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To: Ways and Means and Health and Government Operations – State of Maryland
From: Michael O’Heir, CPA
Re: House Bill 217 – Income Tax – Subtraction Modification – Expenses of Medical Cannabis Grower, Processor, Dispensary, or Independent Testing Laboratory

Delegate Wilkins:

The approval of House Bill 217 would allow Maryland cannabis businesses a subtraction modification for expenses paid or incurred in carrying on as an approved medical cannabis business. This necessary measure would level the playing field for cannabis businesses and enable the deduction of ordinary and necessary expenses in-line with other legal companies within the State of Maryland.

The federal government established section 280E in 1982 to disallow deductions or credits for amounts paid or incurred if such trade or business consists of trafficking in a controlled substance (under schedule I or II of the Controlled Substances Act). Medical cannabis is legal in the State of Maryland. Therefore, it is contradictory to disallow deductions at the state level for companies following the State’s laws and guidelines.

Numerous states (i.e., California, Colorado, Hawaii, and Oregon) decoupled from the federal government regarding 280E. By choosing to decouple from the archaic statute, it shows a forward-thinking mindset. The intention behind 280E does not represent the current operating environment. It sends a powerful message to citizens, patients, and business owners that outdated regulations have been amended for the 21st-century landscape.

Finally, the federal provisions of 280E severely hamper the cash flow and tax burden of these companies. Instead of using net operating income to invest, grow, and develop the business, these companies save 2x to 3x cash flow for tax liabilities. The higher tax liabilities stifles growth, reinvestment and severely limits operational abilities.

To further promote the growth and reinvestment within the State, we are hopeful the State enacts House Bill 217 to allow legally owned and operated cannabis businesses to deduct ordinary and necessary expenses.

Sincerely,

Michael O’Heir, CPA