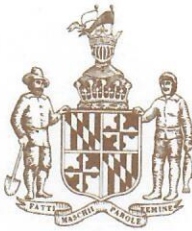


RONALD N. YOUNG
Legislative District 3
Frederick County

Budget and Taxation Committee
Chair, Executive Nominations Committee

Senate Chair, Joint Subcommittee on
Program Open Space/Agricultural Land
Preservation

Joint Committee on Administrative,
Executive, and Legislative Review



The Senate of Maryland

ANNAPOLIS, MARYLAND 21401

February 9, 2022

SUPPORT SB333

Income Tax – Subtraction Modification – Expenses of Medical Cannabis Grower, Processor, Dispensary, or Independent Testing Laboratory

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Dear Chair Guzzone, Vice Chair Rosapepe, and distinguished members of the Senate Budget and Taxation Committee,

SB333 amends Maryland tax law to allow businesses in the Cannabis industry (growers, producers, dispensaries, and laboratories) to deduct business expenses from state taxes like any other Maryland business. To date, 36 states and the District of Columbia have legal medical cannabis programs. Roughly 30% of these states have “decoupled” from federal income tax law and allow a marijuana business to deduct for state income tax purposes ordinary and necessary business expenses.⁵

Medical cannabis is a growing and important business in the Maryland economy. During this pandemic, the medical cannabis industry has been absolutely essential to providing medicine to Marylanders in need. Yet the current tax structure puts this industry at a severe disadvantage when it comes to claiming necessary business expenses that every other business is able to claim. This inequity requires Cannabis businesses to pay 4.5 times the Maryland (and county) tax of any other Maryland business with similar operating costs.⁶

While this bill applies to all medical cannabis licensees—growers, processors and dispensaries—it is especially impactful for dispensaries as they have the least flexibility with regard to their taxes and virtually no ability to write off any of these expenses.

This bill does not create a tax credit or provide special treatment for those in the cannabis industry. Rather, it would create parity - treating medical cannabis licensees like every other business in the state. This is an important benefit that most businesses are able to take advantage of to deduct ordinary and necessary business expenses related to sales, administration, promotion, advertisement, overhead, etc.

I ask that you vote favorably on **SB333** to eliminate the current inequities in our tax law by conforming Maryland Cannabis industry to state businesses tax law.

Respectfully,

A handwritten signature in blue ink, appearing to read "Ronald Young".
Senator Ronald Young

Resources

1. Comptroller of Maryland. January 27, 2022. "List of Tangible Personal Property and Services Subject to Sales and Use Tax." Maryland.gov. (Feb. 1, 2022)
https://marylandtaxes.gov/forms/Tax_Publications/Sales_and_Use_Tax-List_of_TPP_and_Services.pdf
2. State and Local Finance Initiative. "Marijuana Taxes". Urban Institute.org (Feb 1, 2022)
<https://www.urban.org/policy-centers/cross-center-initiatives/state-and-local-finance-initiative/state-and-local-backgrounders/marijuana-taxes>
3. McQuillan, Sam. Jan 19, 2021. "'Sin' Taxes on Sports Bets, Legal Pot Gain Steam as Virus Rages." Bloombergtax.com (Feb 1, 2022)
<https://news.bloombergtax.com/daily-tax-report/sin-taxes-on-sports-bets-legal-pot-gain-steam-as-virus-rages>
4. Rehmann, Robert. Jan 31, 2022. "SB333 Fiscal and Policy Note". (Feb 1, 2022) MGALEG.maryland.gov. https://mgaleg.maryland.gov/2022rs/fnotes/bil_0003/sb0333.pdf
5. Wolters Kluwer. September 15, 2021. "Do States Allow Income Tax Deductions for Marijuana Business Expenses?" woltersluwer.com (Feb. 1, 2022)
<https://www.wolterskluwer.com/en/expert-insights/do-states-allow-income-tax-deductions-for-marijuana-business-expenses>
6. Michael Klein CPA, CEO Wellness Institute of Maryland (Maryland's 1st Medical Cannabis Dispensary), January 24, 2018. Written Testimony in support of SB37 – Medical Cannabis Industry Tax Fairness, before the Maryland Senate Budget and Taxation Committee.

SUPPORT

SB37 – Medical Cannabis Industry Tax Fairness

January 24, 2018

Senate Budget and Taxation Committee

Senator Kasemeyer and Committee Members,

With certain modifications, Maryland business taxable income is based on the federal income tax code. While all revenue is taxable federally, the IRS code section 280E does not permit federally illegal businesses, including Medical Cannabis Businesses, to deduct expenses. Federal courts have supported this position, with one exception. The court allowed deduction for cost of goods sold (merchandise cost); it reasoned that cost is specifically permitted as a deduction by the Constitution. The interplay of the Maryland tax scheme and IRS section 280E results in Maryland medical cannabis businesses being unable to deduct virtually any expenses which are fully deductible by every other legal business in Maryland. In that every Maryland cannabis business is subject to these additional taxes, they will certainly be passed on to Maryland cannabis patients, in the form of higher medicine costs.

Taxable Income Comparison

	Every Other Business:	Maryland Cannabis Dispensary:
Sales:	\$1,000,000	\$1,000,000
Cost of goods Sold:	<u>(\$550,000)</u>	<u>(\$550,000)</u>
Gross Profit:	\$450,000	\$450,000
Other Expenses:		
Payroll:	\$180,000	\$-0-
Rent:	\$100,000	\$-0-
Other:	\$70,000	\$-0-
	<hr/>	<hr/>
Total Deductible Expenses:	\$350,000	\$-0-
Taxable Income:	\$100,000	\$450,000

*These numbers are not contrived. They are representative of typical successful businesses. Note that without remediating legislation, cannabis dispensaries will pay 4 ½ times the Maryland (and county) tax of any other legitimate Maryland business with similar operating results. Thank you for considering rectifying this inequity.

I urge a favorable report on SB37.

Michael Klein CPA, CEO
Wellness Institute of Maryland
Maryland's 1st Medical Cannabis Dispensary