WHAT'S NEW

Act 16 of 2016, the Medical Marijuana Act, establishes a program for the use of medical marijuana in Pennsylvania by patients with serious medical conditions. The Pennsylvania Department of Health (DOH) will issue permits to approved medical marijuana growers/processors and dispensaries.

Please visit medicalmarijuana.pa.gov for information on Pennsylvania’s Medical Marijuana Program. To learn more on the taxation of medical marijuana visit the Department of Revenue (DOR) web site at revenue.pa.gov.

DEFINITIONS

Medical marijuana - refers to marijuana obtained for a certified medical use by a Pennsylvania resident with a serious medical condition and is limited by statute in Pennsylvania to the following forms:

- pill;
- oil;
- topical forms, including gel, creams or ointments;
- a form medically appropriate for administration by vaporization or nebulization, tincture;
- liquid;
- A form medically appropriate for administration by vaporization or nebulization, including dry leaf or plant form for administration by vaporization.

Dispensary (Retailer) - A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit issued by DOH to dispense medical marijuana to a patient/caregiver. The term does not include a health care medical marijuana organization under Chapter 19.

Grower / Processor - A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit from the DOH under this act to grow and process medical marijuana. The term does not include a health care medical marijuana organization under Chapter 19.

LICENSING / REGISTRATION

The Pennsylvania Department of Health will handle all licensing/permitting related to the production and/or sale of medical marijuana. Please visit medicalmarijuana.pa.gov for more information.

Part of the process in applying for a license/permit will require a tax clearance review from the DOR. However, DOH will request the tax clearance check from DOR on behalf of the applicant. Once an in-depth review of the company, its partnerships and corporate officers is completed and cleared, a Clearance Certificate will be issued directly to the DOH.

Is there a licensing / permit fee?
Yes, please visit medicalmarijuana.pa.gov for more information.

Do I have to register with the Department of Revenue?
No, there is no registration process with the Department of Revenue for medical marijuana. However, the business entity may be liable for other business taxes, such as employer withholding tax. Registration can be accomplished by completing the Online PA100 at www.pa100.state.pa.us.

TAXATION

A business involved in the sale or disbursement of medical marijuana can be subject to various Pennsylvania taxes, such as a Gross Receipts, Personal Income, Corporate Net Income, etc., depending upon its business type and activities.

GROSS RECEIPTS TAX

What is the tax rate for the sale of medical marijuana by a grower/processor to a dispensary?
There is a 5 percent tax on the gross receipts received from the sale of medical marijuana by a grower/processor to a dispensary.

Who pays the tax?
The tax is paid by the grower/processor.

Who must file?
Growers/processors will have a quarterly payment obligation with the Department of Revenue. The tax is to be paid via check and sent with the payment coupon voucher printed from the Seed to Sale system. Make check payable to the PA DEPARTMENT OF REVENUE and submit payment and coupon to:

PA DEPARTMENT OF REVENUE
P.O. BOX 62121
HARRISBURG, PA 17106-2121

If you are unable to comply with the established payment method, you must notify the Department of Revenue thirty days prior to the payment due date. Please call the PA Department of Revenue’s Miscellaneous Tax Division at 717-783-9374.

When is the tax payment due?
Payments are due on the last day of January, April, July and October for the preceding calendar quarter.

SALES TAX

Is there a sales tax?
No, the sale of medical marijuana is not subject to sales tax.

INCOME TAX

Do I have to pay income tax on the profits earned as a grower/processor or dispenser?
Yes, businesses in Pennsylvania must file and pay taxes (such as personal income tax or corporate net income tax) based on the business type.

What business expenses/deductions are allowable for personal income tax purposes?
Deductions are allowable for all ordinary, reasonable and necessary business expenses associated with the business activity.

Do I have to pay corporate net income tax on the profits earned as a grower/processor or dispenser?
The calculation of Pennsylvania corporate net income tax begins with Federal taxable income and is then adjusted for certain items specified in Article IV of the Tax Reform Code. Currently, there are no adjustments for medical marijuana. A corporation must use the same amount for its Pennsylvania corporate tax return as it does for its federal return.