

GREEN SHEET REDIGEST

HB 507

2019 Regular Session

Abramson

TAX: Levies a 7% tax on the gross sales of therapeutic marijuana and dedicates the avails into the New Opportunities Waiver Fund.

DIGEST

Present law establishes an annual license fee of \$100,000 for a license to produce marijuana for therapeutic use, an annual permit fee of \$100 for the administrative and inspection costs associated with producing marijuana for therapeutic use, and a nonrefundable application fee of \$10,000 to apply for the license to produce marijuana for therapeutic use. Proposed law retains present law.

Present law imposes state sales and use taxes on the sale, use, lease, or rental of tangible personal property pursuant to the following levies in the following amounts:

- R.S. 47:302 - 2%
- R.S. 47:321 - 1%
- R.S. 47:321.1 - .45%
- R.S. 47:331 - .97%
- R.S. 47:51:1286 - .03%

Proposed law establishes an exclusion from state and local sales and use taxes for marijuana recommended for therapeutic use by patients clinically diagnosed as suffering from certain debilitating medical conditions.

Present law excludes and exempts a wide variety of tangible personal property from the sales and use tax; however, present law suspends numerous exclusions and exemptions from the four levies of state sales and use tax (R.S. 47:302, 321, 321.1, and 331) through June 30, 2025.

Proposed law changes present law by adding sales of marijuana recommended for therapeutic use to the list of exclusions and exemptions that are effective through June 30, 2025.

Present law provides that the calculation of Louisiana taxable income for corporations starts with all allowable items of federal income and expense. Under 26 U.S.C. 280E, taxpayers with income from producing and distributing marijuana for therapeutic use are disallowed ordinary business expenses from federal gross income, even if the production and distribution are legal at the state level.

Proposed law provides that when an otherwise allowable ordinary business expense for purposes of computing federal net income is disallowed under the provisions of 26 U.S.C. 280E for state licensees producing and distributing marijuana for therapeutic use, that a state corporate income tax deduction in the amount of the disallowed expense will be allowed.

Present law mandates that the Dept. of Agriculture and Forestry, hereinafter "department", receive an amount not to exceed 7% of the gross sales of therapeutic marijuana.

Proposed law changes present law by requiring the department to assess a fee of 7% on the gross sales of therapeutic marijuana to be collected by the Dept. of Revenue and authorizes the legislature to appropriate an amount to the department for administrative costs.

Proposed law requires the remainder of the proceeds of the fee to be deposited into the Community and Family Support System Fund as established in present law to be used to provide funding for the EarlySteps intervention program for infants and toddlers with disabilities and their families.

Present law establishes the Community and Family Support System Fund, hereinafter "the fund" as a special fund in the state treasury. After compliance with the requirements of

present constitution, relative to the Bond Security and Redemption Fund, the treasurer shall pay an amount equal to the amount collected by the state attributable to the sale or lease of all or part of any movable and immovable property previously operated by the office for citizens with developmental disabilities within the La. Dept. of Health. Monies appropriated from the fund shall be used solely to improve the capacity of the state to meet the varying and complex needs of individuals with developmental disabilities, with emphasis on increasing the number of recipients of waiver services.

Proposed law retains present law but requires the proceeds of the fee assessed on therapeutic marijuana as provided for in proposed law to be deposited into the fund and for no less than 50% of the proceeds of the fee to be used to provide funding for the EarlySteps intervention program for infants and toddlers with disabilities and their families.

Effective July 1, 2019.

(Amends R.S. 28:826(B)(1) and (C)(1), R.S. 40:1046(H)(8)(a), and R.S. 47:287.73(C)(4); Adds R.S. 47:287.73(C)(1), 301(10)(ii), 302(BB)(110), 321(P)(111), 321.1(I)(111), and 331(V)(111))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Clarify that the legislature may appropriate an amount from the 7% tax to the Dept. of Agriculture and Forestry for administrative costs of the therapeutic marijuana program. The remainder of the avails of the tax on therapeutic marijuana shall be deposited into the New Opportunities Waiver Fund.

The House Floor Amendments to the engrossed bill:

1. Change proposed law from the collection of a tax to the assessment of a fee on the gross sales of therapeutic marijuana.
2. Change the dedication of the proceeds of the fee from the New Opportunities Waiver Fund to the Community and Family Support System Fund, hereinafter "fund".
3. Require that no less than 50% of the proceeds of the fee deposited into the fund be used to provide funding for the EarlySteps intervention program for infants and toddlers with disabilities and their families.
4. Establish a state and local sales tax exclusion for marijuana recommended for therapeutic use by patients clinically diagnosed as suffering from certain debilitating medical conditions.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the reengrossed bill

1. Authorize a corporate income tax deduction for state licensees producing and distributing marijuana for therapeutic use for ordinary business expenses if the deduction was disallowed pursuant to federal law.
2. Authorize Dept. of Revenue to collect the 7% fee and authorize the use of existing tax collection procedures.