PCC
Pennsylvania Cannabis Coalition

Please Support 280E Reform

A simple, technical change to Pennsylvania's tax code can fix a key disconnect between the Commonwealth and Federal tax law that will benefit the more than 430,000 Pennsylvania patients and the licensed medical marijuana operators who support more than 30,000 jobs in the Commonwealth. The below language, which currently is part of HB 1219 makes this change by allowing licensed operators a CNIT tax deduction equal to the amount of ordinary and necessary expenses paid or incurred during the tax year by the organization which are deductible for all other businesses.

Background

Section 280E of the Internal Revenue Code is an outdated tax policy hobbling the Commonwealth's medical marijuana industry by disallowing the deduction of ordinary business expenses from the calculation of taxable income. An artifact from the 1980s, Section 280E was designed to keep illegal drug dealers and traffickers from taking tax deductions on their illegal businesses. The 280E tax penalty was not intended for state-sanctioned and licensed marijuana operators. Acknowledging this, at least 20 states have passed laws to address this disconnect.

Section 280E puts Pennsylvania's Medical Marijuana Operators at a disadvantage

Business deductions prohibited by Section 280E keep Pennsylvania's medical marijuana operators from deducting ordinary business expenses - such as payroll and rent - from gross income. **Due to this, licensed operators pay an effective tax rate in excess of 70 percent.** The chart to the right illustrates the difference in tax liability for operators in the Commonwealth, as compared to similarly situated businesses.

	Licensed Cannabis Business	Non-Cannabis Business
Gross Revenue	$1,000,000	$1,000,000
Cost of Goods Sold	$650,000	$650,000
Gross Income	$350,000	$350,000
Deductible Business Expenses	NONE	$200,000
Taxable Income	$350,000	$150,000
Tax Due (30% Rate)	$105,000	$45,000
Effective Tax Rate	70%	30%

Exempting state-legal cannabis businesses will not result in significant loss revenue for the state

In fact, a representative from the Pennsylvania Department of Revenue testified at a Senate Banking & Insurance Committee hearing on March 30, 2022, that "[t]he allowance of a CNIT deduction for business expenses within the medical cannabis industry will result in a small unknown revenue loss. PIT [Personal Income Tax] deductions are already allowed and accounted for within the revenue forecast."

Access to business deductions will reduce the cost of patient medicine and reduce the illicit market

Fixing the impact of Section 280E at the state level will increase affordability for the more than 430,000 patients enrolled in the Pennsylvania Medical Marijuana Program. By allowing regular and ordinary business deductions the legal cannabis industry won't struggle to compete with the often lower-cost illicit market products that puts patients in danger through the consumption of untested, non-regulated products. By eliminating Section 280E, the state will be prioritizing patient health.

The reduction of cost of medicine also results in patients leaving the illicit market to participate in the medical market where they can consume safe, regulated products under the care of a physician instead of purchasing potentially dangerous marijuana from the cartel-controlled illegal market.

Please support 280E Reform

On behalf of Pennsylvania's Medical Marijuana Operators and the patients we serve, the Pennsylvania Cannabis Coalition is requesting your support for 280E Reform.