

Final Text of Proposed Amendments to

California Code of Regulations

Title 18. Public Revenues

Division 2. California Department of Tax and Fee Administration –

Business Taxes

Chapter 8.8. Cannabis Excise Tax Effective on and after January 1, 2023

Section 3800. Cannabis Excise Tax and Cannabis Retailer Excise Tax Permit.

Regulation 38013800. Cannabis Excise Tax and Cannabis Retailer Excise Tax Permit.

(a) Definitions. For purposes of this regulation, the following terms have the following meanings:

(1) “Business information” means information the Department deems necessary to determine if a person is required to obtain a cannabis retailer excise tax permit from the Department, determine if the person is required to remit the cannabis excise tax it collects by electronic funds transfer, assign the person a reporting period, and determine how to obtain access to the person’s books and records. Such information includes, but is not limited to, the name of the person’s business, the addresses of the person’s business locations, the date the person’s business started or will start, the business’s business activities, the business’s projected revenue, and the name and contact information of at least one individual the Department may contact to obtain access to the business’s books and records.

(2) “Contact information” means information the Department deems necessary to contact and communicate with a person applying for a cannabis retailer excise tax permit and with that person’s authorized representative(s). Such information includes, but is not limited to, a current mailing address, email address, and telephone number.

~~(3) “Department” means the California Department of Tax and Fee Administration.~~

~~(3)~~ (4) “Identifying information” means information the Department deems necessary to specifically identify a person applying for a cannabis retailer excise tax permit. Such information includes the person’s name, the person’s type (e.g., individual, partnership, limited liability company, corporation, etc.), and the person’s Federal Employer Identification Number, and may also include, but is not limited to, the person’s driver’s license number or other government-issued identification card number or entity number issued by the California Secretary of State.

(45) “Ownership information” means information the Department deems necessary to identify the owners of an entity or business. Such information includes, but is not limited to, the owners’ names and contact information.

(56) “Representative information” means information the Department deems necessary to verify that the individual who submitted an application for a cannabis retailer excise tax permit is the person applying for a cannabis retailer excise tax permit or is authorized to submit the application on behalf of the person applying for a cannabis retailer excise tax permit. Such information includes, but is not limited to, the individual’s name, title, and contact information.

(b) A cannabis excise tax is imposed upon purchasers of cannabis or cannabis products sold at retail in this state on and after January 1, 2023, pursuant to Revenue and Taxation Code section 34011.2. The cannabis excise tax is 15 percent of the cannabis retailer’s gross receipts from any the retail sale of the cannabis ~~and~~ cannabis products to the purchaser on and after January 1, 2023, and the rate is subject to adjustment every two years, beginning with the 2025-26 fiscal year. The cannabis retailer is responsible for collecting the cannabis excise tax from the purchaser, providing the purchaser with an invoice, receipt, or other document that separately states the cannabis excise tax, and remitting that tax to the Department. A purchaser’s liability for the cannabis excise tax is not extinguished until the cannabis excise tax has been paid to the Department except that an invoice, receipt, or other document given to the purchaser by the cannabis retailer that separately states the cannabis excise tax is sufficient to relieve the purchaser from further liability for the tax to which the invoice, receipt, or other document refers.

(c) On and after January 1, 2023, a person must have a cannabis retailer excise tax permit issued by the Department to engage in business as a cannabis retailer.

(d) To obtain a cannabis retailer excise tax permit, a person shall complete and submit an application for a cannabis retailer excise tax permit through the Department’s online services portal via its website at www.cdtfa.ca.gov. Every application for a cannabis retailer excise tax permit shall provide the applicant’s identifying information, contact information, business information, ownership information, and representative information.

(e) (1) The Department may revoke or suspend a person’s cannabis retailer excise tax permit if:

(A) The person fails to comply with any provision of the Cannabis Tax Law relating to the cannabis excise tax or any rule or regulation of the Department relating to cannabis excise tax.

(B) The person's seller's permit has been suspended or revoked under the Sales and Use Tax Law.

(C) The person's license issued by the Department of Cannabis Control or any successor has been suspended or revoked under division 10.

(2) The Department shall comply with the notice and hearing requirements of Revenue and Taxation Code section 34014.1 before revoking or suspending a person's cannabis retailer excise tax permit.

(3) Any person required to obtain a cannabis retailer excise tax permit who engages in business as a cannabis retailer without a permit or after a permit has been canceled, suspended, or revoked, and each of any corporation that so engages in business, is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by fine not exceeding one thousand dollars (\$1,000), or by both.

Note: Authority cited: Section 34013, Revenue and Taxation Code; and Section 19, Penal Code.
Reference: Sections 34011.2, 34014, 34014.1, 34015 and 55302, Revenue and Taxation Code.