

**hb1210 bryan alston**

Uploaded by: Alston, Bryan

Position: FAV

March 5, 2020

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

**Re:** HB 1210-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 1210. 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 HB1210 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.

## HB1210

HB1210 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 House Bill 1210.

Respectfully yours,

  
Bryan G. Alston, M.H.S.

Cc: Ways and Means Committee Members

# **HB1210\_MDMA\_Written**

Uploaded by: Bagwell, Ashlie

Position: FAV



## HOUSE BILL 1210: INCOME TAX-SUBTRACTION MODIFICATION-EXPENSES OF MEDICAL CANNABIS GROWER, PROCESSOR, OR DISPENSARY

On behalf of the Maryland Medical Dispensary Association  
House Ways and Means Committee  
Support  
March 5, 2020

The Maryland Medical Dispensary Association (MDMDA) was established in May, 2017 in order to promote the common interests and goals of the Medical Cannabis Dispensaries in Maryland. MDMDA advocates for laws, regulations and public policies that foster a health, professional and secure medical cannabis industry in the State. MDMDA works on the State and local level to advance the interest of licensed dispensaries as well as to provide a forum for the exchange of information in the Medical Cannabis Industry.

House Bill 1210 provides a workable solution for an important issue impacting the medical cannabis industry in Maryland. Currently, medical cannabis business owners are required to pay federal taxes despite the fact that such businesses are illegal under federal law. However, they are unable to deduct business expenses as ordinary and necessary business expenses on federal tax returns as a result of IRC § 280E, which states that no expenses incurred in connection with the trafficking of controlled substances/illegal drugs may be deducted for federal income tax purposes.

House Bill 1210 seeks to allow a subtraction modification against the State individual and corporate tax for the amount of ordinary and necessary expenses for State licensed medical cannabis growers, processors and dispensaries. This is important to dispensary owners in Maryland for two reasons:

- The State of Maryland does not directly tax medicine and, therefore should not tax medical cannabis. These costs most certainly will be borne by the patients.

- This bill does not create a tax incentive for medical cannabis licensees. Rather, it levels the playing field between medical cannabis business owners and all other business owners in the State. Every business except those in the medical cannabis industry currently have the ability to claim ordinary and necessary business expense deductions, such as wages and salaries, repair and maintenance and equipment costs. We are simply asking to be treated the same.

For these reasons, we respectfully request a favorable report on House Bill 1210.

# **HB1210\_SC&H\_Written**

Uploaded by: Bishop, Stephen

Position: FAV



**STOUT,  
CAUSEY &  
HORNING**

CERTIFIED PUBLIC  
ACCOUNTANTS

## **HB 1210-Income Tax- Subtraction Modification- Expenses of Medical Cannabis Grower, Processor, Dispensary or Independent Testing Laboratory:**

White Paper in Support of decouple modification from  
Internal Revenue Code Section 280E when computing  
Maryland Taxable Income

March 5, 2020

Stephen Bishop CPA  
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Good afternoon. My name is Stephen Bishop and I am a resident of Bel Air, Maryland. I have been a practicing certified public accountant for over 25 years. I am currently a senior manager with SC&H Group in Sparks, Maryland. My firm and I have been consulting individuals and businesses in the medical Cannabis space since the summer of 2016. We have worked with growers and processors but mainly dispensaries. The primary focus of my practice is tax compliance and planning with a strong focus on Internal Revenue Code Section 280E.

280E was implemented in the early 80s. It was specifically created to penalize criminals involved in drug trafficking. I could talk about this more if I had more time because it really is a fascinating subject for tax nerds like myself. It is important to note that no where does the internal revenue code distinguish between illegal income or legal income. Citizens are expected to pay tax on their income regardless of source. You may remember that Al Capone was imprisoned not because of his illegal activities but because he did not report those activities and pay taxes on them. 280E simply states if you are selling cannabis you cannot deduct normal business expenses that you otherwise would be able to if you were selling any other item even if those items were illegal.

The calculation of Maryland taxable income begins with federal taxable income as its starting point. Without a specific modification like many other states have Maryland is effectively following federal guidelines and treating these businesses as criminal activities under a punitive tax regime. The modification which Senate Bill 146 seeks does not give Maryland Cannabisbusiness any special treatment. It merely says- We think you are a legitimate business and we are going to treat you like everyone else.

The net result of section 280E and Maryland's conformity with it is to create an effective tax rate that is unsustainable for most if not all businesses. A Cannabisbusiness already operates under very tight cash flow constraints, in part because they cannot typically go to a neighborhood bank and open a line of credit or get a loan. Their working capital cash flow comes from the owners or investors and their after-tax net profit. It is not unusual for an owner of one of these businesses to have a tax bill that exceeds the actual cash profit generated.

I have seen dispensary owners sell their businesses because they cannot afford to operate them under the current punitive tax structure. I believe the tax issue is the main reason for the mergers and acquisitions we have seen with large out of state players. I have seen dispensary owners go into a payment plan with the IRS because there is no cash available to pay the tax on the imaginary profit that section 280E creates. Ultimately, in order to generate an after-tax profit that is reasonable, dispensaries will be forced to raise prices on Cannabis to a point that is so high it would push patients to instead buy similar product off the black market which as we know will increase real criminal activity and avoid tax revenue to the state.

I was told that I would only have 3 minutes for my remarks, so I have tried to keep them short. I am happy to answer any questions which will help you understand the need for House Bill 1210.

**Internal Revenue Code Section 280E**  
**And**  
**Operation of a Cannabis Business in Maryland**

**Support for House Bill 1210**

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## **Internal Revenue Code**

### **§ 280E Expenditures in connection with the illegal sale of drugs.**

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 and 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.

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## Effects of Section 280E

	<b>Typical Business</b>	<b>Cannabusiness Under 280E</b>
Revenue	\$ 1,000,000	\$ 1,000,000
Cost of Goods Sold (COGS):		
Costs to Purchase or Produce the Product	(550,000)	(550,000)
<b>Gross Income</b>	<b>450,000</b>	<b>450,000</b>
Business Expenses:		
Rent		
Heat, HVAC, Water, Electricity		
Payroll		
Employee Benefits		
Business Insurance		
Repairs and Maintenance		All Disallowed
Licenses and other fees		
Security		
Internet Connection		
Advertising		
Accounting and legal		
Other Miscellaneous Expenses		
Total Business Expenses	(300,000)	0
<b>Net Income - "Taxable Income"</b>	<b>150,000</b>	<b>450,000</b>
Economic Profit	150,000	150,000
Taxes:		
Federal Tax at Blended Rate of 25%	\$ 37,500	\$ 112,500
State & Local Tax at Blended Rate of 8%	\$ 12,000	\$ 36,000
Total Tax	\$ 49,500	\$ 148,500
<b>Net Cash Generated from Operations After Taxes</b>	<b>\$ 100,500</b>	<b>\$ 1,500</b>
<b>Hypothetical Effective Tax Rate</b>	<b>33%</b>	<b>99%</b>

## State Tax Chart Results

Tax Type: Corporate Income

### Legend:

N/A - Not Applicable

### State Follows IRC Section 280E

This chart shows whether each state conforms to IRC Section 280E dealing with expenses related to the sale of drugs.

State	State Follows IRC Section 280E	Authority	Editorial Reference
AK	Yes.  Alaska conforms to IRC 280E to the extent of conformity to the underlying federal deduction or credit.	Alaska Stat. § 43-20-021(a) ; Alaska Stat. § 43.20.300(a) ; Alaska Stat. § 43.20.340(5)	¶11,059; ¶ 1063AK:1000
AL	Yes.  Alabama conforms to IRC 280E to the extent of conformity to the underlying federal deduction or credit.	Ala. Code § 40-18-33 ; Ala. Code § 40-18-1.1 ; Ala. Admin. Code § 810-3-1.1-.01	¶11,059; ¶ 1063AL:1000
AR	No.  Arkansas does not conform to IRC 280E for corporate income tax purposes, unless otherwise provided.	Ark. Code Ann. § 26-51-423(a)(1)	¶11,059; ¶ 1063AR:1000
AZ	Yes.  Arizona conforms to IRC § 280E to the extent of conformity to the underlying federal deduction or credit. Note: nonprofit medical marijuana dispensaries are exempt from Arizona income tax.	Ariz. Rev. Stat. Ann. § 43-105(A) ; Ariz. Rev. Stat. Ann. § 43-102(A)(2) ; Ariz. Rev. Stat. Ann. § 43-102(A)(3) ; Ariz. Rev. Stat. Ann. § 43-1201(B)	¶11,059; ¶ 1063AZ:1000
CA	No.  California does not conform to IRC § 280E for corporate franchise (income) tax purposes. Taxpayers may deduct ordinary and necessary business expenses, without regard to the limitation in IRC § 280E.	Cal. Rev. & Tax. Cd. § 24436.1 ; Cal. Rev. & Tax. Cd. § 24341	¶11,059; ¶ 1063CA:1000
CO	No.  Colorado permits Colorado-licensed marijuana businesses to deduct expenditures that were disallowed at the federal level by operation of IRC § 280E.	Colo. Rev. Stat. § 39-22-304(3)(m) ; Colo. Rev. Stat. § 39-22-304(3)(n)	¶11,059; ¶ 1063CO:1000
CT	Yes.  Connecticut conforms to IRC §280E to the extent of conformity to the underlying federal deduction or credit.	Conn. Gen. Stat. § 12-213(a)(23)	¶11,059; ¶ 1063CT:1000
DC	Yes, in part.  For District of Columbia corporate income tax purposes, some deductions are subject to federal limitations including IRC 280E.	D.C. Code Ann. § 47-1801.04(28) ; D.C. Code Ann. § 47-1803.03(a)(1) ; School Street Associates Ltd. Partnership v. District of Columbia (2001, D.C. Ct. App.), 764 A2d 798, Dkt. Nos. 97-TX-1442; 1-4-2001	¶11,059; ¶ 1063DC:1000
DE	Yes.  Delaware conforms to IRC 280E to the extent of conformity to the underlying federal deduction or credit.	Del. Code Ann. 30 § 1903(a) ; Del. Code Ann. 30 § 1901(10)	¶11,059; ¶ 1063DE:1000
FL	Yes.  Florida conforms to IRC 280E to the extent of conformity to the underlying federal deduction or credit.	Fla. Stat. § 220.03(1)(n) ; Fla. Stat. § 220.03(4) ; Fla. Stat. § 220.13(1)	¶11,059¶ 1063FL:1000
GA	Yes.  Georgia conforms to IRC § 280E to the extent of conformity to the underlying federal deduction or credit.	Ga. Code Ann. § 48-1-2(14) ; Ga. Code Ann. § 48-7-21(a) ; Bourassa v. Commr., Ga. Dept. of Rev., Ga. Tax Tribunal, Dkt. No. TAX-IIT-1407354, 12/14/2015	¶11,059; ¶ 1063GA:1000
HI	No.  Hawaii does not conform to IRC § 280E with	Haw. Rev. Stat. § 235-2.4(v) ; Hawaii Dept. of Taxation Announcements No. 2016-07, , 07/26/2016	¶11,059; ¶ 1063HI:1000

	respect to the production and sale of medical cannabis and manufactured cannabis products by Hawaii-licensed dispensaries and their subcontractors.		
IA	Yes.  Iowa conforms to IRC § 280E to the extent of conformity to the underlying federal deduction or credit.	Iowa Code § 422.32(1)(h)	¶11,059; ¶ 1063IA:1000
ID	Yes.  Idaho conforms to IRC § 280E to the extent of conformity to the underlying federal deduction or credit.	Idaho Code § 63-3004 ; Idaho Admin. Rules § 35.01.01.291(03)(e)	¶11,059; ¶ 1063ID:1000
IL	Yes.  Illinois conforms to IRC § 280E to the extent of conformity to the underlying federal deduction or credit.	ILCS Chapter 35 § 5/1501(a)(11) ; ILCS Chapter 35 § 5/203(b)(1)	¶11,059; ¶ 1063IL:1000
IN	Yes.  Indiana conforms to IRC § 280E to the extent of conformity to the underlying federal deduction or credit.	Ind. Code § 6-3-1-3.5(b) ; Ind. Code § 6-3-1-11(a)	¶11,059; ¶ 1063IN:1000
KS	Yes.  Kansas conforms to IRC § 280E to the extent of conformity to the underlying federal deduction or credit.	Kan. Stat. Ann. § 79-32,138(a) ; Kan. Stat. Ann. § 79-32,109(a)(1)	¶11,059; ¶ 1063KS:1000
KY	Yes.  Kentucky conforms to IRC §280E to the extent of conformity to the underlying federal deduction or credit.	Ky. Rev. Stat. Ann. § 141.010(15)	¶11,059; ¶ 1063KY:1000
LA	Yes.  Louisiana conforms to IRC § 280E to the extent of conformity to the underlying federal deduction or credit.	La. Rev. Stat. Ann. § 47:287.63 ; La. Rev. Stat. Ann. § 47:287.73	¶11,059; ¶ 1063LA:1000
MA	Yes.  Massachusetts conforms to IRC § 280E to the extent of conformity to the underlying federal deduction or credit.	Mass. Gen. L. Chapter 63 § 1 ; Mass. Gen. L. Chapter 63 § 30(3) ; Mass. Gen. L. Chapter 63 § 30(4) ; Massachusetts Department of Revenue Website, Marijuana Retail Taxes FAQs, 10/01/2018; Massachusetts DOR Directive No. 14-4, , 12/16/2014	¶11,059; ¶ 1063MA:1000
MD	Yes.  Maryland conforms to IRC § 280E to the extent of conformity to the underlying federal deduction or credit.	Md. Code Ann. Tax-Gen. § 10-304(1)	¶11,059; ¶ 1063MD:1000
ME	No.  For tax years beginning on or after January 1, 2018, Maine allows a subtraction modification for business expenses related to carrying on a trade or business as a Maine-registered caregiver or a Maine-registered dispensary in an amount equal to the deduction that would otherwise be allowable if not for IRC § 280E.	Me. Rev. Stat. Ann. 36 § 111(1-A) ; Me. Rev. Stat. Ann. 36 § 5200-A(2)(BB) , eff. 12/13/2018 (retroactively applicable)	¶11,059; ¶ 1063ME:1000
MI	No.  Under the Michigan Regulation and Taxation of Marihuana Act, in computing net income for marihuana establishments, deductions from state taxes are allowed for all the ordinary and necessary expenses paid or incurred during the taxable year in carrying out a trade or business.	Mich. Comp. Laws Ann. § 333.27962 ; Michigan Revenue Administrative Bulletin No. 2019-17, , 11/18/2019	¶11,059; ¶ 1063MI:1000
MN	No.  Effective for taxable years beginning after December 31, 2018, taxpayers are allowed a subtraction from federal taxable income equal to the expenses of a medical cannabis manufacturer related to the business of medical cannabis, and not allowed for federal income tax purposes under IRC § 280E.	Minn. Stat. § 290.0134, Subd. 19	¶11,059; ¶ 1063MN:1000
MO	Yes.  Missouri conforms to IRC § 280E to the extent	Mo. Rev. Stat. § 143.091 ; Mo. Rev. Stat. § 143.431	¶11,059; ¶ 1063MO:1000

	of conformity to the underlying federal deduction or credit.		
MS	No.  Mississippi does not automatically incorporate the disallowance of deductions and credits under IRC § 280E. To the extent that a particular Mississippi deduction is limited by the amount actually claimed on the taxpayer's federal return, however, the disallowance of a deduction by reason of IRC § 280E would carry through to the Mississippi return unless otherwise provided.	Miss. Code Ann. § 27-7-13(1) ; Miss. Administrative Code § 35.III.5.01	¶11,059; ¶ 1063MS:1000
MT	No.  Montana-licensed medical marijuana providers can subtract from gross income the same ordinary and necessary expenses incurred for the business that are allowed for other types of businesses operating in the state.	Mont. Code Ann. § 15-31-113(1) ; Mont. Code Ann. § 15-31-114(1)(a) ; Montana Tax News You Can Use, 12/14/2017	¶11,059¶ 1063MT:1000
NC	Yes.  North Carolina conforms to IRC § 280E to the extent of conformity to the underlying federal deduction or credit.	N.C. Gen. Stat. § 105-228.90(b)(1b) ; N.C. Gen. Stat. § 105-130.2(15)	¶11,059; ¶ 1063NC:1000
ND	Yes.  North Dakota conforms to IRC 280E to the extent of conformity to the underlying federal deduction or credit.	N.D. Cent. Code § 57-38-01(5) ; N.D. Cent. Code § 57-38-01(13)	¶11,059; ¶ 1063ND:1000
NE	Yes.  Nebraska conforms to IRC 280E to the extent of conformity to the underlying federal deduction or credit.	Neb. Rev. Stat. § 77-2714 ; Neb. Rev. Stat. § 77-2734.04(24)	¶11,059; ¶ 1063NE:1000
NH	Yes.  New Hampshire conforms to IRC § 280E to the extent of conformity to the underlying federal deduction or credit.	N.H. Rev. Stat. Ann. § 77-A:1, (XX)(n) ; N.H. Rev. Stat. Ann. § 77-A:1, III(a)	¶11,059; ¶ 1063NH:1000
NJ	Yes.  New Jersey conforms to IRC 280E to the extent of conformity to the underlying federal deduction or credit.	N.J. Rev. Stat. § 54:10A-4(k) ; N.J. Admin. Code § 18:7-5.1(b)	¶11,059; ¶ 1063NJ:1000
NM	Yes.  New Mexico conforms to IRC § 280E to the extent of conformity to the underlying federal deduction or credit.	NMSA 1978 § 7-2A-2(H) ;NMSA 1978 § 7-2A-2(C) ;NMSA 1978 § 7-2A-2(I) ;	¶11,058; ¶ 1063NM:1000
NV	N/A	N/A	N/A
NY	Yes.  New York conforms to IRC 280E to the extent of conformity to the underlying federal deduction or credit.	N.Y. Tax Law § 208(9) ; NYCRR 20 § 3-2.2	¶11,059; ¶ 1063NY:1000
OH	N/A	N/A	N/A
OK	Yes.  Oklahoma conforms to IRC 280E to the extent of conformity to the underlying federal deduction or credit.	Okla. Stat. 68 § 2353(2) ; Okla. Stat. 68 § 2353	¶11,059;¶ 1063OK:1000
OR	No.  Oregon taxpayers can deduct from federal taxable income any federal deduction that would have been allowed to the taxpayer for the production, processing, or sale of marijuana items authorized under Oregon law in the absence of IRC Sec. 280E.	Or. Rev. Stat. § 317.363	¶11,059; ¶ 1063OR:1000
PA	Yes.  Pennsylvania conforms to IRC 280E for corporate income tax purposes, to the extent of conformity to the underlying federal deduction or credit.	Pa. Stat. Ann. 72 § 7401(3)(1)(a) ; Pennsylvania Department of Revenue, Medical Marijuana Fact Sheet, 07/10/2018	¶11,059; ¶ 1063AR:1000
RI	Yes.	R.I. Gen. Laws § 44-11-11(a)	¶11,059; ¶ 1063RI:1000

	Rhode Island conforms to IRC § 280E to the extent of conformity to the underlying federal deduction or credit.		
SC	Yes.  South Carolina conforms to IRC 280E to the extent of conformity to the underlying federal deduction or credit.	S.C. Code Ann. § 12-6-40(A)(1)(a) ; S.C. Code Ann. § 12-6-1110(A) ; S.C. Code Ann. § 12-6-1130(A) ; S.C. Code Ann. § 12-6-580	¶11,059; ¶ 1063SC:1000
SD	N/A	N/A	N/A
TN	Yes.  Tennessee conforms to IRC 280E to the extent of conformity to the underlying federal deduction or credit.	Tenn. Code Ann. § 67-4-2006(a)(1) ; Tenn. Code Ann. § 67-4-2006(b)(2)	¶ 1063TN:1000; ¶11,059
TX	No.  Texas does not conform to IRC § 280E. Texas uses federal gross income (as that term is defined in the IRC in effect on January 1, 2007), except for cost of goods sold, as the starting point for purposes of net taxable margin computation. For the purpose of computing its taxable margin, the total revenue of a corporation is an amount computed by adding the amount reportable as income on Line 1c of IRS Form 1120.	Tex. Tax Code Ann. § 171.0001(9) ; Tex. Tax Code Ann. § 171.1011(c)	¶11,059; ¶ 1063TX:1000
UT	Yes.  Utah conforms to IRC § 280E to the extent of conformity to the underlying federal deduction or credit.	Utah Code Ann. § 59-7-101(21) ; Utah Code Ann. § 59-7-101(30)(a)	¶11,059; ¶ 1063UT:1000
VA	Yes.  Virginia conforms to IRC § 280E to the extent of conformity to the underlying federal deduction or credit.	Va. Code Ann. § 58.1-301(B) ; Va. Code Ann. § 58.1-402 ; Virginia Public Document Ruling No. 88-214, , 07/27/1988	¶11,059; ¶ 1063VA:1000
VT	Yes.  Vermont conforms to IRC 280E to the extent of conformity to the underlying federal deduction or credit.	Vt. Stat. Ann. 32 § 5811(18) ; Vt. Stat. Ann. 32 § 5820(a) ; Vt. Stat. Ann. 32 § 5824	¶11,059; ¶ 1063VT:1000
WA	N/A	N/A	N/A
WI	Yes.  Wisconsin conforms to IRC § 280E to the extent of conformity to the underlying federal deduction or credit.	Wis. Stat. § 71.22(4)(l) ; Wis. Stat. § 71.26(3)	¶11,059
WV	Yes.  West Virginia conforms to IRC § 280E to the extent of conformity to the underlying federal deduction or credit.	W. Va. Code § 11-24-3(a) ; W. Va. Code § 11-24-6 ; Code of State Rules § 110-24-2	¶11,059; ¶ 1063WV:1000
WY	N/A	N/A	N/A

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## Income Tax Subtractions

These subtractions will change your Colorado Taxable Income from the amount of Federal Taxable Income. See instructions in the income tax booklet for additional guidance on completing the schedule. Do not enter negative amounts. To ensure faster processing of your paper return, the amount entered in the Subtractions line of the income tax return must exactly match the subtotal amount at the end of the subtractions schedule or form.

Visit the [Credits & Subtractions Forms](#) page to download the forms and/or schedules needed to file for the subtractions listed below.

**Reminder: Save time and file online!** You may use the Department's free e-file service [Revenue Online](#) to file your state income tax. **You do not need to login to Revenue Online to File a Return.** After you file, you have the option of setting up a Login ID and Password to view your income tax account in Revenue Online. Or, you may opt to e-file through a paid tax professional or purchase tax software to complete and file returns.

- **Agricultural Asset Lease Deduction**
  - Enter the certificate number (YY-###) for the deduction certificate that was provided by the Colorado Agricultural Development Authority (CADA). If you received more than one certificate, then you must file electronically. Enter the amount of the deduction on this line. The amount of deduction allowed to a qualified taxpayer may not exceed \$25,000. You must submit a copy of each certificate with your return.
- [Catastrophic Health Insurance](#)
- [Charitable Contributions](#)
- [Colorado Source Capital Gain](#)
- **Exonerated Persons Deduction**
  - For tax years 2013 and thereafter, certain exonerated persons (or the immediate family members of an exonerated person) who are found to be actually innocent may deduct from their individual income tax return any compensation received pursuant to §13-65-103, C.R.S. that was received on or after January 1, 2014. However, attorney fees that are awarded as part of the compensation shall not be deducted. [§39-22-104(4)(q), C.R.S.] The deduction shall be subtracted from the individual income tax return on the line designated. Write "Exonerated Persons Income" as the explanation for the deduction.
- [First-time Home Buyer Savings Account Interest Deduction](#)
- **Marijuana Business Deduction**
  - To claim this deduction, Colorado-licensed marijuana businesses must list any expenditure that is eligible to be claimed as a federal income tax deduction but is disallowed by section 280E of the Internal Revenue Code because marijuana is a controlled substance under federal law.
- [Medical Savings Account](#)
- [Olympic Gold Medal](#)
- [Reacquisition of Residence During Active Military Service \(Formerly the Military Income Tax Exemption\)](#)
- **Military Family Relief Fund Grants Deduction**
  - For tax years 2014 and thereafter, military families receiving a grant from the Military Family Relief Fund may deduct the amount of the grant from their individual income tax return to the extent that it is included in federal taxable income. [§39-22-104(4)(p), C.R.S.] The deduction shall be subtracted from the individual income tax return. Write "Military Family Relief Fund Grant" as the explanation for the deduction where designated. If you deducted the income on your federal return rather than claiming the grant (you did not include it in federal taxable income), no Colorado subtraction is allowed since the income is not included in your federal taxable income.
- **Non-resident Disaster Relief Worker Subtraction**
  - For nonresident individuals, enter the amount of income (compensation earned) while working in Colorado during a declared state disaster emergency on disaster-related work. Disaster-related work includes repairing, renovating, installing, building, or rendering services that relate to infrastructure that has been damaged, impaired, or destroyed by a declared state disaster emergency or providing emergency medical, firefighting, law enforcement, hazardous material, search and rescue, or other

emergency service related to a state declared disaster emergency. This subtraction is only available to nonresident individuals. If you are a full-year resident of Colorado, you are not eligible for this subtraction.

- [Pension Annuity](#)
- [Railroad Pension](#)
- **Reservation Income**
  - List any amount of income that was derived wholly from reservation sources by a recognized tribal member, which was included as taxable income on the federal income tax form. Submit proof of tribal membership, residence, and source of income. This must be submitted only every three years by taxpayers claiming this subtraction.
- [State Income Tax Refund](#)
- [Tuition Program Contribution/Distribution](#)
- [United States Government Interest](#)
- **Wildfire Mitigation Measures**
  - Enter the amount of qualified expenses incurred in performing wildfire mitigation on your land, up to \$2,500. Reference [FYI Income 65](#) for information on how to accurately calculate this subtraction.

# **3\_5\_2020 Cannabis 280E JW Written Testimony**

Uploaded by: Delegate Wilkins, Delegate Wilkins

Position: FAV

JHEANELLE WILKINS  
Legislative District 20  
Montgomery County

PARLIAMENTARIAN

Ways and Means Committee



The Maryland House of Delegates  
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THE MARYLAND HOUSE OF DELEGATES  
ANNAPOLIS, MARYLAND 21401

March 5, 2020

**House Bill 1210 Income Tax - Subtraction Modification - Expenses of Medical Cannabis Grower,  
Processor, Dispensary, or Independent Testing Laboratory**

Dear Colleagues,

I am pleased to present House Bill 1210 Income Tax - Subtraction Modification - Expenses of Medical Cannabis Grower, Processor, Dispensary, or Independent Testing Laboratory, which would allow medical cannabis growers, processors, and dispensaries to receive a subtraction modification against the state and individual and corporate income tax for the amount of ordinary and necessary business expenses.

Most businesses can deduct ordinary and necessary business expenses on their federal income tax return to help offset costs associated with distribution, sales, administration, promotion, advertisement, overhead, and support. However, legal cannabis businesses are currently prohibited from receiving these deductions, because the Internal Revenue Code Section 280E states that no expenses incurred in connection with the trafficking of controlled substances, or illegal drugs, may be deducted for federal income tax purposes.

Out of the 33 states that have legalized medical cannabis, a number of states have passed a statewide solution to allow legal cannabis businesses to deduct these ordinary and necessary business expenses on their state taxes, since they are prohibited from doing so on their federal taxes. HB 1210 would help even the playing field between legal medical cannabis businesses and other businesses in Maryland that already receive these deductions by allowing medical cannabis growers, processors, and dispensaries to receive a subtraction modification on their state income taxes for the amount of ordinary and necessary business expenses.

Cannabis businesses incur many of the same business costs as every other business in the state, such as salaries and other personal services rendered, but they have been operating at a disadvantage due to the antiquated 280E provision. To support these small businesses, which have helped produce more than \$10 million in tax revenue for the state just in this past year, it's critical that we allow them to receive the same deductions as every other business in the state. For these reasons, I urge the committee to give a **favorable** report for HB 1210.

Sincerely,

A handwritten signature in black ink, appearing to read "Jheanelle Wilkins".

Delegate Jheanelle Wilkins

# **HB 1210\_FAV\_MCCC\_Swanson**

Uploaded by: Swanson, VP Gov Relations, Tricia

Position: FAV



*To Lead, Advocate and Connect as the Voice of Business*

**House Bill 1210 - Income Tax - Subtraction Modification - Expenses of Medical Cannabis  
Grower, Processor, Dispensary, or Independent Testing Laboratory**

Ways and Means Committee

March 5, 2020

**SUPPORT**

House Bill 1210 would 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, or dispensary if the deduction for ordinary and necessary expenses is disallowed under Section 280E of the Internal Revenue Code (IRC).

The passage of IRS tax provision 280E is nearly three decades old and does not reflect the current policy and political landscape, specifically that Maryland established a legal medical cannabis program in 2013. A result of this provision is the inability for medical cannabis licensees (dispensaries, processors and growers) to write off normal and usual business expenses on their taxes; this practice is afforded to all other businesses in the state.

For the aforementioned reasons, **the Chamber supports House Bill 1210 and respectfully urges a favorable report.**

*The Montgomery County Chamber of Commerce (MCCC) accelerates the success of our nearly 500 members by advocating for increased business opportunities, strategic investment in infrastructure, and balanced tax reform to advance Metro Maryland as a regional, national, and global location for business success. Established in 1959, MCCC is an independent non-profit membership organization and is proud to be a Montgomery County Green Certified Business.*