SMALL BUSINESS TAX EQUITY ACT

Under current law, businesses may generally deduct related business expenses for income tax purposes. In addition, businesses may be eligible to claim certain tax credits as provided under the tax code. Internal Revenue Code (IRC) section 280E provides that any person who sells Schedule I or Schedule II substances may not claim tax deductions or credits. Congress added this prohibition in 1982 after a drug dealer claimed expenses associated with selling narcotics as legitimate business expenses.

Marijuana is a Schedule I substance under federal law. As such, marijuana businesses operating in compliance with state law may not deduct the common expenses of running a small business, such as rent, most utilities, and payroll. In addition, these businesses are barred from claiming tax credits, including those intended to incentivize energy efficiency, research and development, or hiring veterans and other disadvantaged groups.

The Small Business Tax Equity Act of 2017 creates an exception to IRC section 280E to allow businesses operating in compliance with state law to claim deductions and credits associated with the sale of marijuana like any other legal business.