



S.7518 (Cooney) / A.8808 (Lupardo)

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BILL S.7518 (Cooney) / A.8808 (Lupardo)
SUBJECT Business Expense Deductions for Cannabis Companies
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SUPPORT

The Business Council supports S.7518 (Cooney)/A.8808 (Lupardo), which allows licensed cannabis companies to deduct certain business expenses on their New York State taxes. Under this bill, Section 280E of the IRS code would be uncoupled from the state tax code allowing for cannabis companies to claim deductions that can assist in lowering their effective tax rate. Without the ability to make necessary business deductions, such as inventory for example, New York businesses could pay approximately double compared to others, unfairly impacting retailers and small businesses.

Today, 18 states have legalized adult-use cannabis, and 36 others permit medical marijuana in some form. Many cannabis companies face an effective tax rate of up to 80% as a result of Section 208E. This section is responsible for penalties being assessed from issues such as improper deductions related to expenses and costs to their line of business. We want businesses to enter the market without outrageous taxes and to have the opportunity to succeed in this new sector of the economy. This legislation accomplishes this task.

The decision to pursue a cannabis firm is much more prohibitive considering the money and cost to start and sustain it. Without the ability to write off inventory or advertising expenses for example, the ability of small business owners and entrepreneurs to enter the cannabis industry in New York will be challenging. The inability of businesses not to make these deductions is not conducive for this market to thrive here, and we agree with Senator Cooney that the Marijuana Regulation and Taxation Act (MRTA), with its emphasis on equity, must consider how taxation will impact participation.

New York aims to be a leader in this new industry but must work to resolve the distinctive monetary obstacles that marijuana businesses face as a result of federal prohibition. The MRTA prioritizes small businesses but those who are looking to enter face several challenges. Nationally, federal law makes it harder for them to obtain loans to buy a property and many landlords who

have an outstanding debt with large lending institutions are unable to rent to these types of businesses. Since cannabis sales are illegal federally, banks can face penalties if they accept money that comes from sales of it. When combined with the existing challenges small businesses face, ranging from lack of funds to raising capital, addressing tax issues can help them enter and succeed in this new system.

Many analysts and experts consider 280E as a burdensome and punitive tax code that makes it difficult to turn a profit. The Business Council supports policies that encourage participation and the creation of a more equitable tax system.

For these reasons, the Business Council strongly supports S.7518 (Cooney)/A.8808 (Lupardo).