

January 21, 2021

Honorable Anne Kaiser, Chair
Ways and Means Committee
131 House Office Building
Annapolis, MD. 21401

Re: HB 217-Income Tax - Subtraction Modification - Expenses of Medical Cannabis Grower, Processor, Dispensary, or Independent Testing Laboratory

FAVORABLE

Madam Chair Kaiser,

This letter is written on behalf of Mary and Main Dispensary (Mary & Main) regarding House Bill 217. 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 several chronic debilitating illness. Mary & Main supports HB217 and request a favorable report.

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.

As a small business, the savings actualized with the passage of HB217, will allow us and other dispensaries, to grow, reinvest in our businesses and local communities, and put many Marylanders to work. Dispensaries are deemed essential under the Governor's Executive order. We had to make additional investments to protect our employees and our customers during this pandemic. Sadly, due to our type of business, we were not eligible to take advantage of various programs like the Paycheck Protection Program (PPP), or other Coronavirus (COVID-19) loans or resources afforded to other small businesses in Maryland.

In addition, current banking regulations presents an additional financial burden to dispensaries, as we have to pay higher transactions fees, enlist armored car services, and pay higher interest fees rates associated with constructions loans, just to name a few. The ability to write off certain expenses like other business on our state income tax would be a tremendous help.

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 includes Heroin, LSD, Marijuana, Ecstasy, Methaqualone, and Peyote.

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.

HB217

HB217 seeks to create a needed 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 House Bill 217.

Respectfully yours,


Bryan G. Alston, M.H.S.

Cc: Ways and Means Committee Members

