

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 13-0627.01 Ed DeCecco x4216

HOUSE BILL 13-1042

HOUSE SPONSORSHIP

Kagan,

SENATE SPONSORSHIP

Guzman,

House Committees

Finance
Appropriations

Senate Committees

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.**

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.

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., AN AMOUNT EQUAL
10 TO ANY EXPENDITURE THAT IS ELIGIBLE TO BE CLAIMED AS A FEDERAL
11 INCOME TAX DEDUCTION BUT IS DISALLOWED BY SECTION 280E OF THE
12 INTERNAL REVENUE CODE BECAUSE MARIJUANA IS A CONTROLLED
13 SUBSTANCE UNDER FEDERAL LAW.

14 **SECTION 2.** In Colorado Revised Statutes, 39-22-304, **add** (3)
15 (m) as follows:

16 **39-22-304. Net income of corporation.** (3) There shall be

1 subtracted from federal taxable income:

2 (m) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
3 1, 2014, IF A TAXPAYER IS LICENSED UNDER THE "COLORADO MEDICAL
4 MARIJUANA CODE", ARTICLE 43.3 OF TITLE 12, C.R.S., AN AMOUNT EQUAL
5 TO ANY EXPENDITURE THAT IS ELIGIBLE TO BE CLAIMED AS A FEDERAL
6 INCOME TAX DEDUCTION BUT IS DISALLOWED BY SECTION 280E OF THE
7 INTERNAL REVENUE CODE BECAUSE MARIJUANA IS A CONTROLLED
8 SUBSTANCE UNDER FEDERAL LAW.

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