States Allowing State-Legal Cannabis Business Expenses Deductions Despite 280E

Under the U.S. Internal Revenue Code § 280E, tax deductions are not allowed for “trafficking in controlled substances (within the meaning of Schedule I and II of the Controlled Substances Act) which is prohibited by Federal law or the law of any State in which such trade or business is conducted.”

This provision means state-legal cannabis businesses face a crushing tax burden. Unlike every legal business, cannabis businesses cannot deduct the vast majority of expenses from their taxable income, including employee payroll, health care, rental fees, repairs, and utilities. IRC § 280E drives up costs for patients and consumers and makes it harder for small businesses to succeed and compete with the untaxed, unregulated illicit market. Compounding the issue, most state tax codes mirror federal deductions (often with exceptions).

At least 20 states — including at least 16 legalization states — allow cannabis business expenses to be deducted. But several states that have legalized and regulated cannabis for adults and/or medical patients still impose this excessive and unfair tax burden.

Here is a review of state legalization and medical cannabis states that do **not** deny business tax exemptions. In most cases, the state created a specific exemption for state-legal cannabis businesses, but in some, state law never tracked IRC § 280E. Note that the list may not be exhaustive.

Legalization States Allowing Cannabis Business Tax Deductions	Medical-Only Allowing Cannabis Deductions
California	Arkansas
Colorado	Hawaii
Connecticut	Louisiana
Delaware	Maine (adult-use states, but only medical deductions appear allowed)
Illinois	Washington, D.C.
Maryland	
Massachusetts	
Michigan	
Minnesota	
Missouri	
Montana	
New Jersey	
New Mexico	
New York	
Oregon	

Vermont	

Note: This was compiled for educational purposes. It may not be relied on as legal or tax advice.