



PLEASE NOTE: THE DEPARTMENT REVISED AND POSTED THE REVISED “MMCP-C-1001A CULTIVATOR APPLICATION SECTION 1 IDENTIFIERS” ON MAY 26, 2017. APPLICANTS ARE STRONGLY ENCOURAGED TO USE THE VERSION POSTED ON THE MMCP WEBSITE AS OF THAT DATE. FOR APPLICANTS THAT HAVE ALREADY COMPLETED “MMCP-C-1001A CULTIVATOR APPLICATION SECTION 1 IDENTIFIERS”, THE DEPARTMENT ENCOURAGES APPLICANTS TO RE-DO THE FOLLOWING FORMS AND SUBMIT AS PART OF THE APPLICATION:

- **EXTRA FORMS – FORM 1L BUSINESS IN OTHER JURISDICTIONS**
- **EXTRA FORMS – FORM 1K INDIVIDUAL BACKGROUND INFORMATION**
- **REVISED FORM – FORM 1A BUSINESS ENTITY AND CONTACT INFORMATION FORM**
- **REVISED FORM – CULTIVATOR APPLICATION FILING PACKET NOTARIZED COVER SHEET**
- **REVISED FORM – FORM 1N TAX PAYMENT RECORDS COVER PAGE**

In response to the many tax questions received during the Q&A periods, the Department would like to offer the following information to assist applicants with preparing the cultivator applications. The Department also revised the application documents to provide flexibility for applicants with respect to what documentation is provided. The guidance offered does not constitute legal advice, which should be sought from a licensed attorney.

Will tax documentation submitted by applicants be protected from release to the public?

The Department must comply with the Freedom of Information Act and Ohio’s Public Records Law. The Department cannot provide a guarantee that information will not become public. In response to the many questions received, the Department made the following changes to the application process:

- **Ohio tax summary pages are no longer required** to be submitted as part of the application. The Department will work with the Department of Taxation pursuant to O.R.C. 3796.11 to obtain this information.
- In lieu of tax summary pages in other jurisdictions outside the State of Ohio, **applicants are encouraged to submit certificates of compliance**, or a similar document for businesses and individuals (if available), to satisfy the tax documentation requirements.

What documents need to be submitted to meet the requirements of O.R.C. 3796 and O.A.C. 3796?

In accordance with **O.A.C. 3796:2-1-02(B)(6)(e)**, any individual with a 1% or greater financial interest in the applicant, either directly or indirectly through a business entity, must submit a record of tax payments in the form of state and federal tax summary pages. In an effort to protect sensitive tax information related to individuals and businesses that apply, applicants must meet these requirements by submitting the following:

- Federal tax summary pages (i.e. Form 1040, Form 1040 Schedule A, Form 1040 Schedule C, etc.); **AND**
- Applicable state tax summary pages (see guidance on Ohio tax documentation above); **OR**
- Certificates of tax compliance issued by the appropriate taxation authority.

The tax documents submitted must be from the 3 years prior to filing an application for a cultivator license. (NOTE: If 2016 taxes are yet to be filed, an individual must submit 2013, 2014, and 2015 documents, along with documentation that an extension has been filed for 2016.)

How will financial interest be calculated?

Direct financial interest is calculated as a percentage of equity held in the applicant. If financial interest in an applicant is held by another entity, the individual owners of that entity are deemed to have a financial interest in the applicant proportionate to their equity interest in the entity.



EXAMPLE: John Q. Public owns 50% of Capital Investors, LLC, a company which owns a 10% equity stake in Medical Marijuana Applicant, Inc. Therefore, John has an indirect financial interest in Medical Marijuana Applicant, Inc. in the amount of 5%, through Capital Investors, LLC. Since John's financial interest in Medical Marijuana Applicant, Inc. exceeds 1%, he must submit the required tax documents.

Jane Doe owns 5% of Capital Investors, LLC. Therefore, Jane has a 0.5% indirect financial interest in Medical Marijuana Applicant, Inc. Since Jane's financial interest is less than 1%, she is not required to submit any tax documents, unless the Department deems it necessary pursuant to O.A.C. 3796:2-1-02(B)(6)(e).

Will the Department require those individuals with a greater than 1% financial interest to disclose tax information for unrelated businesses?

With respect to the scope of tax documentation that is required under O.A.C. 3796:2-1-02(B)(6)(e), the Department requires the following from applicants:

- An entity that has an equity interest in an applicant that exceeds 1% must submit documentation for the business, as well as the individuals that have a 1% or greater indirect financial interest in the applicant through the entity.
- An individual must submit tax documentation for every business operating in the marijuana industry in which the individual has an ownership interest, even if the business does not have a financial interest in the applicant.
- An individual that is required to submit taxation documentation (i.e. 1% or greater direct or indirect financial interest) must submit tax documentation for businesses entities in an unrelated industry only if the individual holds a controlling interest in the business operating in an unrelated industry.

Documentation related to an individual's interest in a publicly traded company (i.e. stockholder, preferred stockholder, etc.) does not need to be submitted as part of the application.

The Department recommends reviewing O.A.C. 3796:2-1-02(B)(6)(e) and O.A.C. 3796:2-1-03(A)(6) at <http://codes.ohio.gov/oac> with a licensed tax professional.