

## **RESOLUTION**

### **A RESOLUTION GOVERNING THE COLLECTION, ADMINISTRATION AND ENFORCEMENT OF HUERFANO COUNTY'S MARIJUANA EXCISE TAX**

#### **RESOLUTION # 18 -06**

WHEREAS, the Board of County Commissioners of Huerfano County submitted to the voters a ballot question regarding placing an excise tax on the first sale or transfer of commercial marijuana to the voters on November 4, 2014; and,

WHEREAS, at that election, the voters of Huerfano County approved the ballot question thereby authorizing the implementation of a 5% excise tax on the first sale or transfer of commercial marijuana beginning on January 1, 2015; and,

WHEREAS, the Board has determined that prescribed procedures are necessary to provide for the administration of the marijuana excise tax; and,

WHEREAS, the Board finds it in the best interest of the health, safety and welfare of the citizens to adopt a resolution governing the collection, administration and enforcement of a marijuana excise tax.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, AS FOLLOWS:**

#### **Section 1:     Applicability**

This excise tax applies to all commercial retail marijuana cultivation facilities located anywhere in Huerfano County including within the boundaries of any municipality except those located within a municipality which levies an excise tax pursuant to C.R.S. §29-2-114(2).

#### **Section 2:     Administration**

The Director of the Huerfano County Finance Department shall serve as the Designated Agent, charged with administering the collection of the Excise Tax on behalf of the County.

#### **Section 3:     Conditional Use Permittee Responsible for Tax and Monthly Reports**

- 1. Permit Holder Responsible.** The Excise Tax shall only be remitted and paid by the person or entity permitted under the Huerfano County Conditional Use Permit process.
- 2. Payment Required.** All Commercial Marijuana Cultivation Establishments operating under a Conditional Use Permit in Huerfano County shall pay to the Designated Agent a five percent (5%) Excise Tax on the first sale or transfer of unprocessed retail marijuana, including bud, trim, wet whole plant, and the first sale of seeds and immature plants to a retail store or marijuana products manufacturing facility. The amount of the Excise Tax shall be calculated using the procedures

adopted by the Colorado Department of Revenue, as amended from time to time, for collection of the State Excise Tax.

3. **Report Required.** Even in the event that no sales or transfers have taken place during the preceding month, the Establishment shall submit a report to the Designated Agent on the approved form with all sales and transfer information from the preceding month.
4. **Due Date.** Payments of Excise Tax and Reporting Forms are due to the Designated Agent by the 20<sup>th</sup> of the month following the transaction of the first sale or transfer of retail marijuana by an establishment for the preceding month. All payments due must be paid in full at the time it is due.
5. **Reporting Form.** A copy of the Excise Tax return filed with the Colorado Department of Revenue must accompany, and is deemed part of, the Huerfano County Marijuana Excise Tax Reporting Form. A Reporting Form must be submitted each month by every Establishment, even if no sales or transfer occurred during the preceding month.

**Section 4: Establishment to Maintain records**

It shall be the duty of every permitted Commercial Marijuana Establishment to keep and preserve suitable records, including returns for excise tax and logs from the statewide tracking system of all sales and transfers made by the Establishment and such other books or accounts as may be required by the Designated Agent in order to determine the amount of the tax for collection or payment of which the Establishment is liable under this resolution.

**Section 5: Audits**

The County shall have the right to perform audits on all Establishments to ensure compliance with this Resolution. In the event of an audit, all books, invoices, accounts and returns for any state taxes on retail marijuana and other records shall be made available and be open at any time during regular business hours for examination by the Designated Agent. The County may conduct an audit at any time and for any reason; evidence or allegations or nonpayment or evasion of the Excise Tax is not required. If an Establishment has refused to allow an audit under this Section 5, for ten (10) days or more, the Designated Agent may issue a report of the same and seek revocation of the Conditional Use Permit or other sanctions related to the operation of the permitted Establishment.

**Section 6: Enforcement**

1. **Failure to Pay Tax.** An Establishment that fails to submit all or a portion of the monthly payment due to the County, as well all members, partners, shareholders, or other owners who comprise the Establishment, shall be personally liable for the amount of the Excise Tax and interest outstanding. Interest shall be determined pursuant to C.R.S. §39-21-110.5(2), as amended, and shall begin accruing the day after payment is due.

2. **Dispute resolution.** Dispute resolution procedures for the Excise Tax shall be governed as closely as possible by subsections (2) and (8) of C.R.S. §29-2-106.1 (2015) except to the extent those subsections provide for any involvement by Colorado Department of revenue. Any appeal from the Designated Agent's final decision shall be made to Huerfano County District Court. A Final Assessment shall be issued at the close of the proceedings under this section.
3. **Penalties.** If the Designated Agent determines that any deficiency is due to negligence or intentional disregard of authorized rules and regulations, there shall be a penalty of ten percent (10%) of the unpaid Excise Tax added to the County's Final Assessment. If the Designated Agent determines that any part of the deficiency is due to fraud with the intent to evade the Excise Tax, there shall be a penalty of fifty percent (50%) of the unpaid Excise Tax added to the County's Final Assessment. The Designated Agent will provide the Establishment with notice of the penalty in the Deficiency Notice or at such point when the Designated Agent determines that a penalty applies. The Establishment may attempt to show that the Designated Agent's findings or a penalty was improper through the submission of additional information as provided in this Resolution. Failure to comply with this section may also result in suspension or revocation of the permit holder's conditional use permit.
4. **Action on Debt.** If an Establishment refuses to pay the debt owed to the County as determined through Section 6.2, the County may file an action in the Huerfano County District Court seeking to recover at law the amount owed the County. The County may also seek to recover reasonable attorney fees and costs. Such actions may be actions in attachment, and writs of attachment may be issued by the Sheriff, and in any such proceedings no bond shall be required of the County, nor shall any sheriff require of the County an indemnifying bond for execution of the writ of attachment or writ of execution upon any judgement entered in such proceedings. The County may prosecute appeals in such cases without the necessity of providing a bond. It shall be the duty of the County Attorney, when requested by the Designated Agent, to commence action under this Section.

ADOPTED THIS \_\_\_\_\_ DAY OF JANUARY, 2018 by the Huerfano County Board of  
County Commissioners



Nancy C. Cruz  
ATTEST, County Clerk and Recorder  
and ex-officio clerk to said board

Edward R. Garcia  
Edward Ray Garcia, Chairman

Max Vezam  
Max Vezam, Commissioner

Gerald A. Cisneros  
Gerald A. Cisneros, Commissioner