

First Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0627.01 Ed DeCecco x4216

HOUSE BILL 13-1042

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HOUSE SPONSORSHIP

Kagan,

SENATE SPONSORSHIP

Guzman,

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House Committees  
Finance

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING A STATE INCOME TAX DEDUCTION FOR A TAXPAYER WHO  
102 IS PROHIBITED FROM CLAIMING A FEDERAL INCOME TAX  
103 DEDUCTION BY SECTION 280E OF THE INTERNAL REVENUE CODE  
104 BECAUSE MARIJUANA IS A CONTROLLED SUBSTANCE UNDER  
105 FEDERAL LAW.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

The starting point for determining state income tax liability is

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

federal taxable income. This number is adjusted for additions and subtractions (deductions) that are used to determine Colorado taxable income, which amount is multiplied by the state's 4.63% income tax rate.

Section 280E of the internal revenue code (section 280E) prohibits a trade or business that is illegally trafficking controlled substances from claiming any federal income tax deductions. This increases federal taxable income and, consequently, state income tax liability.

The bill allows a taxpayer who is licensed under the "Colorado Medical Marijuana Code" or under regulations promulgated by the department of revenue pursuant to amendment 64 to claim a state income tax deduction for an expenditure that is eligible to be claimed as a federal income tax deduction but is disallowed by section 280E because marijuana is a controlled substance under federal law. Taxpayers eligible for this deduction include medical marijuana centers, optional premises cultivation operations, medical marijuana-infused product manufacturers, marijuana cultivation facilities, marijuana testing facilities, marijuana product manufacturing facilities, and retail marijuana stores.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 39-22-104, **add** (4)  
3 (p) as follows:

4 **39-22-104. Income tax imposed on individuals, estates, and**  
5 **trusts - single rate - definitions - repeal.** (4) There shall be subtracted  
6 from federal taxable income:

7 (p) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY  
8 1, 2014, IF A TAXPAYER IS LICENSED UNDER THE "COLORADO MEDICAL  
9 MARIJUANA CODE", ARTICLE 43.3 OF TITLE 12, C.R.S., OR UNDER  
10 REGULATIONS PROMULGATED BY THE DEPARTMENT OF REVENUE  
11 PURSUANT TO SECTION 16 (5) OF ARTICLE XVIII OF THE STATE  
12 CONSTITUTION, AN AMOUNT EQUAL TO ANY EXPENDITURE THAT IS  
13 ELIGIBLE TO BE CLAIMED AS A FEDERAL INCOME TAX DEDUCTION BUT IS  
14 DISALLOWED BY SECTION 280E OF THE INTERNAL REVENUE CODE BECAUSE  
15 MARIJUANA IS A CONTROLLED SUBSTANCE UNDER FEDERAL LAW.

16 **SECTION 2.** In Colorado Revised Statutes, 39-22-304, **add** (3)

1 (m) as follows:

2 **39-22-304. Net income of corporation.** (3) There shall be  
3 subtracted from federal taxable income:

4 (m) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY  
5 1, 2014, IF A TAXPAYER IS LICENSED UNDER THE "COLORADO MEDICAL  
6 MARIJUANA CODE", ARTICLE 43.3 OF TITLE 12, C.R.S., OR UNDER  
7 REGULATIONS PROMULGATED BY THE DEPARTMENT OF REVENUE  
8 PURSUANT TO SECTION 16 (5) OF ARTICLE XVIII OF THE STATE  
9 CONSTITUTION, AN AMOUNT EQUAL TO ANY EXPENDITURE THAT IS  
10 ELIGIBLE TO BE CLAIMED AS A FEDERAL INCOME TAX DEDUCTION BUT IS  
11 DISALLOWED BY SECTION 280E OF THE INTERNAL REVENUE CODE BECAUSE  
12 MARIJUANA IS A CONTROLLED SUBSTANCE UNDER FEDERAL LAW.

13 **SECTION 3. Act subject to petition - effective date.** This act  
14 takes effect at 12:01 a.m. on the day following the expiration of the  
15 ninety-day period after final adjournment of the general assembly (August  
16 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a  
17 referendum petition is filed pursuant to section 1 (3) of article V of the  
18 state constitution against this act or an item, section, or part of this act  
19 within such period, then the act, item, section, or part will not take effect  
20 unless approved by the people at the general election to be held in  
21 November 2014 and, in such case, will take effect on the date of the  
22 official declaration of the vote thereon by the governor.