STATE OF NEW YORK

4619

2023-2024 Regular Sessions

IN ASSEMBLY

February 17, 2023

Introduced by M. of A. PEOPLES-STOKES, LUPARDO, WOERNER -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to the imposition of taxes, registration and records of the sale of cannabis; and to repeal certain provisions of such law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (k) of section 492 of the tax law is REPEALED.

§ 2. Section 493 of the tax law, as added by chapter 92 of the laws of 2021, is amended to read as follows:

§ 493. Imposition of tax. (a) [~~There is hereby imposed a tax on adult-use cannabis products sold by a distributor to a person who sells adult-use cannabis products at retail at the following rates:~~

~~(1) cannabis flower at the rate of five-tenths of one cent per milligram of the amount of total THC, as reflected on the product label;~~

~~(2) concentrated cannabis at the rate of eight-tenths of one cent per milligram of the amount of total THC, as reflected on the product label; and~~

~~(3) cannabis edible product at the rate of three cents per milligram of the amount of total THC, as reflected on the product label. This tax shall accrue at the time of such sale or transfer. Where a person who distributes adult-use cannabis is licensed under the cannabis law as a microbusiness or registered organization, such person shall be liable for the tax, and such tax shall accrue at the time of the retail sale.~~

~~(b)~~] In addition to any other tax imposed by this chapter or other law, there is hereby imposed a tax of [~~nine~~] **sixteen** percent of the amount charged for the sale or transfer of adult-use cannabis products to a retail customer by a person who sells adult-use cannabis products at retail. This tax is imposed on the person who sells adult-use cannabis at retail and shall accrue at the time of such sale or transfer.

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets [-] is old law to be omitted.

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[~~(c)~~] **(b)** In addition to the taxes imposed by [~~subdivisions~~] **subdivision** (a) [~~and (b)~~] of this section, there is hereby imposed a tax on the sale or transfer of adult-use cannabis products to a retail customer by a person who sells adult-use cannabis products at retail at the rate of four percent of the amount charged by such person for such adult-use cannabis product, which tax shall accrue at the time of such sale or transfer. The tax imposed by this subdivision is imposed on a person who sells adult-use cannabis products at retail, and shall be paid to the commissioner in trust for and on account of a city having a population of a million or more, and counties (other than counties wholly within such a city), towns, villages, and cities with a population of less than a million in which a retail dispensary is located.

[~~(d)~~] **(c)** The taxes imposed by this section shall not apply to sales of adult-use cannabis to a person holding a cannabis research license under section thirty-nine of the cannabis law.

§ 3. Paragraph (i) of subdivision (a) of section 494 of the tax law, as added by chapter 92 of the laws of 2021, is amended to read as follows:

(i) Every [~~distributor on whom tax is imposed under this article and every~~] person who sells adult-use cannabis products at retail must file with the commissioner a properly completed application for a certificate of registration before engaging in business. An application for a certificate of registration must be submitted electronically, on a form prescribed by the commissioner, and must be accompanied by a non-refundable application fee of six hundred dollars. A certificate of registration shall not be assignable or transferable and shall be destroyed immediately upon such person ceasing to do business as specified in such certificate, or in the event that such business never commenced.

§ 4. Section 496 of the tax law, as added by chapter 92 of the laws of 2021, is amended to read as follows:

§ 496. Records to be kept; penalties. (a) Records to be kept. Every [~~distributor on whom tax is imposed under this article and every~~] person who sells adult-use cannabis products at retail shall maintain complete and accurate records in such form as the commissioner may require including, but not limited to, [~~such items as the total THC content of the adult-use cannabis products sold to or produced by such person;~~] complete records of every retail sale of adult-use cannabis, and any other record or information required by the commissioner. Such records must be preserved for a period of three years after the filing of the return to which such records relate and must be provided to the commissioner upon request.

(b) Penalties. In addition to any other penalty provided in this article or otherwise imposed by law, [~~every distributor on whom tax is imposed under this article and~~] every person who sells adult-use cannabis products at retail who fails to maintain or make available to the commissioner the records required by this section is subject to a penalty not to exceed five hundred dollars for each month or part thereof for which the failure occurs. This penalty may not be imposed more than once for failures for the same monthly period or part thereof. If the commissioner determines that a failure to maintain or make available records in any month was entirely due to reasonable cause and not to willful neglect, the commissioner must remit the penalty for that month.

§ 5. This act shall take effect immediately.