California offers marijuana firms tax-related help to cope with COVID-19 fallout

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California's struggling cannabis industry, beset with high compliance costs and taxation, is in line to benefit from new state guidelines enacted to help businesses survive the global coronavirus pandemic.

The assistance – a mix of extensions, relief and deferrals – is a lifeline that can allow many marijuana companies to maintain operations and meet payroll, according to industry officials.

They also hope the support ultimately leads to more substantive regulatory changes, particularly the lowering or suspension of certain taxes.

The following business-friendly initiatives have been implemented by the California Department of Tax and Fee Administration (CDTFA), the Office of Tax Appeals and the Franchise Tax Board since Gov. Gavin Newsom declared a state of emergency in early March:

- Extending state tax return filings and payments under $1 million to July 31.
- Relief from tax interest and penalties.
- A 60-day extension to file refund claims, annual fees, installment payments, annual reports and audits.
- A 60-day extension to July 31 to request tax appeals.
- A 12-month sales and use tax deferral of up to $50,000 for businesses under $5 million in annual taxable sales.
- An extension to July 31 to file first-quarter taxes for businesses under $1 million in annual taxes.

Humboldt Growers Network, like many marijuana companies in California, is behind on state tax payments.

The Garberville cultivator's bank accounts have been shut down at various times during the past four years, typically without any reason or warning from the bank, according to owner Tobias Hafenecker-Dodge.

The company lost two bank accounts in 2019, fueling another financial-services nightmare that ultimately led to more than $120,000 in state fines and penalties.

A $15,000 monthly installment plan with the state – paid through June of this year – covered only the principal.

How assistance works

Under the state’s new assistance guidelines, Humboldt Growers Network expects to have its payment plan and taxes deferred as well as its penalties erased.

"It saved our company," Hafenecker-Dodge said of the relief package. "That was over a $300,000 bill I had to pay right there."

Those funds are now earmarked for expansion and hiring, as well as gaining compliance with the California Department of Fish and Wildlife regarding agricultural zoning and licensing.

"I'm still holding temporary licenses in every single one of my companies," said Hafenecker-Dodge, who filed his first applications in late 2015.

Hezekiah Allen – the board chair of cannabis farmer cooperative Emerald Grown – said the tax relief will make a difference for some.

But he believes not all companies will benefit, considering the industry’s intertwined macroeconomic challenges before the coronavirus outbreak: a financially lethal mix of tightfisted investors in the current climate and public-company failures on Canadian stock exchanges, among other factors.

"This type of relief is going to free cash up now," Allen said. "It's keeping money with us, the businesses, so we can get it out and it can keep circulating.

"If we can't pay workers, they can't pay their rent (and) cover their health costs. It's this cascading impact."
Concerns over California economy

Bryce Berryessa, owner of Santa Cruz cannabis retailer Treehouse and president of Watsonville-based manufacturer and distributor La Vida Verde, fears prolonged revenue shortfalls if economic conditions worsen and more Californians lose their jobs.

He’s grateful state agencies are providing relief but wants to see more steps taken to drive legal prices down so they’re on par with illegal operators.

Berryessa singled out the elimination of “onerous taxes” at the state and local levels.

“Anything that gives us support and assistance and buys a little more time is a huge and tremendous benefit,” he said.

“A suspension of the cultivation tax for a limited time would be enormously helpful, and a reduction of the excise tax would also be helpful.”

The CDTFA is encouraging cannabis companies to contact it for assistance on matters including delayed tax filings and forgiving penalties and late fees.

“We know this health situation is affecting businesses everywhere,” said Stacie Spector, the agency’s deputy director of strategic initiatives and external relations.

“We are here to work with everyone during this difficult time.”

Possible bridge loans

State Treasurer Fiona Ma indicated during an April 3 industry webinar that cannabis companies might also be eligible for a bridge loan of up to $50,000.

Newsom announced that plan April 2 when he also declared a 12-month reprieve of the state sales tax.

Tax relief and filing extensions are helpful but won’t alleviate the cash-flow crisis and other underlying capital problems plaguing the industry, according to Allen.

In general, marijuana firms still face major hurdles in obtaining bank loans and have been shut out of federal funding, bailouts, stimulus packages and grants.

“It’s not going to change those bigger market dynamics,” Allen said. “We still have some very significant challenges.”

The world’s largest cannabis market entered 2020 on precarious footing – overburdened with compliance issues, steep tax rates, high real estate costs, massive devaluations and fierce competition from illicit growers and sellers.

Mass consolidation was expected this year, but the coronavirus pandemic, according to industry officials, will likely cause irrevocable changes to California’s legal marketplace, which was established only two years ago.

“2020 is really going to be a cleansing of the industry … and bringing in more viable companies,” said George Sadler, president of San Diego-based Platinum, a cannabis products manufacturer and distributor.

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