

Congress Must End 280E's Punishment of Cannabis Small Businesses

Section 280E of the federal tax code is one of the greatest threats to small cannabis operators today. Originally passed in the 1980s to prevent illicit drug traffickers from deducting their business expenses, this outdated law is now being used against licensed, state-legal cannabis businesses that follow every regulation.

Unlike every other small business in America, cannabis companies cannot deduct ordinary expenses such as payroll, rent, insurance, marketing, or utilities. They can only subtract the cost of goods sold, leaving many with punishingly high tax bills.

280E Is a Car Crusher for Cannabis Entrepreneurs

The National Cannabis Industry Association (NCIA) recently published a white paper, *Leveling the Playing Field: The Case for 280E Reform and Retroactive Relief*, highlighting the devastating impact of this policy.

The findings show that Section 280E can push effective tax rates above 70%. These rates are not based on net profit but on revenue after minimal deductions, making it nearly impossible for small businesses to grow, reinvest in employees, or contribute meaningfully to their communities.

While some multi-state operators can afford accountants and legal teams to lessen the impact, smaller businesses — many of them women-, veteran-, and minority-owned — are squeezed the hardest. They deserve a fair chance to succeed without being taxed as if they were criminals.

Compliance Should Not Be Punished

For over a decade, I've worked in cannabis policy and have seen how 280E has closed doors for entrepreneurs who did everything right. Each year, NCIA members report layoffs, halted expansions, and outright closures because of the financial vise created by this law.

The result is a distorted market that punishes compliance and rewards the illicit sector. Every day that Congress fails to act tilts the playing field further in favor of illegal operators and away from small, legitimate businesses that drive equity and innovation in the legal industry.

Rescheduling Isn't Enough

If President Trump follows through on rescheduling cannabis to Schedule III, it could provide partial relief by removing cannabis from the scope of 280E. But this change would not deliver retroactive relief or open access to the deductions and tax credits available to every other small business.

Without congressional action, years of over-taxation will remain unaddressed, leaving small operators struggling to recover.

Bipartisan Support Exists for Change

There is momentum for reform on Capitol Hill. Lawmakers from both parties have introduced solutions in recent years:

- Former Senator Cory Gardner (R-CO) attempted to attach reform to the GOP's 2017 tax bill, even securing a score from the Joint Committee on Taxation.
- Former Congressman Earl Blumenauer (D-OR) introduced the Small Business Tax Equity Act multiple times, with bipartisan co-sponsors, most recently in 2023.

From Democrats focused on fairness and equity to Republicans concerned about the survival of small businesses, there is common ground. Congress has an opportunity to finish the job.

Time for Congress to Act

The path forward is clear: exempt state-legal cannabis businesses from 280E, deliver retroactive relief, and extend access to the same deductions and credits that every other American business enjoys.

This reform is not special treatment, it is fairness. It protects the entrepreneurs who followed the rules, built compliant companies, and helped create a legal market designed to displace illicit sales.

Until Congress acts, small cannabis operators will remain trapped in a cycle of over-taxation that stifles growth, undermines equity, and keeps the industry from reaching its potential.

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