

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3527S.01I
Bill No.: SB 807
Subject: Taxation and Revenue - Income
Type: Original
Date: February 1, 2022

Bill Summary: This proposal authorizes 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 2023 | FY 2024 | FY 2025 |
| General Revenue Fund | (Unknown, possibly significant) | (Unknown, possibly significant) | (Unknown, possibly significant) |
| Total Estimated Net Effect on General Revenue | (Unknown, possibly significant) | (Unknown, possibly significant) | (Unknown, possibly significant) |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|---|-------------------|-------------------|-------------------|
| FUND AFFECTED | FY 2023 | FY 2024 | FY 2025 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>Other</u> State Funds | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |

Numbers within parentheses: () indicate costs or losses.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2023 | FY 2024 | FY 2025 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2023 | FY 2024 | FY 2025 |
| | | | |
| Total Estimated Net Effect on FTE | | | |

☒ 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 2023 | FY 2024 | FY 2025 |
| | | | |
| Local Government | \$0 | \$0 | \$0 |

FISCAL ANALYSIS

ASSUMPTION

Section 143.121 – Income Tax Deduction for Medical Marijuana Industry

Officials from the **Office of Administration – Budget & Planning Division (B&P)** state this proposal would allow medical marijuana related businesses to deduct business expenses from their Missouri adjusted gross income. B&P notes that this proposal would begin August 28, 2022, which is during tax year 2022. Therefore, B&P assumes that this deduction would become available for taxpayers for tax year 2022. B&P notes that tax year 2022 returns would not be filed until April 2023. Therefore, B&P estimates that this proposal could reduce GR beginning in FY23.

B&P notes that typically businesses are allowed to deduct certain expenses from their federal adjusted gross income (FAGI). Those deductions would then flow through to the business's Missouri adjusted gross income (MAGI) 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 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 proposal. Therefore, B&P estimates that this proposal will reduce TSR and GR by an unknown, but significant, amount beginning with FY23.

Officials from the **Missouri Department of Revenue (DOR)** state this proposal would allow medical marijuana businesses a subtraction from the federal adjusted gross income 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 them 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 the Department to make an independent interpretation of federal law on what would or would not be an allowable federal deduction. The Department is unable to calculate the amount of income and deductions that these businesses could possibly be allowed to deduct under this proposal. The Department assume this could result in an Unknown that could be significant negative fiscal impact to general revenue and total state revenue.

DOR notes this bill would become effective August 28, 2022, and with no specific start date, it would allow people to start filing for this immediately. Therefore, DOR will show the impact starting in FY 2023.

This would require a change to the Forms MO-A and the 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 in Part 2.

Additionally, this would require DOR to update the individual income tax computer system. These changes are estimated to cost \$11,579.

DOR notes it may need the following FTE if the volume of returns justify the FTE.

- 1 FTE Revenue Processing Technician for every 14,700 errors created
- 1 FTE Revenue Processing Technician for every 5,700 pieces of correspondence generated
- 1 temporary employee for new line item

Oversight assumes the Department of Revenue is provided with core funding to handle a certain amount of activity each year. Oversight assumes DOR could absorb the costs for computer upgrades related to this proposal. Given the few number of potential qualifiers of this deduction, Oversight assumes DOR can absorb the administrative impact of this proposal.

Officials from the **Department of Health and Senior Services** state as of January 7, 2022, the number of medical marijuana facilities approved to operate in Missouri were as follows:

Testing Labs – 8
Cultivation – 41
Manufacturing – 58
Dispensary – 181
Transportation – 20

Oversight notes that it does not currently have the resources and/or access to state tax data to produce an independent estimate to the GR impact from this proposal. **Oversight** notes that the bill becomes effective August 28, 2022. Therefore, **Oversight** will show a reduction to TSR and GR by an unknown, but possibly significant, amount beginning with FY23.

Officials from the **Department of Health and Senior Services** assume the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this organization.

| <u>FISCAL IMPACT – State Government</u> | FY 2023 (10 Mo.) | FY 2024 | FY 2025 |
|--|---|---|---|
| | | | |
| GENERAL REVENUE FUND | | | |
| | | | |
| <u>Revenue Reduction</u> – §143.121 – Income Tax Deduction For Medical Marijuana Businesses p. 3-4 | (Unknown, possibly significant) | (Unknown, possibly significant) | (Unknown, possibly significant) |
| | | | |
| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | <u>(Unknown, possibly significant)</u> | <u>(Unknown, possibly significant)</u> | <u>(Unknown, possibly significant)</u> |

| <u>FISCAL IMPACT – Local Government</u> | FY 2023 (10 Mo.) | FY 2024 | FY 2025 |
|---|---------------------|-------------------|-------------------|
| | | | |
| | <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.

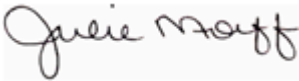
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration – Budget & Planning Division

Missouri Department of Revenue

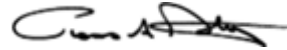
Missouri Department of Health and Senior Services



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February 1, 2022



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February 1, 2022