



STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

RICK SNYDER
GOVERNOR

ANDY DILLON
STATE TREASURER

April 4, 2011

James Campbell, CPA
NUMBERS Professional Accounting Services
300 East Fourth Street
Royal Oak, Michigan 48067

Dear Mr. Campbell:

Re: Tax Revenue and the Michigan Medical Marihuana Act

The State Treasurer has asked me to respond to your recent inquiry regarding generating tax revenue under the Medical Marihuana Act (MMA).

In general, the sale or use of marihuana is taxable because it does not qualify for a prescription drug exemption under the Michigan Constitution,¹ the General Sales Tax Act² or the Use Tax Act.³ However, under the MMA, a caregiver's compensation for costs associated with assisting a patient in the medical use of marihuana does not constitute a sale of a controlled substance.⁴ The MMA re-characterizes what might otherwise be a taxable sale of tangible personal property as a non-taxable caregiver service.

Some states, such as Colorado, Rhode Island, New Jersey, California and Maine, have state-regulated retail stores or dispensaries. States that have dispensaries use them as an enforcement mechanism to directly monitor sales. In most of these states, the dispensaries are also required to be non-profit organizations with the usual reporting obligations to the state agency charged with oversight of corporations. In these states, the medical marihuana laws narrowly proscribe the types of persons that can engage in medical marihuana transactions and provide various agencies with either direct or indirect avenues for oversight.

The MMA does not authorize either a regulatory or enforcement role for the Department of Treasury. Further, the MMA is administered solely by the Michigan Department of Community Health which is prohibited from releasing patient or caregiver information from the registry. The MMA does not provide for state-regulated retail stores or dispensaries. Finally, as noted above, the MMA specifically states that the transaction between a caregiver and a patient is not a sale of the medical marihuana.

James Campbell, CPA
April 4, 2011
Page 2

Thank you for your interest and your stated concern that those who participate in Michigan's economy should pay their fair share of taxes. For Treasury to have greater role in medical marihuana transactions, would require legislative action.

Sincerely,



Glenn R. White, Director
Bureau of Tax Policy

cc: Treasurer Dillon

¹ Michigan Constitution, Article 9, Section 8

² MCL 205.54(g)(1)(a)

³ MCL 205.94(d)(1)(a)

⁴ MCL 333.26424 (e)