

Author: Wood, et al. Analyst: Jessica Deitchman Bill Number: AB 420
Related Bills: See Prior Telephone: 845-5845 Amended Date: July 19, 2017
Analysis Attorney: Bruce Langston Sponsor: _____

SUBJECT: Personal Income Tax Deduction Related to Commercial Cannabis Activities

SUMMARY

This bill would, under the Personal Income Tax Law (PITL), repeal the prohibition on deducting ordinary and necessary business expenses attributable to commercial cannabis activity.

RECOMMENDATION – NO POSITION

SUMMARY OF AMENDMENTS

The July 19, 2017, amendments resolved the department’s implementation concern by changing the operative date to January 1, 2018, and recasting the definition of commercial cannabis or marijuana activity by modifying a reference to the Business and Professions Code (B&PC). The amendments also raised an additional “Implementation Concern” and a “Technical Consideration”.

Except for the “Effective/Operative Date,” “This Bill,” “Implementation Considerations,” and “Technical Considerations” section, the remainder of the department’s analysis of the bill as amended June 13, 2017, still applies.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately upon enactment and specifically operative for taxable years beginning on or after January 1, 2018.

THIS BILL

This bill, would allow taxpayers subject to the PITL to deduct ordinary and necessary business expenses related to carrying on a trade or business that is commercial cannabis activity, as defined in Division 10 of the Business and Professions Code.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concern. Department staff is available to work with the author’s office to resolve these and other concerns that may be identified.

It is unclear whether caregivers as defined under the Health and Safety Code that are engaged in cannabis activities on behalf of their clients would be eligible to deduct the ordinary and necessary business expenses related to cannabis activities that this bill would allow. For clarity and to ensure consistency with the author’s intent the bill should be amended.

TECHNICAL CONSIDERATIONS

For grammatical accuracy the word “a” should be inserted before “commercial” on line 6 of page 2.

FISCAL IMPACT

This bill would not significantly impact the department’s costs.

ECONOMIC IMPACT

Revenue Estimate

This bill as amended July 19, 2017, would have a revenue impact on the general fund, but the amount is unknown.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

Revenue Discussion

Absent the availability of Franchise Tax Board data, the department identified a review article issued by University of California Agricultural Issues Centers (AIC) that examined six different studies on the cannabis market and its potential market size. The AIC review article indicated that the retail cannabis market could be valued between \$4 and \$11 billion in California.

Although the form of business ownership for tax years beginning on or after January 1, 2018, is unknown, for purposes of this estimate, it is assumed that these entities would operate under the PITL, e.g., a sole proprietorship or partnership. Using income and expense data in the AIC report it is assumed that ordinary and necessary business expenses would be approximately 20 percent of sales. As a result, every \$1 billion in retail market sales would result in an estimated additional \$200 million in deductions claimed, resulting in an estimated revenue loss of \$12 million per \$1 billion in PITL retail sales.

SUPPORT/OPPOSITION¹

Support: California Cannabis Industry Association, Consortium Management Group;
The Southern California Coalition.

Opposition: None Provided.

¹ From Senate Governance and Finance Committee analysis dated July 7, 2017.

LEGISLATIVE STAFF CONTACT

Jessica Deitchman
Legislative Analyst, FTB
(916) 845-6310

jessica.deitchman@ftb.ca.gov

Jame Eiserman
Revenue Manager, FTB
(916) 845-7484

jame.eiserman@ftb.ca.gov

Diane Deatherage
Legislative Director, FTB
(916) 845-6333

diane.deatherage@ftb.ca.gov