



STATE BOARD OF EQUALIZATION
450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0066
916-445-5742 • FAX 916-445-1813
www.boe.ca.gov

SEN. GEORGE RUNNER (RET.)
First District

FIONA MA, CPA
Second District

JEROME E. HORTON
Third District

DIANE L. HARKEY
Fourth District

BETTY T. YEE
State Controller

CYNTHIA BRIDGES
Executive Director

February 3, 2016

Honorable Mike Gipson
Member, California State Assembly
State Capitol, Room 4164
Sacramento, CA 95814

Subject: **BOE SUPPORT for AB 567, as proposed to be amended**

Dear Assembly Member Gipson:

The Members of the Board of Equalization (BOE) voted¹ to support your Assembly Bill 567. Among other things, your bill requires the BOE, Franchise Tax Board, and Employment Development Department to administer a tax penalty amnesty program for a six-month period that begins April 1, 2017, through September 30, 2017, or any other six-month period ending December 31, 2017. The Members of the Board acknowledge proposed amendments to: (1) revise the year for the tax penalty amnesty program, and (2) remove the Health and Safety Code provisions.

Medical Marijuana is Taxable. Sales tax is imposed on all retailers for the privilege of selling tangible personal property at retail in this state, except where the law provides a specific exclusion or exemption. Therefore sales tax applies to retail sales of marijuana, including medical marijuana, to the same extent as any other retail sale. Dispensaries that make retail sales of medical marijuana must register with the BOE for a seller's permit.

Sales and Use Tax Penalties. An array of penalties exist in the Sales and Use Tax Law. For example, dispensaries that knowingly fail to obtain a valid seller's permit for the purpose of evading tax payment may be subject to a penalty of 50% of the tax. Dispensaries that knowingly collect sales tax reimbursement and fail to timely remit those amounts to the BOE may be subject to a 40% penalty. The law also imposes a 25% penalty in the case of fraud or intent to evade the law.

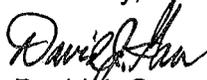
Most Sellers Want to Comply. Many medical cannabis-related businesses want to be regulated, taxed, and treated like other businesses. However, these businesses have been operating in the shadows for years for fear of federal prosecution. Last year, the Legislature enacted the Medical Marijuana Regulation and Safety Act (MMRSA), a package of legislation that establishes a comprehensive licensing and regulatory framework for medical marijuana, including cultivation, manufacturing, transportation, distribution, and sale. The MMRSA comports with the enforcement priorities outlined in the U.S. Department of Justice guidance to federal prosecutors regarding cannabis enforcement under the Controlled Substances Act (referred to as the [Cole Memo](#)) and likely will serve to shield the state's industry from federal action. As a result, medical cannabis-related businesses that previously operated underground may be more willing to come forward and comply with state tax and regulatory laws.

¹ 4-0 vote, with the Controller abstaining.

One-time Opportunity to Comply. This measure provides qualified medical cannabis-related businesses an additional incentive to obtain a seller's permit by waiving all penalties imposed under the Sales and Use Tax Law and prohibiting any criminal action against the qualified taxpayer if the qualified taxpayer complies with the tax penalty amnesty provisions. Your proposed amnesty would be offered once during a specific time period, granting those legitimate businesses a single window in which to come into compliance with California tax law.

If you have any questions or need additional information regarding this bill, please contact Michele Pielsticker, Chief, Legislation and Research Division, at (916) 322-2376.

Sincerely,



David J. Gau
Chief Deputy Director

DJG:ah