

Final Text of 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 3805. Cannabis Excise Tax Credit

Regulation 3805. Cannabis Excise Tax Credit.

(a) A cannabis retailer may claim a credit on their cannabis tax return for the cannabis excise tax amount the cannabis retailer paid to a distributor, pursuant to Revenue and Taxation Code section 34011, on cannabis or cannabis products the distributor sold or transferred to the cannabis retailer prior to January 1, 2023, and the cannabis retailer sold to a purchaser on or after January 1, 2023, in a retail sale subject to cannabis excise tax, pursuant to Revenue and Taxation Code section 34011.2.

(1) The credit must be taken on the cannabis retailer's cannabis tax return filed for the period in which the retail sale of the cannabis or cannabis products occurred. If the credit is not taken on the proper return, the cannabis retailer may file a claim for refund for the amount for which they could have claimed a timely credit.

(2) A cannabis retailer may not claim a credit or refund under this regulation for any amount that a distributor refunded to the retailer.

(b) To support a cannabis excise tax credit or refund, the cannabis retailer shall maintain records, such as invoices, receipts, and other similar documents, that can be verified by audit of:

(1) The retail sale of the cannabis or cannabis products to the purchaser on or after January 1, 2023, including the associated unique identifier for the cannabis or cannabis products sold to the purchaser.

(2) The cannabis excise tax paid to the distributor on the cannabis or cannabis products sold to the purchaser, including:

(A) The distributor's name and Department of Cannabis Control license number;

(B) The date the distributor sold or transferred the cannabis or cannabis products to the cannabis retailer;

(C) The amount of cannabis excise tax the cannabis retailer paid to the distributor on the cannabis or cannabis products sold to the purchaser; and

(D) The associated unique identifier for the cannabis or cannabis products on which the cannabis excise tax was paid to the distributor.

Note: Authority cited: Section 34013, Revenue and Taxation Code. Reference: Sections 34011.01 and 55302, Revenue and Taxation Code.