Congress of the United States
Washington, DC 20515

Dear Colleague: H.R. 1810, The Small Business Tax Equity Act of 2017
Endorsements: Americans for Tax Reform, the National Cannabis Industry Association, Drug Policy Alliance, Marijuana Policy Project, Americans for Safe Access, & NORML

In the 2016 elections, Florida, Arkansas, and North Dakota joined the list of 28 states, D.C., and Guam, in passing laws allowing for the legal use of medical marijuana, accounting for 61% of the American population. In Alaska, California, Colorado, Maine, Massachusetts, Nevada, Oregon, Washington, and D.C., – a fifth of all Americans – marijuana is fully legal from production to the retail side of the industry.

The Internal Revenue Code currently prohibits anyone who sells Schedule I or Schedule II substances from deducting business expenses from their taxes. Congress added this prohibition in 1982 after a drug dealer claimed expenses associated with selling narcotics as legitimate business expenses.

Marijuana is a Schedule I substance, and therefore, even marijuana businesses operating in compliance with state law are not allowed to deduct the common expenses of running a small business, like rent, most utilities, and payroll. They cannot claim the Work Opportunity Tax Credit if they hire a veteran and they are limited in lawful deductions relating to construction or operation costs if they want to remodel a building for retail operations.

These marijuana businesses operating in full accordance with state law are not allowed to deduct their expenses, often resulting in nearly a **90% federal income tax rate**. By comparison, the U.S. Small Business Administration estimates that many small businesses pay an effective rate of around 20%. It is our firm belief that businesses should pay the taxes required of them. But when these marijuana businesses are unable to deduct normal operating expenses, this creates a significantly disproportionate tax burden.

The *Small Business Tax Equity Act of 2017* creates an exception to IRC Section 280E to allow businesses associated with the sale of marijuana operating in compliance with state law to take deductions like any other legal business. The unintended consequence of marijuana being included in Section 280E of the IRC has had the opposite effect of its original purpose to prohibit drug dealers from deducting expenses. **Barring marijuana businesses from operating like a normal industry encourages criminal activity and tax evasion, deterring good legal actors from opening in the first place and forcing others underground.**

A bipartisan companion bill was introduced by Senate Finance Ranking Member **Ron Wyden (D-OR)** and Sen. **Rand Paul (R-KY)**. For more information or to cosponsor, please contact Adam.Wolf@mail.house.gov with Rep. Curbelo or Laura.Thrift@mail.house.gov with Rep. Blumenauer

Cordially,

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