

City Attorney's Impartial Analysis of Measure E

In the last few years, the California Legislature and the voters of the State of California have passed legislation legalizing adult, non-medical, use of cannabis and creating a state licensing framework and regulatory scheme for medicinal and non-medical cannabis. Taken together, these laws allow local regulation of cannabis businesses, and the Brisbane City Council recently adopted an ordinance to authorize and regulate a limited number of cannabis testing laboratories, medical cannabis infused product manufacturers, and medical cannabis delivery businesses within the City.

These laws also permit a local agency to impose a business license tax (an excise tax) on such businesses. After public input and discussion, the Brisbane City Council has placed this ballot measure before the Brisbane voters that would impose such a tax on these businesses. The tax would be calculated based on the percentage of the gross receipts, depending on the type of cannabis business: Retail cannabis businesses, including delivery businesses, would be taxed up to 5% of their gross receipts; manufacturing, up to 4%; distribution and testing, up to 2%; and for other, currently unspecified, cannabis businesses, up to 6%. The ballot measure would authorize the City Council to impose the exact rate for each business but not in excess of the percentage that the voters approve.

Each cannabis business would be required to register with the City and obtain a Certificate of Registration, then to submit a tax return for every calendar quarter and pay the taxes owing at that time. The Finance Department would be authorized to audit the records of any cannabis business in the City. Businesses will be subject to penalties and interest on delinquent payments. As legal cannabis businesses are new to Brisbane, the City anticipates that it may take some time for the revenues from the cannabis business license tax to reach their potential of approximately \$300,000 annually.

Because this tax is for general municipal purposes, under Proposition 218, adopted by the voters in 1996, the proposed tax is subject to approval by a majority of the voters voting on the proposed increase at a regularly scheduled election at which members of the Brisbane City Council are elected. The next regularly scheduled election for Council members is November 5, 2019.

A yes vote is a vote in favor of allowing the City to impose a tax on the gross receipts of cannabis businesses as described above.

A no vote is a vote against allowing the City to impose a tax on the gross receipts of cannabis businesses as described above.

August 18, 2019

Thomas McMorrow  
Interim City Attorney  
City of Brisbane

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