

Sent via email March 16, 2022

RE: NJ Should Stop Treating Cannabis Businesses Like Drug Dealers

Dear Senate President Scutari:

I recently heard you speak at the NJBIA Meet the Decisions Makers event. I couldn't speak to you directly because I was attending virtually, but I did want to follow up with you on an issue you addressed about decoupling New Jersey cannabis businesses from Internal Revenue Code (IRC) section 280E. Since New Jersey "piggy backs" this IRC section, it continues to tax cannabis businesses as if they are engaged in illegal drug trafficking. Because cannabis is now legal in New Jersey, this is patently unfair and a hindrance to developing a strong industry in New Jersey. As the architect of New Jersey's legalization of cannabis, we know developing a successful industry in New Jersey is critically important to you.

At the NJBIA meeting, if I understood you correctly, you said that this is a complicated issue that would require changes on a federal level before New Jersey can take action. As it turns out, New Jersey can act unilaterally. New Jersey voluntarily piggybacks on IRC section 280E and there is no requirement that it do so. It can unilaterally exempt cannabis businesses from this provision, which many states have already done, giving their cannabis industries a leg up on New Jersey.

The cost to cannabis businesses is significant. By piggybacking IRC 280E, New Jersey prohibits these companies from deducting business expenses, an integral part of operating a business and critical for a company to be profitable. All other New Jersey businesses can deduct business expenses, but by following IRC 280E, which was written specifically to target illegal drug trafficking, New Jersey is treating cannabis companies like drug dealers. Correcting this unfair and detrimental taxation of cannabis businesses is actually quite easy to fix. In fact, Assemblywoman has legislation that does this (A1676).

Many of the states that have legalized cannabis have decoupled from IRC 280E. Of the 10 states with an adult-use market in 2020, two have decoupled completely, one has specifically decoupled corporations and two have no state tax at the business level thus decoupling by default. According to our statistics from 2020, the states that have the most robust cannabis industry, Colorado and Oregon, have specifically decoupled. Attached is more information on this issue that we wrote in 2020.

We would greatly appreciate the opportunity to meet with you to talk with you further about 280E. We'd also like to discuss how the NJCPA can be a resource to you. For example, we have a Cannabis Interest Group with expertise on the financial side of the cannabis industry and many state tax experts who can assist you with taxation questions/proposals.

Thank you for considering our request for a meeting.

Sincerely,



Jeffrey Kaszerman
Government Relations Vice President

CC: The Honorable Annette Quijano
Anthony Texiera
Jessica Cohen
David Smith