

John Massey, CPA

RE: LD No. 1063 -“An Act to Provide Equitable Tax Treatment to State-licensed Cannabis Businesses”

March 30, 2023

My name is John Massey, I am a tax manager at One River CPA’s where I specialize in the cannabis industry, specifically taxation. Our firm has numerous clients in the medical and adult use cannabis sector. I am testifying today on behalf of my adult use client’s best interests.

I remember the first tax season following the start of the adult use program, looking up the subtraction modification rules and being surprised and disappointed that the adjustment was only available for medical entities. I assumed at the time that it was not legislative intent to preclude adult use entities from taking the same subtraction, but that the law had been written prior to the existence of the adult use program. I thought the language would be amended to include the entire industry over time.

Even with all my experience, I am unable to reason why adult use companies are being penalized from a tax stand point, while medical companies (who are often times selling quite literally the same product), benefit from the modification. I find it contradictory of the State to allow legalization of cannabis only to turn around and penalize operators. Expenses are not allowed on federal returns because cannabis businesses are trafficking a federally illegal substance – if what they are trafficking is fully legalized, licensed & regulated in Maine however, why then can’t businesses deduct their ordinary and necessary expenses?

Cannabis companies already operate in a hyper scrutinized environment because of federal regulations. The excessive nature of 280E makes maintaining operational cash flow very difficult. In preparation for this testimony; I reviewed a current client’s return. This was an (adult use retailers) tax return that showed book income of \$225k, a 280E adjustment of \$1.1 million and taxable income of \$1.6 million. That company paid \$125k in Maine income taxes on \$225k of book income – a 56% effective tax rate in the state. That same company paid \$340k in federal taxes, which is 150% of book income. The owners paid themselves \$20k out of the business that year because of the need to reserve any and all free cash for tax payments.

Cannabis companies do not get enough credit for the ancillary business they create. The cannabis industry has been economically beneficial for the state of Maine, and it behooves the State to help this industries. Included in the 280E adjustment I mentioned earlier, is \$530k in wages for over 20 employees. Meaning that my client created 20+ jobs in the state, but is not allowed a tax deduction for the cost of those jobs.

Additionally, Cannabis companies spending in the local community is enormous. They pay contractors, security companies, lawyers, accountants, supply & equipment stores, etc. – and often times are not allowed a state deduction for the money they spent here to run their business.

The industry is currently facing rising costs of operating while simultaneously experiencing a shift downward in what they can retail their product for. As a CPA who specializes in the industry, I can see first-hand the financial burden 280E places on Maine businesses. If the intent

of the legislature is to maintain a prosperous and financially sustainable industry then it is my belief that needs to decouple from federal regulations in regards to 280E and allow its local business to deduct their expenses.