

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1991S.01I
 Bill No.: SB 436
 Subject: Taxation and Revenue - Income
 Type: Original
 Date: March 9, 2021

Bill Summary: This proposal would authorize an income tax deduction for certain expenses related to operating a medical marijuana business.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue Fund	(Unknown, but could be significant)	(Unknown, but could be significant)	(Unknown, but could be significant)
Total Estimated Net Effect on General Revenue	(Unknown, but could be significant)	(Unknown, but could be significant)	(Unknown, but could be significant)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on FTE	0	0	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration – Budget & Planning Division (B&P)** state this proposed legislation will reduce Total State Revenues (TSR) and General Revenue (GR) by an unknown, but significant amount. This proposed legislation will impact the calculation under Article X, Section 18(e).

Section 143.121 – Income Tax Deduction for Medical Marijuana Industry

Officials from **B&P** state this proposed legislation would allow medical marijuana related businesses to deduct business expenses from their Missouri Adjusted Gross Income. B&P notes that this proposed legislation would begin August 28, 2021 which is during Tax Year 2021.

Therefore, B&P assumes that this deduction would become available for taxpayers for Tax Year 2021. B&P notes that Tax Year 2021 returns would not be filed until April 2022. Therefore, B&P estimates that this proposed legislation could reduce GR beginning in Fiscal Year 2022.

B&P notes that, typically, businesses are allowed to deduct certain expenses from their Federal Adjusted Gross Income. Those deductions would then flow through to the business's Missouri Adjusted Gross Income allowing for an implicit deduction from Missouri's income tax. However, because marijuana is a controlled substance at the federal level, marijuana-related businesses are not allowed to deduct their business expenses on their federal taxes. This proposal would allow such businesses to receive the business expense deduction at the state level.

B&P was unable to obtain enough revenue, cost, or profit margin data for medical marijuana related businesses to estimate the GR impact from this proposed legislation. Therefore, B&P estimates that this proposal will reduce TSR and GR by an unknown, but significant, amount beginning with Fiscal Year 2022.

Officials from the **Missouri Department of Revenue (DOR)** state this proposed legislation would allow medical marijuana businesses a subtraction from the Federal Adjusted Gross Income equal to the amount that would have been allowed from the computation of the taxpayer's federal taxable income if the income were not disallowed solely from being a medical marijuana business. Under federal law, marijuana is a controlled substance and businesses selling it are not allowed some deductions that other businesses are entitled to. Since marijuana is allowed to be sold in Missouri, this would allow them to adjust their Federal Adjusted Gross Income before calculating their Missouri Adjusted Gross Income.

This would require DOR to make an independent interpretation of federal law on what would or would not be an allowable federal deduction. DOR is unable to calculate the amount of income and deductions that these businesses could possibly be allowed to deduct under this proposed legislation. DOR assume this could result in an Unknown (**but could be significant**) negative fiscal impact to GR and TSR.

This proposed legislation would become effective August 28, 2021, and with no specific start date it would allow people to start filing for this immediately. Therefore, they will show the impact starting in Fiscal Year 2022.

DOR states this would require a change to the Form(s) MO-A and MO-1120. The Form MO-A has a selection of check boxes for a set of “other” subtractions, so a new line would not necessarily be required. The Form MO-1120 does not currently have this checkbox option, so it would either require a new line or a reformatting of the subtractions reported in “Part 2”.

DOR states this proposed legislation would require mirroring programming changes. DOR anticipate the programming changes to cost approximately \$2,000.

Oversight assumes the estimated programming cost(s) of \$2,000 to be minimal and assumes DOR can absorb the programming cost(s) with existing resources. Should the cost(s) prove to be significant, DOR may seek additional equipment and expense funding through the appropriation process.

Officials from the **Missouri Department of Health and Senior Services** do not anticipate this proposed legislation will cause a fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will not report a fiscal impact for this organization.

Oversight is unable to determine what might qualify as a deduction under this proposed legislation. As mentioned by DOR, Oversight assumes such allowance will be at the discretion of DOR.

For purposes of this fiscal note, Oversight will report a revenue reduction to GR equal to a negative “Unknown, but could be significant” beginning in Fiscal Year 2022.

Oversight notes the actual impact of this proposed legislation is Unknown. However, it is assumed the potential impact could be significant. Therefore, Oversight assumes this proposed legislation could reduce TSR and GR by an amount in excess of \$250,000.

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
GENERAL REVENUE FUND			
<u>Revenue Reduction – Section 143.121 – Income Tax Deduction For Medical Marijuana Businesses</u>	<u>(Unknown, but could be significant)</u>	<u>(Unknown, but could be significant)</u>	<u>(Unknown, but could be significant)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Unknown, but could be significant)</u>	<u>(Unknown, but could be significant)</u>	<u>(Unknown, but could be significant)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

This proposed legislation could positively impact any small business conducting business under Article XIV of the Missouri Constitution (Medical Marijuana) as these small businesses could claim a tax deduction reducing or eliminating their tax liability.

FISCAL DESCRIPTION

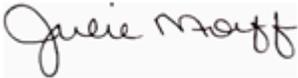
This act allows taxpayers authorized under the Missouri Constitution to operate a business related to medical marijuana to claim an income tax deduction in an amount equal to any expenditures otherwise allowable as a federal income tax deduction, but that are disallowed for federal purposes because cannabis is a controlled substance under federal law.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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SOURCES OF INFORMATION

Office of Administration – Budget & Planning Division
Missouri Department of Revenue
Missouri Department of Health and Senior Services



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March 9, 2021



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March 9, 2021