

2022 GBCC SB 333 280E support.pdf

Uploaded by: Ashlie Bagwell

Position: FAV



Testimony on behalf of the Greater Bethesda Chamber of Commerce

*In Support of
SB333-Income Tax—Subtraction Modification-Expenses of Medical Cannabis Grower, Processor,
Dispensary or Independent Testing Laboratory*

*February 9, 2022
Senate Budget and Taxation Committee*

The Greater Bethesda Chamber of Commerce (GBCC) was founded in 1926. Since then, the organization has grown to more than 550 businesses located throughout the Greater Bethesda area and beyond. On behalf of these members, we appreciate the opportunity to provide written comments on SB 333—Income Tax-Subtraction Modification-Expenses of Medical Cannabis Grower, Processor, Dispensary or Independent Testing Laboratory.

The GBCC supports legislation that treats all businesses in Maryland fairly from a taxation standpoint. SB 333 is a good example of such a bill. This proposed legislation creates 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, for medical cannabis licensees in Maryland. This legislation merely levels the playing field for medical cannabis licensees, treating them like every other business in the state of Maryland.

For these reasons, we would respectfully request a favorable vote on SB 333. And we thank Senator Young for introducing this legislation.

2022 MDMDA SB 333 280E Support.pdf

Uploaded by: Ashlie Bagwell

Position: FAV



Senate Bill 333: Income Tax—Subtraction Modification-Expenses of Medical Cannabis Grower, Processor, Dispensary or Independent Testing Laboratory

On behalf of the Maryland Medical Dispensary Association
Senate Budget and Taxation Committee

Support

February 9, 2022

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 healthy, 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.

Senate Bill 333 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 Section 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.

Senate Bill 333 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 especially important to dispensary owners in Maryland for three 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 dispensary 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 wage and salaries, repair and maintenance and equipment costs. We are simply asking to be treated the same.
- Though this issue won't be wholly addressed until the federal government takes action, this proposed legislation is a step in the right direction as these small businesses, like others in the state, seek to succeed and grow.

For these reasons, we respectfully request a favorable report on Senate Bill 333.

SB0333 -- Income Tax - Subtraction Modification -

Uploaded by: Brian Levine

Position: FAV



Senate Bill 333 -- *Income Tax - Subtraction Modification - Expenses of Medical Cannabis Grower, Processor, Dispensary, or Independent Testing Laboratory*
Senate Budget and Taxation Committee
February 9, 2022
Support

The Montgomery County Chamber of Commerce (MCCC), the voice of business in Metro Maryland, supports Senate Bill 333 -- *Income Tax - Subtraction Modification - Expenses of Medical Cannabis Grower, Processor, Dispensary, or Independent Testing Laboratory*.

Senate Bill 333 creates a subtraction modification against the State individual and corporate income tax for the amount of ordinary and necessary expenses paid or incurred during the taxable year for a licensed medical cannabis grower, processor, or dispensary if the deduction is disallowed in the Internal Revenue Code.

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

For these reasons, the Montgomery County Chamber of Commerce Supports Senate Bill 333 and respectfully requests a favorable report.

The Montgomery County Chamber of Commerce, on behalf of our nearly 500 members, advocates for growth in 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 a proud Montgomery County Green Certified Business.

*Brian Levine / Vice President of Government Affairs
Montgomery County Chamber of Commerce
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SB0333 -- Income Tax - Subtraction Modification -

Uploaded by: Brian Levine

Position: FAV



Senate Bill 333 -- *Income Tax - Subtraction Modification - Expenses of Medical Cannabis Grower, Processor, Dispensary, or Independent Testing Laboratory*
Senate Budget and Taxation Committee
February 9, 2022
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SB333WrittenTestimony.pdf

Uploaded by: Denise Odachowski

Position: FAV

Positive Energy
Dispensary License D-17-00022
9939 Jerry Mack Road Suite 500
Ocean City MD 21842
410-877-2017

February 7, 2022

RE: Senate Bill 333

To Whom It May Concern:

We appreciate your time and consideration on a matter as important as the passing of Senate Bill 333 to reform the 280E tax code at the state level. The passing of this bill would not only positively impact our small business and local community, but also firmly reinforces the state of Maryland's decision of listing medical cannabis licensees as essential businesses.

Locally women-owned and operated, Positive Energy opened its doors to patients on January 25, 2018 after being licensed as the 22nd dispensary in the State of Maryland. Starting any new business is challenging and being subject to the 280E tax code at both the state and federal level created obstacles that I had never experienced in my 30 years of business at my previous occupation. I am fortunate to have a strong accounting background that helped me navigate the tax code, but it certainly restricts business operations and plans to better serve Maryland patients.

As you are aware, the passing of this bill allows our small business to be treated like any other legal business in Maryland. This is extremely important to us as we have expanded our facility to accommodate the many patients we see. With the expansion, we can better serve a growing Maryland patient population as well as helps ensure we can adhere strictly to all CDC guidelines in the wake of a global pandemic and the possibility of more to arise. With the expansion, our expenses have increased as we have a larger footprint and have hired more agents. Hiring more agents positively impacts our local community by offering more year-round jobs in Ocean City, an area that mainly offers seasonal (summer) employment. More focus would also be put on our local population through community outreach such as educational seminars on the therapeutic benefits of medical cannabis as well as the Maryland Medical Cannabis Program.

The passing of SB0333 will finally treat us as the legal business we are as well as allow us the benefits of tax deductions afforded to such. The State of Maryland legalized cannabis for medicinal use, established the Maryland Medical Cannabis Commission to oversee the program, and listed medical cannabis dispensaries as essential businesses amidst a pandemic. We humbly ask that Maryland continues their support of the medical cannabis industry and the patients we serve.

Thank you for your consideration in this matter and we look forward to you passing this very important piece of legislature.

Sincerely,



Denise Odachowski
Chief Financial Officer

SB 333_CANMD_Support.pdf

Uploaded by: Joe Bryce

Position: FAV



January 28, 2022

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

RE: Support for Senate Bill 333

Dear Chairman Guzzone:

The Maryland Wholesale Medical Cannabis Trade Association (CANMD) supports Senate Bill 333 - *Income Tax - Subtraction Modification - Expenses of Medical Cannabis Grower, Processor, Dispensary or Independent Testing Laboratory*. CANMD thanks Senator Young for putting this important issue in front of the General Assembly.

CANMD represents the majority of the companies licensed to grow and/or process medical cannabis in Maryland. The majority of our members also operate a dispensary. Senate Bill 333 highlights an important issue that treats these law-abiding Maryland companies differently than other lawful businesses and - more importantly - artificially increases the price of medical cannabis for patients.

It is important to note what Senate Bill 333 does not do. Senate Bill 333 does not provide medical cannabis companies with a tax break that other Maryland businesses do not have. To the contrary, it rights a wrong in the federal tax code that prevents these lawful businesses from claiming the legitimate ordinary and necessary business expense deductions that every other Maryland business can claim. A federal law aimed at drug kingpins has the effect of increasing the cost of doing business - and in turn the cost to patients - for this lawful activity.

The net effect is that these medical cannabis businesses end up paying taxes on money that other businesses do not pay taxes on. This expense gets built into the cost of producing medicine and inevitably will increase the ultimate cost to consumers. Maryland appropriately considers the end product produced by these companies as medicine, and consistent with State policy does not tax this medicine. If Senate Bill 333 is not passed, the end result is a backdoor tax on medicine for patients in our State. Please help keep the cost of medical cannabis reasonable for Maryland patients by correcting this anomaly in federal law by passing Senate Bill 333.

Sincerely,

Mackie Barch
President, CANMD

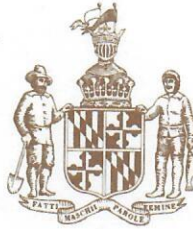
cc: The Honorable Ronald N. Young

SB333_SenYoung_FAV.pdf

Uploaded by: Ronald Young

Position: FAV

RONALD N. YOUNG
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Budget and Taxation Committee
Chair, Executive Nominations Committee

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

Joint Committee on Administrative,
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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

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

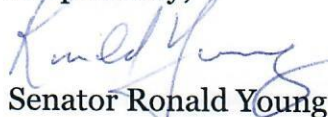
Medical cannabis is a growing and important business in the Maryland economy. During this pandemic, the medical cannabis industry has been absolutely essential to providing medicine to Marylanders in need. Yet the current tax structure puts this industry at a severe disadvantage when it comes to claiming 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,


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. Rehrmann, Robert. Jan 31, 2022. "SB333 Fiscal and Policy Note". (Feb 1, 2022) MGALEG.maryland.gov. https://mgaleg.maryland.gov/2022rs/fnotes/bil_0003/sbo333.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