



2020 Income/Estate Tax Update: Marijuana Business Expense Deductions

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Legal Status of Maine Marijuana Businesses

Federal

Marijuana is a Schedule I drug under the Controlled Substance Act.

Trafficking remains illegal under federal law.

Maine

Medical Use

- Caregivers (Registered, Unregistered and retail stores 2019)
- Registered Dispensary
- Manufacturing facilities (2018)

Adult Use

- Cultivation, manufacturing and testing facilities
- Marijuana stores



Marijuana Business Expense Deductions

For Maine Tax Purposes:

- Registered Caregiver means a caregiver, a person or an assistant of that person that provides care for a qualifying patient in accordance with 22 M.R.S. § 2423-A(2), who is registered by the Department of Administrative and Financial Services pursuant to 22 M.R.S. § 2425-A.
- Registered Dispensary means an entity registered under 22 M.R.S. § 2425-A that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to qualifying patients and the caregivers of those patients.
- Marijuana establishment means a cultivation facility, a products manufacturing facility, a testing facility or a marijuana store licensed under 22 M.R.S. §§ 2421-2430-H.



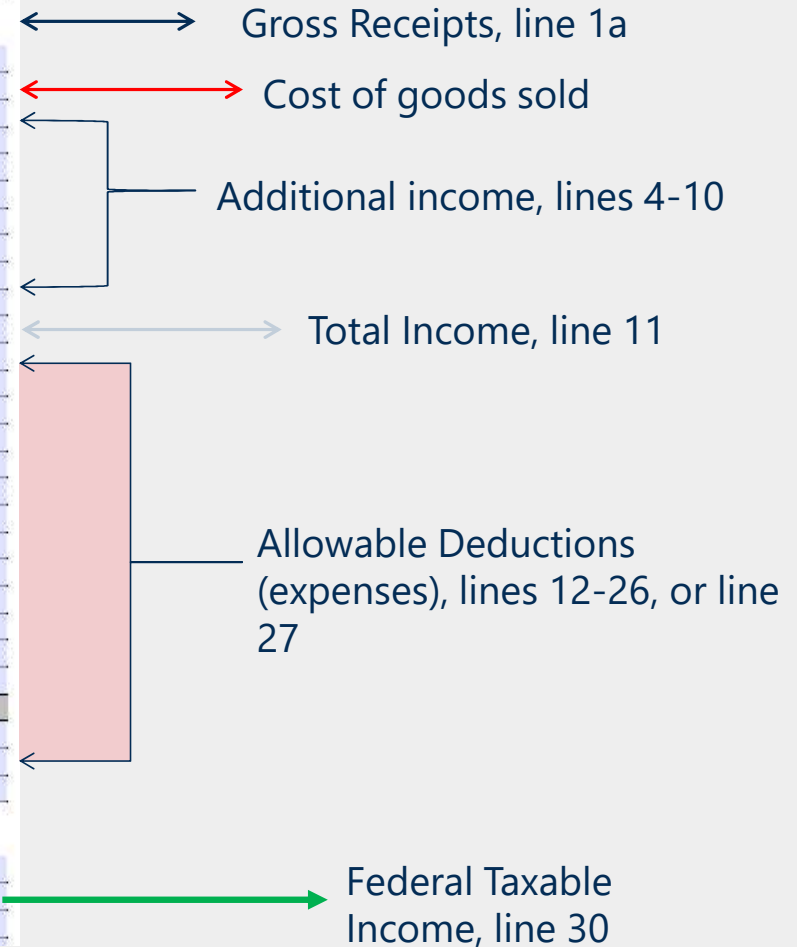
Marijuana Business Expense Deductions

For Corporations, Maine income tax returns begin with Federal Taxable Income (FTI).





Income				
1a	Gross receipts or sales	1a		
b	Returns and allowances	1b		
c	Balance. Subtract line 1b from line 1a	1c		
2	Cost of goods sold (attach Form 1125-A)	2		
3	Gross profit. Subtract line 2 from line 1c	3		
4	Dividends and inclusions (Schedule C, line 23, column (a))	4		
5	Interest	5		
6	Gross rents	6		
7	Gross royalties	7		
8	Capital gain net income (attach Schedule D (Form 1120))	8		
9	Net gain or (loss) from Form 4797, Part II, line 17 (attach Form 4797)	9		
10	Other income (see instructions—attach statement)	10		
11	Total income. Add lines 3 through 10	11		
Deductions (See instructions for limitations on deductions.)				
12	Compensation of officers (see instructions—attach Form 1125-E)	12		
13	Salaries and wages (less employment credits)	13		
14	Repairs and maintenance	14		
15	Bad debts	15		
16	Rents	16		
17	Taxes and licenses	17		
18	Interest (see instructions)	18		
19	Charitable contributions	19		
20	Depreciation from Form 4562 not claimed on Form 1125-A or elsewhere on return (attach Form 4562)	20		
21	Depletion	21		
22	Advertising	22		
23	Pension, profit-sharing, etc., plans	23		
24	Employee benefit programs	24		
25	Reserved for future use	25		
26	Other deductions (attach statement)	26		
27	Total deductions. Add lines 12 through 26	27		
28	Taxable income before net operating loss deduction and special deductions. Subtract line 27 from line 11.	28		
ITA and				
29a	Net operating loss deduction (see instructions)	29a		
b	Special deductions (Schedule C, line 24, column (c))	29b		
c	Add lines 29a and 29b	29c		
30	Taxable income. Subtract line 29c from line 28. See instructions	30		
31	Total tax (Schedule J, Part I, line 11)	31		





Marijuana Business Expense Deductions

Internal Revenue Code (IRC) § 280E:

- Expenditures in connection with the illegal sale of drugs.
- “No deduction or credit shall be allowed for any amount paid or incurred during the taxable year in carrying on any trade or business if such trade or business (or the activities which comprise such trade or business) consists of trafficking in controlled substances (within the meaning of Schedule I and Schedule 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.”



Marijuana Business Expense Deductions

Federal

Business expenses related to distribution of Schedule I or Schedule II drugs are generally disallowed pursuant to IRC § 280E.

Cost of Goods Sold are allowed.

Maine

Medical Use

Adult Use



Common IRC § 280E Expenses

- **Salaries & Wages**
- **Repairs and Maintenance**
- **Bad Debts**
- **Rents**
- **Taxes and Licenses**
- **Interest**
- **Office Supplies**
- **Charitable Contributions**
- **Advertising**
- **Insurances**
- **Legal & Accounting Fees**
- **Utilities**
- **Business Meals**



IRS Chief Counsel Advice 201504011 (1/23/2015)

- Cost of Goods Sold deduction constitutionally required—even for an illegal business.
- But a taxpayer trafficking in Schedule I or Schedule II drugs must use the inventory-costing regulations under IRC § 471 as they existed when IRC § 280E was enacted.
- May not include “additional IRC § 263A costs” as defined by Treasury Regulation 1.263A-1(d)(3).



IRC § 280E Expenses Deductible for Maine Purposes

- Maine allows an income subtraction modification for IRC § 280E expenses of a medical marijuana business.
- Eligible registered caregivers and registered dispensaries may claim a deduction for expenses related to carrying on a trade or business, in an amount equal to the deduction that would otherwise be allowable for Maine purposes to the extent the deduction was disallowed under IRC § 280E. 36 M.R.S §§ 5122(2)(NN) and 5200-A(2)(BB).



Marijuana Business Expense Deductions

Maine proposed LD 1322 would allow the following additional businesses to deduct IRC § 280E expenses:

- Manufacturing facilities engaged in medical marijuana extraction
- Adult use marijuana establishments and testing facilities
- Marijuana establishments include licensed:
 - cultivation facility
 - products manufacturing facility
 - a testing facility
 - a marijuana store



Filing Returns

All Marijuana Businesses

Attach a copy of federal return

Attach a profit and loss statement that identifies:

- Amounts entering into Costs of Goods Sold.
- Allocation of expenses allowed and disallowed under IRC § 280E.
- Basis of allocation of expenses among activities.

Marijuana Businesses Claiming § 280E Deductions

Claim IRC § 280E deduction on Form 1120ME, line 2j or Form 1040ME, Schedule 1, Line 2i.

Exclude expenses that are part of Cost of Goods Sold.



Thank you

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