

January 22, 2020

The Honorable Guy Guzzone
Budget and Taxation Committee
3 West Miller Senate Office Building
Annapolis, MD. 21401

Re: SB 146-Income Tax - Subtraction Modification - Expenses of Medical Cannabis Grower, Processor, Dispensary, or Independent Testing Laboratory

FAVORABLE

Dear Chairman Guzzone,

This letter is written on behalf of Mary and Main Dispensary (Mary & Main) regarding Senate Bill 146. Mary & Main is located in Prince George's county, is 100% African American, Women, Disabled Veteran owned. Mary & Main's mission is to provide safe and premium quality products with exemplary and compassionate services to all medical patients who are suffering from a number of chronic debilitating illness. Mary & Main supports SB146 and request a favorable report.

Section 280E

Section 280E of the Internal Revenue Code (IRC) states "*No deduction or credit shall be allowed for any amount paid or incurred during the taxable year in carrying on any trade or business if such trade or business (or the activities which comprise such trade or business) consists of trafficking in controlled substances (within the meaning of schedule I or II of the Controlled Substances Act) which is prohibited by Federal law or the law of any State in which such trade or business is conducted.*"

More plainly, Section 280E denies businesses affiliated with Schedule I or II controlled substances the right to deduct business expenses. U.S. Congress enacted the law in the 1980s following a court case which disallowed a convicted cocaine trafficker from claiming deductions from ordinary business expenses under federal tax law. While the law intends to target illegal drug dealers, it simultaneously generates considerable problems for cannabis companies legally operating in their respective states because cannabis is a Schedule I substance.

What is a Schedule I Controlled Substance?

The DEA defines Schedule I drugs, substances or chemicals as those drugs with “no currently accepted medical use and a high potential for abuse.” Examples of Schedule I drugs include:

Heroin
LSD
Marijuana
Ecstasy
Methaqualone
Peyote

Financial Burden for legitimate cannabis business.

The ability to deduct ordinary business expenses provides significant tax savings. However, the definition of Section 280E and the classification of cannabis as a Schedule I substance severely hinder legal cannabis companies in Maryland from taking advantage of those tax savings. In fact, businesses within the cannabis industry are left with [tax liabilities of up to 70%](#) of their income. This amounts to a major financial burden for legitimate cannabis businesses operating in Maryland.

The State of California’s Response to Section 280E

In October 2019, California Governor Gavin Newsom [signed several marijuana-related bills](#) into law. Among the [new legislation is AB 37](#), which permits the state to depart from the IRS policy regarding IRC Section 280E. Therefore, under the new bill, the state tax code now allows licensed state cannabis companies to claim deductions like any other business.

SB146

SB146 seeks to create a subtraction modification against the State individual and corporate income tax for the amount of ordinary and necessary expenses, including a reasonable allowance for salaries or compensation, paid or incurred during the taxable year in carrying on a trade or business as a State licensed Medical Cannabis Grower, Processor, Dispensary, or Independent Testing Laboratory if the deduction for ordinary and necessary expenses is disallowed under Section 280E of the Internal Revenue Code (IRC).

For these reasons Mary & Main request, a **favorable** report on Senate Bill 146.

Respectfully yours,


Bryan G. Alston, M.H.S.

Cc: Budget and Taxation Committee Members