

AMENDED IN SENATE SEPTEMBER 4, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 567**

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**Introduced by Assembly Member Gipson**

February 24, 2015

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~~An act to amend Section 481 of the Revenue and Taxation Code, relating to taxation. An act to add Section 11362.6 to the Health and Safety Code, to amend and renumber Sections 7076, 7076.1, 7076.2, 7076.3, 7076.4, 7077, and 7078 of, to add Article 2.1 (commencing with Section 7077) to Chapter 8 of Part 1 of Division 2 of, and to add Chapter 9.2 (commencing with Section 19740) to Part 10.2 of Division 2 of, the Revenue and Taxation Code, and to add Division 11 (commencing with Section 18740) to the Unemployment Insurance Code, relating to medical cannabis.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 567, as amended, Gipson. ~~Property taxation: change in ownership statement: confidentiality of information. Medical cannabis: regulation and taxation amnesty.~~

(1) Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 5, 1996, statewide general election, authorizes the use of marijuana for medical purposes. Existing law, the Medical Marijuana Program, requires the State Department of Public Health to establish a voluntary program for the issuance of identification cards to qualified patients and primary caregivers under the Compassionate Use Act, and grants immunity from arrest for violation of specified provisions relating to the cultivation, possession, transportation, and sale of marijuana, if conditions of the act are met.

*This bill would prohibit the sale, distribution, provision, or donation of medical cannabis or medical cannabis products to a qualified patient or caregiver other than at a licensed dispensing facility or through a licensed dispensing facility's delivery service, as defined; would prohibit mobile, vehicular, or technology platforms that enable qualified patients or primary caregivers to arrange for any delivery, as defined, with a third party; and would provide that a dispensary, as defined, that employs or uses the services of any person under 21 years of age for the sale or delivery of medical cannabis or medical cannabis products is subject to suspension or revocation of certain state or local licenses. By requiring local licensing authorities to suspend or revoke local licenses, this bill would impose a state-mandated local program.*

*(2) Existing law imposes sales and use taxes collected and administered by the State Board of Equalization, personal income and corporation taxes collected and administered by the Franchise Tax Board, and employment taxes, as defined, collected and administered by the Employment Development Department. Existing law sets forth various penalties, including penalties for the nonpayment or late payment of those taxes, and the failure to file or intentional filing of incorrect returns. Existing law established a tax amnesty program, conducted in 2005, with respect to sales and use tax penalties, and, personal income and corporation tax penalties and fees due and payable for tax reporting periods or taxable years beginning before January 1, 2003.*

*This bill would require the State Board of Equalization, the Franchise Tax Board, and the Employment Development Department to administer tax penalty amnesty programs during the period beginning on April 1, 2016, through September 30, 2016, or during a timeframe before December 31, 2016, for medical cannabis-related businesses, as provided. The bill would define a medical cannabis-related business for these purposes as a person that engages in the sale of cannabis for medical purposes to qualified patients or the primary caregivers of qualified patients pursuant to the Compassionate Use Act or the Medical Marijuana Program. The bill would require a licensing authority to revoke or refuse to issue a state or local license to a medical cannabis-related business that is eligible to, but does not participate in, those programs and meets other specified conditions. By requiring local licensing authorities to revoke or refuse to issue local licenses, this bill would impose a state-mandated local program.*

(3) *This bill would make related findings and declarations. The bill would also make technical and conforming changes.*

(4) *Existing state constitutional law prohibits the Legislature from making any gift, or authorizing the making of any gift, of any public money or thing of value to any individual, municipal, or other corporation.*

*This bill would make certain legislative findings and declarations that amnesty programs to incentivize a specific type of business to become current with their tax obligations serve a general public purpose, and therefore are not gifts of public funds.*

(5) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

~~Existing law requires, upon a change in control or change in ownership of a legal entity that owns an interest in real property in this state, or when requested by the State Board of Equalization, that the person or legal entity acquiring ownership control, or the legal entity that has undergone a change in ownership, file a change in ownership statement with the board, as specified, listing all counties in which the legal entity owns real property. Existing law requires all information requested by the assessor or the board regarding change in ownership reporting or furnished in a change in ownership statement to be held secret, except as specifically provided.~~

~~This bill would provide that information requested or furnished in a change in ownership statement, with respect to a legal entity and its real property does not include the fact that a change in ownership statement has been filed with the board or that the board has issued a determination to the assessor relating to a change in ownership statement, and that the board and the assessor are not required to hold these facts secret. This bill would also provide that the disclosure by the board or the assessor that such a change in ownership statement has been filed, where the filing was prompted by information collected by the Franchise Tax Board from the property tax query on the taxpayer's state income tax return, does not violate the confidentiality of taxpayer return information.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. *The Legislature finds and declares all of the*  
2     *following:*  
3     (a) *The voters of the State of California enacted the*  
4     *Compassionate Use Act of 1996, which became effective on*  
5     *November 6, 1996, as Section 11362.5 of the Health and Safety*  
6     *Code. The act authorizes patients and their designated primary*  
7     *caregivers to possess and cultivate cannabis for personal medical*  
8     *use upon recommendation or approval of a physician.*  
9     (b) *In 2004, the Legislature and Governor refined the*  
10    *Compassionate Use Act through SB 420, which added Sections*  
11    *11362.7 to 11362.83, inclusive, to the Health and Safety Code,*  
12    *allows the formation of medical cultivation collectives or*  
13    *cooperatives, and provides for a voluntary state identification card*  
14    *system for medical cannabis patients. SB 420 also limits the amount*  
15    *of medical cannabis patients are allowed to possess and cultivate.*  
16    (c) *However, the sale of any cannabis still remains illegal under*  
17    *federal law. At the federal level, marijuana remains classified as*  
18    *a Schedule I substance under the Controlled Substances Act.*  
19    *Schedule I substances are defined as drugs with no currently*  
20    *accepted medical use and a high potential for abuse.*  
21    (d) *In August 2013, the United States Department of Justice*  
22    *issued the “Cole Memo” to federal prosecutors, which established*  
23    *priorities for federal prosecution of cannabis-related activities*  
24    *under the Controlled Substances Act. The memo indicated that*  
25    *states with a strong regulatory framework for legalized*  
26    *recreational or medical cannabis that supports those priorities*  
27    *would make federal involvement in local jurisdictions less likely.*  
28    (e) *In February 2014, the United States Department of the*  
29    *Treasury’s Financial Crimes Enforcement Network (FinCEN)*  
30    *issued guidance to financial institutions setting forth FinCEN’s*  
31    *Bank Secrecy Act expectations for financial institutions choosing*  
32    *to work with cannabis-related businesses.*  
33    (f) *A federal spending bill passed in late 2014 prohibits the use*  
34    *of United States Department of Justice funds to prevent states,*  
35    *including California, that authorize the use, distribution,*

1 *possession, or cultivation of cannabis for medical use from*  
 2 *implementing laws related to these activities. At a minimum, this*  
 3 *prohibition will remain in effect for the rest of the federal fiscal*  
 4 *year that ends September 30, 2015. Various other federal*  
 5 *legislative proposals to loosen federal restrictions on the*  
 6 *cultivation, possession, and sale of cannabis in states where it is*  
 7 *legal are also pending.*

8 *(g) Despite this identified federal guidance, the uncertainty*  
 9 *created by state and federal differences has left cannabis-related*  
 10 *businesses with the fear that compliance with state tax laws could*  
 11 *lead to federal prosecution. Thus, many of these businesses have*  
 12 *been noncompliant since their inception, and would owe massive*  
 13 *penalties and interest if they were to come into compliance.*

14 *(h) It is the intent of the Legislature to further the public*  
 15 *purposes of preventing undue hardship on cannabis-related*  
 16 *businesses and providing a strong incentive, the relief of penalties,*  
 17 *for those businesses to come forward and pay the taxes and interest*  
 18 *that they owe. In furtherance of this intent, the Legislature hereby*  
 19 *enacts the Medical Cannabis Tax Amnesty Act as set forth below.*

20 *SEC. 2. Section 11362.6 is added to the Health and Safety*  
 21 *Code, immediately following Section 11362.5, to read:*

22 *11362.6. (a) Any dispensary that employs or uses the services*  
 23 *of any person under 21 years of age for the sale or delivery of*  
 24 *medical cannabis or medical cannabis products shall be subject*  
 25 *to suspension or revocation of the dispensary's state or local*  
 26 *medical cannabis license or driver's license issued pursuant to*  
 27 *Division 6 (commencing with Section 12500) of the Vehicle Code.*

28 *(b) A person shall not sell, distribute, provide, or donate medical*  
 29 *cannabis or medical cannabis products to a qualified patient or*  
 30 *caregiver other than at a licensed dispensing facility or through*  
 31 *a licensed dispensing facility's delivery service.*

32 *(c) All mobile, vehicular, or technology platforms that enable*  
 33 *qualified patients or primary caregivers to arrange for any delivery*  
 34 *with a third party are prohibited.*

35 *(d) For purposes of this section, the following terms have the*  
 36 *following meanings:*

37 *(1) "Delivery" means the commercial transfer of medical*  
 38 *cannabis or medical cannabis products from a dispensary to a*  
 39 *primary caregiver or qualified patient.*

(2) “Delivery service” means a dispensary that makes a delivery.

(3) “Dispensary” means a physical retail establishment that operates from a fixed location. “Dispensary” includes mobile deliveries originating from a fixed location that makes retail sales of medical cannabis or medical cannabis products.

(4) “Primary caregiver” has the meaning provided in Section 11362.7.

(5) “Qualified patient” has the meaning provided in Section 11362.7.

SEC. 3. Section 7076 of the Revenue and Taxation Code, as added by Section 1 of Chapter 87 of the Statutes of 2003, is amended and renumbered to read:

~~7076.~~

7079. (a) The State Board of Equalization shall determine which taxpayer’s accounts are eligible for the managed audit program in a manner that is consistent with the efficient use of its auditing resources and the maximum effectiveness of the program.

(b) A taxpayer is not required to participate in the managed audit program.

SEC. 4. Section 7076.1 of the Revenue and Taxation Code is amended and renumbered to read:

~~7076.1.~~

7079.1. A taxpayer’s account is eligible for the managed audit program only if the taxpayer meets all of the following criteria:

(a) The taxpayer’s business involves few or no statutory exemptions.

(b) The taxpayer’s business involves a single or small number of clearly defined taxability issues.

(c) The taxpayer is taxed pursuant to this part and agrees to participate in the managed audit program.

(d) The taxpayer has the resources to comply with the managed audit instructions provided by the board.

SEC. 5. Section 7076.2 of the Revenue and Taxation Code is amended and renumbered to read:

~~7076.2.~~

7079.2. (a) If the board selects a taxpayer’s account for a managed audit, all of the following apply:

(1) The board shall identify all of the following:

(A) The audit period covered by the managed audit.

1 (B) The types of transactions covered by the managed audit.

2 (C) The specific procedures that the taxpayer is to follow in  
3 determining any liability.

4 (D) The records to be reviewed by the taxpayer.

5 (E) The manner in which the types of transactions are to be  
6 scheduled for review.

7 (F) The time period for completion of the managed audit.

8 (G) The time period for the payment of the liability and interest.

9 (H) Any other criteria that the board may require for completion  
10 of the managed audit.

11 (2) The taxpayer shall:

12 (A) Examine its books, records, and equipment to determine if  
13 it has any unreported tax liability for the audit period.

14 (B) Make available to the board for verification all computations,  
15 books, records, and equipment examined pursuant to subparagraph  
16 (A).

17 (b) The information provided by the taxpayer pursuant to  
18 paragraph (2) of subdivision (a) is the same information that is  
19 required for the completion of any other audit that the board may  
20 conduct.

21 *SEC. 6. Section 7076.3 of the Revenue and Taxation Code is*  
22 *amended and renumbered to read:*

23 ~~7076.3.~~

24 7079.3. Nothing in this article limits the board's authority to  
25 examine the books, papers, records, and equipment of a taxpayer  
26 under Section 7054.

27 *SEC. 7. Section 7076.4 of the Revenue and Taxation Code is*  
28 *amended and renumbered to read:*

29 ~~7076.4.~~

30 7079.4. Upon completion of the managed audit and verification  
31 by the board, interest on any unpaid liability shall be computed at  
32 one-half the rate that would otherwise be imposed for liabilities  
33 covered by the audit period. Payment of the liabilities and interest  
34 shall be made within the time period specified by the board. If the  
35 requirements for the managed audit are not satisfied, the board  
36 may proceed to examine the records of the taxpayer in a manner  
37 to be determined by the board under law.

38 *SEC. 8. Section 7077 of the Revenue and Taxation Code is*  
39 *amended and renumbered to read:*

1     ~~7077.~~

2     7076.3. The board shall adequately publicize the tax penalty  
3 amnesty program so as to maximize public awareness of the  
4 participation in the program. The board shall coordinate to the  
5 highest degree possible its publicity efforts and other actions taken  
6 in implementing this article with similar programs administered  
7 by the Franchise Tax Board.

8     *SEC. 9. Section 7078 of the Revenue and Taxation Code is*  
9 *amended and renumbered to read:*

10    ~~7078.~~

11    7076.5. Subdivision (b) of Section 19736, to the extent feasible  
12 and practical, shall also apply to the board.

13    *SEC. 10. Article 2.1 (commencing with Section 7077) is added*  
14 *to Chapter 8 of Part 1 of Division 2 of the Revenue and Taxation*  
15 *Code, to read:*

16

17                 *Article 2.1. Medical Cannabis Tax Amnesty*

18

19    7077. The board shall develop and administer a tax penalty  
20 amnesty program for qualified taxpayers.

21    7077.05. For the purposes of this article, the following terms  
22 have the following meanings:

23    (a) "Amnesty period" means the period during which the tax  
24 penalty amnesty program is conducted, as described in Section  
25 7077.1.

26    (b) "Medical cannabis-related business" means a person that  
27 engages in the sale of cannabis for medical purposes to qualified  
28 patients or the primary caregivers of qualified patients pursuant  
29 to the Compassionate Use Act of 1996 (Section 11362.5 of the  
30 Health and Safety Code) or Article 2.5 (commencing with Section  
31 11362.7) of Chapter 6 of Division 10 of the Health and Safety  
32 Code, commonly referred to as the Medical Marijuana Program.

33    (c) "Qualified taxpayer" means a seller that is a medical  
34 cannabis-related business.

35    7077.1. The tax penalty amnesty program shall be conducted  
36 for a six-month period beginning April 1, 2016, through September  
37 30, 2016, inclusive, or during a timeframe ending no later than  
38 December 1, 2016. The program shall apply to tax liabilities due  
39 and payable for tax reporting periods beginning before January  
40 1, 2014.

1     7077.2. (a) For any qualified taxpayer that meets the  
2 requirements of Section 7077.3, all of the following shall apply:

3     (1) The board shall waive all penalties imposed by this part,  
4 for the tax reporting periods for which tax penalty amnesty is  
5 requested, that are owed as a result of the nonreporting or  
6 underreporting of tax liabilities.

7     (2) No criminal action shall be brought against the qualified  
8 taxpayer, for the tax reporting periods for which tax penalty  
9 amnesty is requested, based on the nonreporting or underreporting  
10 of tax liabilities.

11     (3) Paragraphs (1) and (2) do not apply to the nonpayment of  
12 any taxes for which a notice of determination has previously been  
13 issued.

14     (b) This section does not apply to violations of this part for  
15 which, as of the first day of the amnesty period, either of the  
16 following applies:

17     (1) The qualified taxpayer is on notice of a criminal investigation  
18 by a complaint having been filed against the qualified taxpayer or  
19 by written notice having been mailed to the qualified taxpayer that  
20 the qualified taxpayer is under criminal investigation.

21     (2) A court proceeding has already been initiated.

22     (c) No refund or credit shall be granted of any penalty paid  
23 prior to the time the qualified taxpayer makes a request for tax  
24 penalty amnesty pursuant to Section 7077.3.

25     7077.3. (a) This article applies to any qualified taxpayer that  
26 during the amnesty period files an application for tax penalty  
27 amnesty and, within 60 days after the conclusion of the amnesty  
28 period, does all of the following:

29     (1) Files completed tax returns reporting the nonreported or  
30 underreported tax liabilities for all tax reporting periods for which  
31 amnesty is being applied.

32     (2) Pays in full the taxes and interest due for each period for  
33 which amnesty is requested, or applies for an installment  
34 agreement under subdivision (b).

35     (b) The board may enter into an installment payment agreement  
36 pursuant to paragraph (2) of subdivision (a), which shall include  
37 interest on the outstanding amount due at the rate prescribed by  
38 law. Failure by the qualified taxpayer to fully comply with the  
39 terms of the agreement renders the waiver of penalties null and  
40 void, unless the board determines that the failure was due to

1 reasonable causes, and the total amount of tax, interest, and all  
2 penalties shall be immediately due and payable.

3 (c) If, subsequent to the amnesty period, the board issues a  
4 notice of determination upon a return filed pursuant to subdivision  
5 (a), the board may impose penalties, and criminal action may be  
6 brought under this part only with respect to the difference between  
7 the amount shown on that return and the correct amount of tax.  
8 This action shall not invalidate any waivers granted under Section  
9 7077.2.

10 (d) The application required under subdivision (a) shall be in  
11 the form and manner specified by the board, but in no case shall  
12 a mere payment of any taxes and interest due, in whole or in part,  
13 for any period otherwise eligible for amnesty under this part, be  
14 deemed to constitute an acceptable amnesty application under this  
15 part. For purposes of the preceding sentence, the application of  
16 a refund from one period to offset a tax liability for another period  
17 otherwise eligible for amnesty shall not be allowed without the  
18 filing of an amnesty application under this part.

19 7077.4. (a) (1) Notwithstanding any other law, a licensing  
20 authority shall revoke or refuse to issue, reinstate, or renew a state  
21 or local license of a qualified taxpayer that is eligible to participate  
22 in the tax penalty amnesty program under this article but does not  
23 participate in the amnesty program, and that does any of the  
24 following:

25 (A) Fails to register with the board.

26 (B) Has a seller's permit revoked pursuant to Section 7077.6.

27 (C) Reports a gross understatement of tax.

28 (2) Revocation or refusal to issue, reinstate, or renew a state  
29 or local license pursuant to paragraph (1) shall not be effective  
30 unless the licensing agency, at least 60 days before the date of  
31 revocation or refusal, mails a notice to the qualified taxpayer that  
32 indicates that the license will be refused or revoked by that date.

33 (b) For purposes of this section, the following terms have the  
34 following meanings:

35 (1) "Gross understatement of tax" is a deficiency that is in  
36 excess of 25 percent of the amount of tax reported on a qualified  
37 taxpayer's return filed pursuant to Article 1 (commencing with  
38 Section 6451) of Chapter 5.

39 (2) "State or local license" includes a license issued for any  
40 activity of a cannabis-related business or a driver's license issued

1 pursuant to Division 6 (commencing with Section 12500) of the  
2 Vehicle Code.

3 7077.6. The board shall refuse to issue a permit to any person  
4 or shall revoke a seller's permit issued under this part for any  
5 person that is both of the following:

6 (a) Eligible to participate in the tax penalty amnesty program  
7 under this article but does not participate in the amnesty program.

8 (b) Engaged in retail sales of medical cannabis in this state that  
9 would have been eligible to participate in the tax penalty amnesty  
10 program as a medical cannabis-related business.

11 7077.7. The board shall issue forms and instructions and take  
12 other actions needed to implement this article.

13 7077.8. The board shall adequately publicize the tax penalty  
14 amnesty program for medical cannabis-related businesses so as  
15 to maximize public awareness of, and participation in, the program.  
16 The board shall coordinate to the highest degree possible its  
17 publicity efforts and other actions taken in implementing this article  
18 with similar programs administered by the Franchise Tax Board  
19 and the Employment Development Department.

20 SEC. 11. Chapter 9.2 (commencing with Section 19740) is  
21 added to Part 10.2 of Division 2 of the Revenue and Taxation  
22 Code, to read:

23  
24 CHAPTER 9.2. MEDICAL CANNABIS TAX AMNESTY  
25

26 19740. The Franchise Tax Board shall develop and administer  
27 a tax penalty amnesty program for qualified taxpayers.

28 19740.5. For the purposes of this chapter, the following terms  
29 have the following meanings:

30 (a) "Amnesty period" means the period during which the tax  
31 penalty amnesty program is conducted, as described in Section  
32 19741.

33 (b) "Medical cannabis-related business" means a person that  
34 engages in the sale of cannabis for medical purposes to qualified  
35 patients or the primary caregivers of qualified patients pursuant  
36 to the Compassionate Use Act of 1996 (Section 11362.5 of the  
37 Health and Safety Code) or Article 2.5 (commencing with Section  
38 11362.7) of Chapter 6 of Division 10 of the Health and Safety  
39 Code, commonly referred to as the Medical Marijuana Program.

1 (c) “Qualified taxpayer” means a taxpayer with unreported  
2 income from a medical cannabis-related business subject to Part  
3 10 (commencing with Section 17001) or Part 11 (commencing  
4 with Section 23001).

5 19741. The tax penalty amnesty program shall be conducted  
6 during a six-month period beginning April 1, 2016, through  
7 September 30, 2016, inclusive, or during a timeframe ending no  
8 later than December 31, 2016. The program shall apply to tax  
9 liabilities for taxable years beginning before January 1, 2014.

10 19742. (a) For any qualified taxpayer that meets all of the  
11 requirements of Section 19743, both of the following apply:

12 (1) The Franchise Tax Board shall waive all unpaid penalties  
13 and fees imposed by this part for each taxable year for which tax  
14 penalty amnesty is allowed, but only to the extent of the amount  
15 of any penalty or fee that is owed as a result of previous  
16 nonreporting or underreporting of tax liabilities or nonpayment  
17 of any taxes previously assessed.

18 (2) No criminal action shall be brought against the qualified  
19 taxpayer for each taxable year for which tax penalty amnesty is  
20 allowed for the nonreporting or underreporting of tax liabilities  
21 or the nonpayment of any taxes previously assessed or proposed  
22 to be assessed.

23 (b) This chapter does not apply to violations of this part for  
24 which, as of the first day of the amnesty period, either of the  
25 following applies:

26 (1) The qualified taxpayer is on notice of a criminal investigation  
27 by a complaint having been filed against the qualified taxpayer or  
28 by written notice having been mailed to the qualified taxpayer that  
29 the qualified taxpayer is under criminal investigation.

30 (2) A court proceeding has already been initiated.

31 (c) No refund or credit shall be granted with respect to any  
32 penalty or fee paid with respect to a taxable year prior to the time  
33 the qualified taxpayer makes a request for tax penalty amnesty  
34 pursuant to Section 19743.

35 (d) Notwithstanding Chapter 6 (commencing with Section  
36 19301), a qualified taxpayer shall not file a claim for refund or  
37 credit for any amounts paid in connection with the tax penalty  
38 amnesty program under this chapter.

39 19743. (a) This chapter applies to any qualified taxpayer that  
40 during the amnesty period files an application for tax penalty

1 *amnesty and, within 60 days after the conclusion of the amnesty*  
2 *period, does all of the following:*

3 *(1) Files completed tax returns for all years for which the*  
4 *qualified taxpayer has not previously filed a tax return and files*  
5 *completed amended returns for all years for which the qualified*  
6 *taxpayer underreported the qualified taxpayer's income.*

7 *(2) Pays in full any taxes and interest due for each taxable year*  
8 *described in paragraph (1), as applicable, for which amnesty is*  
9 *requested, or applies for an installment payment agreement under*  
10 *subdivision (b). For qualified taxpayers that have not paid in full*  
11 *any taxes previously proposed to be assessed, pays in full the taxes*  
12 *and interest due for that portion of the proposed assessment for*  
13 *each taxable year for which amnesty is requested or applies for*  
14 *an installment payment agreement under subdivision (b).*

15 *(b) (1) For purposes of complying with the full payment*  
16 *provisions of paragraph (2) of subdivision (a), the Franchise Tax*  
17 *Board may enter into an installment payment agreement, which*  
18 *shall include interest on the outstanding amount due at the rate*  
19 *prescribed in Section 19521.*

20 *(2) Failure by the qualified taxpayer to fully comply with the*  
21 *terms of an installment payment agreement under this subdivision*  
22 *shall render the waiver of penalties and fees under Section 19742*  
23 *null and void, unless the Franchise Tax Board determines that the*  
24 *failure was due to reasonable cause and not due to willful neglect.*

25 *(3) In the case of any failure described under paragraph (2),*  
26 *the total amount of tax, interest, fees, and all penalties shall become*  
27 *immediately due and payable.*

28 *(c) The application required under subdivision (a) shall be in*  
29 *the form and manner specified by the Franchise Tax Board, but*  
30 *in no case shall a mere payment of any taxes and interest due, in*  
31 *whole or in part, for any taxable year otherwise eligible for*  
32 *amnesty under this part, be deemed to constitute an acceptable*  
33 *amnesty application under this part. For purposes of the prior*  
34 *sentence, the application of a refund from one taxable year to*  
35 *offset a tax liability from another taxable year otherwise eligible*  
36 *for amnesty shall not, without the filing of an amnesty application,*  
37 *be deemed to constitute an acceptable amnesty application under*  
38 *this part.*

39 *(d) The Legislature specifically intends that the Franchise Tax*  
40 *Board, in administering the amnesty application requirement under*

1 *this part, make the amnesty application process as streamlined as*  
2 *possible to ensure participation in the amnesty program will be*  
3 *available to as many qualified taxpayers as possible without*  
4 *otherwise compromising the Franchise Tax Board's ability to*  
5 *enforce and collect the taxes imposed under Part 10 (commencing*  
6 *with Section 17001) and Part 11 (commencing with Section 23001).*

7 *(e) Upon the conclusion of the amnesty period, the Franchise*  
8 *Tax Board may propose a deficiency upon any return filed pursuant*  
9 *to subdivision (a), impose penalties and fees, or initiate criminal*  
10 *action under this part with respect to the difference between the*  
11 *amount shown on that return and the correct amount of tax. This*  
12 *action shall not invalidate any waivers previously granted under*  
13 *Section 19742.*

14 *(f) All revenues derived pursuant to subdivision (c) shall be*  
15 *subject to Sections 19602 and 19604.*

16 *19744. (a) (1) Notwithstanding any other law, a licensing*  
17 *authority shall revoke or refuse to issue, reinstate, or renew a state*  
18 *or local license of a qualified taxpayer that is eligible to participate*  
19 *in the tax penalty amnesty program under this chapter but does*  
20 *not participate in the amnesty program, and that does either of*  
21 *the following:*

22 *(A) Fails to file returns with the Franchise Tax Board.*

23 *(B) Reports a gross understatement of tax.*

24 *(2) Revocation or refusal to issue, reinstate, or renew a state*  
25 *or local license pursuant to paragraph (1) shall not be effective*  
26 *unless the licensing agency, at least 60 days before the date of*  
27 *revocation or refusal, mails a notice to the qualified taxpayer that*  
28 *indicates that the license will be refused or revoked by that date.*

29 *(b) For purposes of this section, the following terms have the*  
30 *following meanings:*

31 *(1) "Gross understatement of tax" is a deficiency that is in*  
32 *excess of 25 percent of the amount of tax reported on a qualified*  
33 *taxpayer's return filed pursuant to Section 18633 or 18633.5,*  
34 *Article 1 (commencing with Section 18501) or Article 2*  
35 *(commencing with Section 18601) of Chapter 2, or Article 3*  
36 *(commencing with Section 23771) of Chapter 4 of Part 11.*

37 *(2) "State or local license" includes a license issued for any*  
38 *activity of a cannabis-related business or a driver's license issued*  
39 *pursuant to Division 6 (commencing with Section 12500) of the*  
40 *Vehicle Code.*

1 19746. (a) *The Franchise Tax Board may issue forms,*  
2 *instructions, notices, rules, or guidelines, and take any other*  
3 *necessary actions needed to implement this chapter, specifically*  
4 *including any forms, instructions, notices, rules, or guidelines that*  
5 *specify the form and manner of any acceptable form of amnesty*  
6 *application described in Section 19743.*

7 (b) *Chapter 3.5 (commencing with Section 11340) of Part 1 of*  
8 *Division 3 of Title 2 of the Government Code does not apply to*  
9 *any standard, criterion, procedure, determination, rule, notice, or*  
10 *guideline established or issued by the Franchise Tax Board*  
11 *pursuant to this chapter.*

12 19747. (a) *The Franchise Tax Board shall conduct a public*  
13 *outreach program and adequately publicize the tax penalty amnesty*  
14 *program for qualified taxpayers with income from medical*  
15 *cannabis-related businesses so as to maximize public awareness*  
16 *and make qualified taxpayers aware of the program. The Franchise*  
17 *Tax Board shall coordinate to the highest degree possible its*  
18 *publicity efforts and other actions taken in implementing this*  
19 *chapter with similar programs administered by the State Board*  
20 *of Equalization and the Employment Development Department.*

21 SEC. 12. *Division 11 (commencing with Section 18740) is*  
22 *added to the Unemployment Insurance Code, to read:*

23  
24 **DIVISION 11. MEDICAL CANNABIS TAX AMNESTY**  
25

26 18740. *The department shall develop and administer a tax*  
27 *penalty amnesty program for qualified employers.*

28 18740.5. *For purposes of this division, the following terms*  
29 *have the following meanings:*

30 (a) *“Amnesty period” means the period during which the tax*  
31 *penalty amnesty program is conducted, as described in Section*  
32 *18741.*

33 (b) *“Department” means the Employment Development*  
34 *Department.*

35 (c) *“Employment taxes” or “taxes” means the unemployment*  
36 *insurance tax and employment training tax imposed under Part 1*  
37 *(commencing with Section 100) of Division 1, state disability*  
38 *insurance tax imposed under Part 2 (commencing with Section*  
39 *2601) of Division 1, and personal income tax withholding imposed*  
40 *under Division 6 (commencing with Section 13000).*

1 (d) “Medical cannabis-related business” means a person that  
2 engages in the sale of cannabis for medical purposes to qualified  
3 patients or the primary caregivers of qualified patients pursuant  
4 to the Compassionate Use Act of 1996 (Section 11362.5 of the  
5 Health and Safety Code) or Article 2.5 (commencing with Section  
6 11362.7) of Chapter 6 of Division 10 of the Health and Safety  
7 Code, commonly referred to as the Medical Marijuana Program.

8 (e) “Person” has the meaning set forth in Section 6005 of the  
9 Revenue and Taxation Code.

10 (f) “Qualified employer” means an employer or employing unit  
11 that is a medical cannabis-related business subject to Part 1  
12 (commencing with Section 100) of Division 1, Part 2 (commencing  
13 with Section 2601) of Division 1, or Division 6 (commencing with  
14 Section 13000).

15 18741. The tax penalty amnesty program shall be conducted  
16 for a six-month period beginning April 1, 2016, through September  
17 30, 2016, inclusive, or during a timeframe ending no later than  
18 December 31, 2016. The program shall apply only to amounts  
19 unpaid for the periods beginning before January 1, 2014.

20 18742. (a) For any qualified employer that meets the  
21 requirements of Section 18743, both of the following shall apply:

22 (1) The department shall waive all penalties imposed by this  
23 code, for the tax reporting periods for which tax penalty amnesty  
24 is requested, which are owed as a result of the nonpayment or  
25 underpayment of employment tax liabilities or failure to file  
26 reports.

27 (2) No criminal action shall be brought against the qualified  
28 employer, for the tax reporting periods for which tax penalty  
29 amnesty is requested, for the nonreporting or underreporting of  
30 tax liabilities.

31 (b) This section does not apply to violations of this code for  
32 which, as of the first day of the amnesty period, either of the  
33 following applies:

34 (1) The qualified employer is on notice of a criminal  
35 investigation by a complaint having been filed against the qualified  
36 employer or by written notice having been mailed to the qualified  
37 employer that the qualified employer is under criminal  
38 investigation.

39 (2) A court proceeding has already been initiated.

1     (c) No refund or credit shall be granted of any penalty paid  
2     prior to the time the qualified employer makes a request for tax  
3     penalty amnesty pursuant to Section 18743.

4     18743. (a) This division applies to any qualified employer that  
5     during the amnesty period files an application for tax penalty  
6     amnesty and, within 60 days after the conclusion of the amnesty  
7     period, does all of the following:

8     (1) Files quarterly contribution returns and reports reporting  
9     the nonreported or underreported wages and taxes for the calendar  
10    quarter that ended December 31, 2013, and prior calendar  
11    quarters, for which amnesty is being applied.

12    (2) Pays in full all amounts due for all periods for which amnesty  
13    is requested, or applies for an installment agreement under  
14    subdivision (b).

15    (b) The department may enter into an installment payment  
16    agreement pursuant to paragraph (2) of subdivision (a), which  
17    shall include interest on the outstanding amount due at the rate  
18    prescribed by law. Failure by the qualified employer to fully  
19    comply with the terms of the agreement renders the waiver of  
20    penalties null and void, unless the department determines that the  
21    failure was due to reasonable causes, and the total amount of tax,  
22    interest, and all penalties shall be immediately due and payable.

23    (c) If, subsequent to the amnesty period, the department issues  
24    a deficiency assessment upon a return filed pursuant to subdivision  
25    (a), the department may impose penalties and criminal action may  
26    be brought under this division only with respect to the difference  
27    between the amount shown on that return and the correct amount  
28    of tax. This action shall not invalidate any waivers granted under  
29    Section 18742.

30    (d) If the department issues a deficiency assessment under the  
31    conditions described in subdivision (c), the department may issue  
32    that deficiency assessment within 10 years from the last day of the  
33    calendar month following the quarterly period for which the  
34    amount is proposed to be assessed.

35    (e) The application required under subdivision (a) shall be in  
36    the form and manner specified by the department, but in no case  
37    shall a mere payment of any taxes and interest due, in whole or in  
38    part, for any period otherwise eligible for amnesty under this  
39    division, be deemed to constitute an acceptable amnesty application  
40    under this division. For purposes of the preceding sentence, the

1 application of a refund from one period to offset a tax liability for  
2 another period otherwise eligible for amnesty shall not be allowed  
3 without the filing of an amnesty application under this division.

4 18744. (a) (1) Notwithstanding any other law, a licensing  
5 authority shall revoke or refuse to issue, reinstate, or renew a state  
6 or local license of a qualified employer that is eligible to  
7 participate in the tax penalty amnesty program under this division  
8 but does not participate in the amnesty program, and that does  
9 either of the following:

10 (A) Fails to register with the department.

11 (B) Reports a gross understatement of tax.

12 (2) Revocation or refusal to issue, reinstate, or renew a state  
13 or local license pursuant to paragraph (1) shall not be effective  
14 unless the licensing agency, at least 60 days before the date of  
15 revocation or refusal, mails a notice to the qualified employer that  
16 indicates that the license will be refused or revoked by that date.

17 (b) For purposes of this section, the following terms have the  
18 following meanings:

19 (1) "Gross understatement of tax" is a deficiency that is in  
20 excess of 25 percent of the amount of tax reported on a qualified  
21 employer's return filed pursuant to this code.

22 (2) "State or local license" includes a license issued for any  
23 activity of a cannabis-related business or a driver's license issued  
24 pursuant to Division 6 (commencing with Section 12500) of the  
25 Vehicle Code.

26 18746. The department shall issue forms and instructions and  
27 take other actions needed to implement this division.

28 18747. The department shall adequately publicize the tax  
29 penalty amnesty program for medical cannabis-related businesses  
30 so as to maximize public awareness of, and participation in, the  
31 program. The department shall coordinate to the highest degree  
32 possible its publicity efforts and other actions taken in  
33 implementing this division with similar programs administered by  
34 the State Board of Equalization and the Franchise Tax Board.

35 SEC. 13. The Legislature finds and declares that Sections 10,  
36 11, and 12 of this act, establishing cannabis-related business tax  
37 penalty programs by adding Article 2.1 (commencing with Section  
38 7077) to Chapter 8 of Part 1 of Division 2 of, and Chapter 9.2  
39 (commencing with Section 19740) to Part 10.2 of Division 2 of,  
40 the Revenue and Taxation Code, and adding Division 11

1 *(commencing with Section 18740) to the Unemployment Insurance*  
2 *Code serve a general public purpose by incentivizing a specific*  
3 *type of business to become current with its tax obligations, and*  
4 *therefore do not constitute gifts of public funds within the meaning*  
5 *of Section 6 of Article XVI of the California Constitution.*

6 *SEC. 14. If the Commission on State Mandates determines that*  
7 *this act contains costs mandated by the state, reimbursement to*  
8 *local agencies and school districts for those costs shall be made*  
9 *pursuant to Part 7 (commencing with Section 17500) of Division*  
10 *4 of Title 2 of the Government Code.*

11 ~~SECTION 1. The Legislature finds and declares all of the~~  
12 ~~following:~~

13 ~~(a) Transparency in assessed value information is critical to the~~  
14 ~~integrity of the property tax system. The public should have~~  
15 ~~sufficient information to provide assurance that property tax laws~~  
16 ~~are equitably applied and that the property tax burden is fairly~~  
17 ~~distributed. To this end, existing law requires the assessment roll,~~  
18 ~~which lists the assessed value for every property, to be open to~~  
19 ~~public inspection. Existing law further requires a quarterly list of~~  
20 ~~all recorded property transfers occurring in the prior two years to~~  
21 ~~be open to public inspection in each county.~~

22 ~~(b) The right to privacy is a personal and fundamental right~~  
23 ~~protected by Section 1 of Article I of the California Constitution~~  
24 ~~and by the 14th Amendment to the United States Constitution. All~~  
25 ~~individuals have a right to privacy in information pertaining to~~  
26 ~~them. It is the Legislature's intent that detailed information~~  
27 ~~requested by the county assessor or the Board of Equalization and~~  
28 ~~furnished in the change in ownership statement shall continue to~~  
29 ~~be held in secret by the assessor and the Board. However, the~~  
30 ~~Legislature does not intend for the board or the assessor to hold~~  
31 ~~secret the fact that (1) an individual or legal entity has filed a~~  
32 ~~change in ownership statement with the board pursuant to Section~~  
33 ~~480.1 with respect to a change in control as defined in subdivision~~  
34 ~~(e) of Section 64, or pursuant to Section 480.2 with respect to a~~  
35 ~~change in ownership as defined in subdivision (d) of Section 64~~  
36 ~~or that (2) the board has issued a determination to the assessor~~  
37 ~~relating to the statement filed with the board that a change in~~  
38 ~~control or change in ownership has occurred. These facts should~~  
39 ~~not be considered to be confidential information furnished in the~~

1 change in ownership statement and should not required to be held  
2 secret by the assessor and the board.

3 (e) ~~The public interest is not served by holding secret factual~~  
4 ~~information concerning legal entity changes in ownership that~~  
5 ~~become public when assessment roll updates reflect assessed value~~  
6 ~~changes. Furthermore, the public interest is not served when~~  
7 ~~available information concerning legal entity changes in ownership~~  
8 ~~is not made public, similar to other transfers in property interests;~~  
9 ~~merely because the transaction did not require the recordation of~~  
10 ~~any documents.~~

11 (d) ~~This act balances the taxing authority's responsibility to~~  
12 ~~safeguard confidential taxpayer information with the public's right~~  
13 ~~to timely information.~~

14 (e) ~~That local county assessors require the state's assistance to~~  
15 ~~administer current change in ownership law as it relates to the~~  
16 ~~transfers of ownership interests in legal entities. The law requires~~  
17 ~~the Franchise Tax to include a question on state income tax returns~~  
18 ~~to assist the State Board of Equalization and the county assessor~~  
19 ~~in the determination of when legal entity owned property undergoes~~  
20 ~~a change of ownership for property tax purposes. The Franchise~~  
21 ~~Tax Board collects these responses for the purpose of transmitting~~  
22 ~~the information to the State Board of Equalization. The use of the~~  
23 ~~state income tax return is a practical and cost effective method to~~  
24 ~~annually communicate with legal entities operating in this state.~~  
25 ~~In some instances, a legal entity change in ownership statement~~  
26 ~~filed with the State Board of Equalization will have been prompted~~  
27 ~~by the legal entity's response to this question.~~

28 (f) ~~That the disclosure by the State Board of Equalization or~~  
29 ~~assessor that a statement has been filed with the State Board of~~  
30 ~~Equalization in the case where the filing was prompted by a legal~~  
31 ~~entity's response to the property tax query on a state income tax~~  
32 ~~return should not be deemed to violate the confidentiality of~~  
33 ~~taxpayer return information. The provisions of this act allowing~~  
34 ~~the disclosure of limited facts serves a public policy that overrides~~  
35 ~~the confidentiality of return information collected by the Franchise~~  
36 ~~Tax Board.~~

37 ~~SEC. 2. Section 481 of the Revenue and Taxation Code is~~  
38 ~~amended to read:~~

39 481. (a) ~~All information requested by the assessor or the board~~  
40 ~~pursuant to this article or furnished in the change in ownership~~

1 ~~statement shall be held secret by the assessor and the board. All~~  
2 ~~information furnished in either the preliminary change in ownership~~  
3 ~~statement or the change in ownership statement shall be held secret~~  
4 ~~by those authorized by law to receive or have access to this~~  
5 ~~information. These statements are not public documents and are~~  
6 ~~not open to inspection, except as provided in Section 408.~~

7 ~~(b) (1) Information requested or furnished in a change in~~  
8 ~~ownership statement for a change in control or a change in~~  
9 ~~ownership as defined in subdivision (c) or (d) of Section 64 does~~  
10 ~~not include the fact that a change in ownership statement has been~~  
11 ~~filed with the board or that the board has issued a determination~~  
12 ~~to the assessor relating to a change in ownership statement filed~~  
13 ~~with the board. The board and the assessor are not required to hold~~  
14 ~~these facts secret.~~

15 ~~(2) Notwithstanding any other law, the disclosure by the board~~  
16 ~~or assessor that a change in ownership statement has been filed in~~  
17 ~~the case where the filing was prompted by information collected~~  
18 ~~by the Franchise Tax Board from the property tax query on the~~  
19 ~~taxpayer's state income tax return as required by Section 64 shall~~  
20 ~~not be deemed to violate the confidentiality of taxpayer return~~  
21 ~~information.~~