.denvergov.org/content/dam/denvergov/Portals/782/documents/Annual_Report_Reader.pdf
- ¹² City and County of Denver, “2016 Budget in Brief,” accessed at https://www.denvergov.org/content/dam/denvergov/Portals/344/documents/Budget/Budget_in_Brief_2016.pdf
- ¹³ Washington State Office of Financial Management, “All Budgeted Funds - Budget Totals,” accessed at <http://www.ofm.wa.gov/budget17/summary/nltable01.pdf>
- ¹⁴ Ibid
- ¹⁵ ACLU, “Estimated Annual Tax Revenue Distributions from I-502,” accessed at https://www.aclu-wa.org/sites/default/files/pie_graph/502_tax_revenue_chart.pdf
- ¹⁶ Washington State Department of Revenue, “Sales and Use Tax Exemptions for Marijuana Retailers with a Medical Endorsement,” accessed at http://dor.wa.gov/Docs/Pubs/SpecialNotices/2016/sn_16_med_endorsement.pdf
- ¹⁷ Oregon Department of Revenue, http://www.oregon.gov/DOR/programs/gov-research/Documents/marijuana_tax_report-2016-Q1.pdf ; http://www.oregon.gov/DOR/press/Documents/marijuana_fact_sheet.pdf
- ¹⁸ City of Portland Office of Management & Finance, “Portland Marijuana Tax,” accessed at <https://www.portlandoregon.gov/revenue/article/620894>
- ¹⁹ Cal. Revenue & Taxation Code § 34011; Cal. Revenue & Taxation Code § 34012; California Board of Equalization, “California City & County Sales & Use Tax Rates (effective July 1, 2017),” accessed at <http://www.boe.ca.gov/app/rates.aspx>
- ²⁰ Cal. Revenue & Taxation Code § 34021.5
- ²¹ Cal. Revenue & Taxation Code § 34019
- ²² “Proposition 64, Analysis by the Legislative Analyst,” accessed at <http://vig.cdn.sos.ca.gov/2016/general/en/pdf/complete-vig.pdf>
- ²³ Ballotpedia, “Long Beach, California, Marijuana Business Taxes, Measure MA (November 2016),” accessed at

[https://ballotpedia.org/Long_Beach,_California,_Marijuana_Business_Taxes,_Measure_MA_\(November_2016\)](https://ballotpedia.org/Long_Beach,_California,_Marijuana_Business_Taxes,_Measure_MA_(November_2016))

²⁴ “Argument in Favor Taxing Cannabis (Marijuana)—Related Business Activities,” accessed at http://ci.carson.ca.us/content/files/pdfs/cityclerk/election/11082016/Argument%20in%20Favor%20of%20Measure%20KK_TaxingC_RelatedBusinessActivities.pdf

²⁵ Ballotpedia, “Bellflower, California, Marijuana Tax, Measure B (March 2017),” accessed at [https://ballotpedia.org/Bellflower,_California,_Marijuana_Tax,_Measure_B_\(March_2017\)](https://ballotpedia.org/Bellflower,_California,_Marijuana_Tax,_Measure_B_(March_2017))

²⁶ Antonie Boessenkool, “Election results for Bellflower City Council: Mayor Dan Koops, Robert Wilson take early lead,” *Long Beach Press-Telegram* (March 7, 2017), <http://www.presstelegram.com/government-and-politics/20170307/election-results-for-bellflower-city-council-mayor-dan-koops-robert-wilson-take-early-lead>

²⁷ Ballotpedia, “Bellflower, California, Marijuana Tax, Measure B (March 2017),” accessed at [https://ballotpedia.org/Bellflower,_California,_Marijuana_Tax,_Measure_B_\(March_2017\)](https://ballotpedia.org/Bellflower,_California,_Marijuana_Tax,_Measure_B_(March_2017))

²⁸ Ballotpedia, “Carson, California, Marijuana Business Tax, Measure KK (November 2016),” accessed at [https://ballotpedia.org/Carson,_California,_Marijuana_Business_Tax,_Measure_KK_\(November_2016\)](https://ballotpedia.org/Carson,_California,_Marijuana_Business_Tax,_Measure_KK_(November_2016))

²⁹ “Argument in Favor Taxing Cannabis (Marijuana)—Related Business Activities,” accessed at http://ci.carson.ca.us/content/files/pdfs/cityclerk/election/11082016/Argument%20in%20Favor%20of%20Measure%20KK_TaxingC_RelatedBusinessActivities.pdf

³⁰ See for example, Ian Lovett, “In California, Marijuana Is Smelling More Like Big Business,” *The New York Times* (April 11, 2016), accessed at <https://www.nytimes.com/2016/04/12/us/in-california-marijuana-is-smelling-more-like-big-business.html?mcubz=3>

³¹ Marijuana Policy Group, “The Economic Impact of Marijuana Legalization in Colorado,” accessed at <http://www.mjpolicygroup.com/pubs/MPG%20Impact%20of%20Marijuana%20on%20Colorado-Final.pdf>

³² ERA Economics, “Economic Impact Analysis of Medical Cannabis Cultivation Program Regulations,” p. 37, accessed at http://www.dof.ca.gov/Forecasting/Economics/Major_Regulations/Major_Regulations_Table/documents/20170203FinalMCCPSRIA.pdf

³³ Marijuana Policy Group, “Los Angeles County Marijuana Market Size, Tax Revenues, and Regulatory Burden,” accessed at http://file.lacounty.gov/SDSInter/bos/bc/1006442_2016-11-15-BoardMemoandReportRegardingthePassageofProp64.pdf

³⁴ Julian Gross, Greg LeRoy, and Madeline Janis-Aparicio (Good Jobs First / California Partnership for Working Families), “Community Benefits Agreements,” accessed at <http://laane.org/downloads/CBAStudy.pdf>

³⁵ Council on Responsible Cannabis Regulation, “The Local Impact of Cannabis Business”, accessed at https://www.crcr.org/wp-content/uploads/2016/04/Cannabis-Industry-and-Local-Impact_041216.pdf

³⁶ City of Los Angeles, “Proposed Requirements for Commercial Cannabis Activity in the City of Los Angeles,” accessed at <http://herbwesson.com/documents/Proposed-Requirements-for-Commerical-Cannabis-Activity-in-the-City-of-Los-Angeles.pdf>; City of Berkeley, “APPLICATION GUIDELINES TO OPERATE A MEDICAL CANNABIS DISPENSARY IN BERKELEY,” accessed at https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Medical_Cannabis/Guidelines%2012-18-14_FINAL.pdf ; City of San Leandro, “Application to Operate a Medical Cannabis Dispensary,” accessed at <http://www.sanleandro.org/civicax/filebank/blobdload.aspx?blobid=22959>