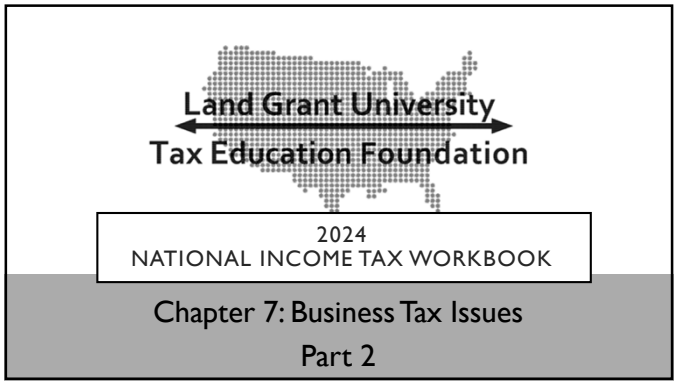
Land Grant University
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NATIONAL INCOME TAX WORKBOOK
Chapter 7: Business Tax Issues
Part 2

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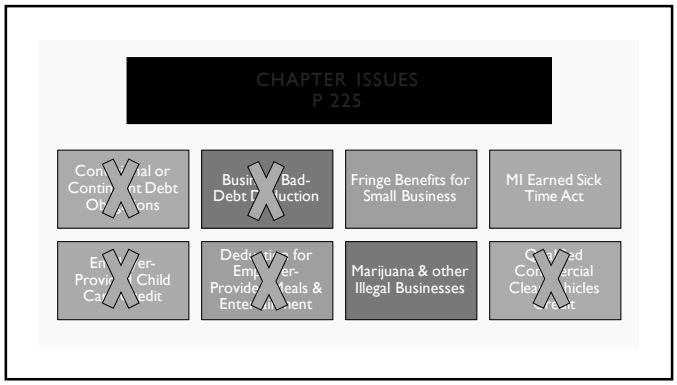
CHAPTER ISSUES
P 225
Fringe Benefits for Small Business
MI Earned Sick Time Act
Marijuana & other Illegal Businesses

2


ISSUE 3
Fringe Benefits for Small Businesses

49

FRINGE BENEFITS P 239

- Fringe benefit is a form of pay for the performance of services
- I.R.C. 3401(a) – benefits included in wages
- I.R.C. 1372 – certain employee fringe benefits are treated differently
  - Greater than 2% shareholder (directly or indirectly) of S Corp at any time during the year
  - Treated as a Partner
  - Treated as a Self-Employed person NOT an employee
  - Participation in employer sponsored fringe benefits may disqualify the whole plan
- Practitioner Note – 2% Shareholder

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FRINGE BENEFITS P 239

Health and accident insurance	Health savings account contributions	Cafeteria plans	Group term life insurance
Employer-provided meals and lodging	De minimis fringe benefits	No additional cost services	Qualified employee discounts
	Educational assistance	Dependent care assistance	

51

HEALTH & ACCIDENT INSURANCE P 239

- I.R.C.§ 106(a) -- employers can pay health and accident insurance premiums and deduct the cost of the premiums,
- I.R.C. § 105(b) -- Employees can exclude the value of the coverage from gross income
- S Corporation Health and Accident Insurance Payments
  - For health insurance premiums the S corporation pays for a 2% shareholder,
  - S corporation can deduct the cost of the premium
  - Shareholder must include the payment in his or her gross income
  - Partners can reduce distributions, S Corp shareholder-employers may not

52

HEALTH & ACCIDENT INSURANCE P 240

- Announcement 92-16, 1992-5 I.R.B. 53, citing I.R.C. § 3121(a)(2)(B)
  - The S corporation does not have to withhold FICA for 2% shareholder if it is provided under an accident or health insurance plan for employees or a class of employees
- Health insurance paid for a 2% shareholder is treated as cash compensation.
- The employer must report the cost of the premiums in box 1 of the shareholder's Form W-2, Wage and Tax Statement.
- To reconcile the Form W-2 income (box 1) with the social security and Medicare wages (boxes 3 and 5), the employer reports the premiums paid in box 14 (other).

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HEALTH & ACCIDENT INSURANCE P 240

Example 7.14 – Form W-2 for a 2% Shareholder

Shareholder SE Health Insurance Deduction

I.R.C. 162(1)(2)(A) -- A 2% shareholder can claim the deduction for self-employed health insurance costs.

Deduction is limited to the shareholder- employee's wage and salary income from the S corporation

I.R.C. § 162(l)(2)(B) -- Cannot claim the deduction for any calendar month in which they participate in another employer's subsidized health care plan

54

HEALTH & ACCIDENT INSURANCE P 240

- Must be Employer Sponsored health plan
- Personal shareholder policy does not qualify for the deduction.
- Notice 2008-1, 2008-1 C.B. 251
  - The S corporation must make the payments directly and report the payments on the shareholder-employee's Form W-2, or
  - The shareholder-employee must pay the premiums and furnish proof of payment to the corporation.
  - The corporation must reimburse the shareholder and report the reimbursement on the shareholder-employee's Form W-2.

55

HEALTH & ACCIDENT INSURANCE
P 240-241

- Partnership Health & Accident Insurance
- Premiums that a partnership pays on behalf of a partner are treated as a guaranteed payment
- The guaranteed payment is deductible by the partnership and included in the partner's income.
- A partnership is not required to file a Form 1099 or a Wage and Tax Statement (Form W-2) for accident and health insurance premiums that are guaranteed payments.

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HEALTH & ACCIDENT INSURANCE
P 241

- Reports the cost as guaranteed payments on its U.S. Partnership Return of Income (Form 1065) and the Schedule K-1.
- The partnership cannot deduct the premiums.
- A Partner may deduct the cost of the premiums paid
- The self-employed health insurance deduction is allowed regardless of whether the partnership accounts for the premium payments as guaranteed payments or a reduction in the partner's distributions.

57

HEALTH SAVINGS ACCOUNT CONTRIBUTIONS
P 241

- Employer-sponsored plan
  - Pre-tax contributions
- Personal Plan
  - Adjustment to gross income (i.e., an above the line deduction)
  - I.R.C. 62(a)(19) – the deduction is an adjustment to gross income
  - Distributions not taxable used to pay the plan owner's medical expenses during his/her lifetime of up to 1 year after death

58

P 241

HEALTH SAVINGS ACCOUNT CONTRIBUTIONS

- Eligibility
  - High-deductible health plan (HDHP)
  - Deductible amount under the HDHP must be at least
    - $1,600 for self-only coverage and
    - $3,200 for family coverage.
  - Maximum out-of-pocket expenses
    - $8,050 for self-only coverage
    - $16,100 for a family

59

HSA CONTRIBUTION LIMITS P 241

- I.R.C. 223(b)(3)
- An employer may make deductible contributions to an HSA on behalf of one or more employees.
- $4,150 for self-only coverage
- $8,300 for family coverage.
- Age 55 and older add $1,000 per year
- The employer's contributions reduce the amount that the employee can contribute to his or her HSA.

60

S CORP SHAREHOLDER P 241-242

- HSA contributions of a 2% shareholder-employee -- guaranteed payments under §707(c).
- S corporation may deduct the contributions under §162
- Contributions are includable in the 2% shareholder-employee's gross income
- The 2% shareholder-employee may not exclude the contribution from gross income under §106(d).
- HSA contributions of a 2% shareholder-employee subject to FICA
- HSA contributions are not subject to (SECA)

61

PARTNERSHIPS P 242

- Treat contributions as distributions to the partner
- The partnership cannot deduct the contributions,
  - The contributions do not affect the distributive shares of partnership income and deductions.
  - Contributions are reported as distributions of money on schedule k-1
  - These distributions are not included in the partner's net earnings from self-employment under I.R.C. § 1402(a).
  - The partner can deduct the contributions.

62

PARTNERSHIPS P 242

- Treat contributions as guaranteed payment
  - The partnership can deduct the contributions,
  - They are included in the partner's gross income
  - Subject to net earnings from self- employment.
  - The partner, if otherwise eligible, can deduct the contributions.

63

P.242

CAFETERIA PLANS – I.R.C. § 125(A)

Allows employees to choose certain tax-advantaged fringe benefits or cash compensation.

I.R.C. § 125 does not treat self-employed taxpayers as employees.

2% shareholders of S corporations and partners in a partnership may not participate in those plans.

Planning Pointer – 2% Shareholder Participation -- Disqualifies the plan

64

GROUP TERM LIFE INSURANCE P 243

- I.R.C. § 79 exclusion from an employee's income for premiums paid on group term life insurance for the first $50,000 of cover- age per employee.
- Not subject to federal income tax withholding FUTA
- Taxable fringe -- amount of the premium for insurance in excess of $50,000
- If the employer is the policy owner, the employer may deduct the premium payments.
- There must be at least 10 employees participating in the plan.
- A self-employed person is not an employee for purposes of the group term life insurance rules.
- A 2% shareholder or a partner cannot claim any exclusion for group term life insurance.

65

EMPLOYER-PROVIDED MEALS & LODGING P 243

- I.R.C. § 119 provides an exclusion from gross income
- Value of meals and lodging
- I.R.C. § 119(a)(1) -- the meals must be served on the employer's premises
- In tax years after 2025, I.R.C. § 274(o) eliminates the deduction for §119(a) meals that are furnished on the business premises, for the convenience of the employer.
- Tax years before 2024, the employer can deduct 50% of the expense, and the value is excluded from the employee's income.

66

P 243

MEALS FOR THE CONVENIENCE OF THE EMPLOYER -- TREAS. REG. § 1.119-1(2)(II)

- Meals are provided to food service employees during (or immediately before or after) the employees' working hours.
- Meals are furnished during working hours so that employees will be available for emergency calls during the meal period.
- Meals are furnished during working hours because the nature of the business restricts an employee to a short meal (30 to 45 minutes)
- Employees cannot be expected to eat elsewhere during the short period.
- Meals are furnished immediately after working hours if the employer would have furnished them during working hours for a substantial non-compensatory business reason, but they were not eaten during working hours because of the employee's work duties

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P 243 - 244

MEALS FOR THE CONVENIENCE OF THE EMPLOYER -- TREAS. REG. § 1.119-1(2)(II)

- Promote goodwill, boost morale, or attract prospective employees are not considered furnished for the employer's convenience
- De minimis fringe benefit.
- If more than half of the employees who are furnished meals on the business premises are furnished meals for the employer's convenience
- The employer can treat all meals furnished to employees on the business premises as furnished for the employer's convenience.
- This benefit is limited to employees
- It is not available to partners and 2% shareholder-employees of S corporations.

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P 244

EMPLOYER-PROVIDED LODGING

- I.R.C.§ 119(a)(2) -- lodging must be on the employer's premises and must be a condition of employment
- Lodging furnished to an employee for the convenience of the employer includes the value of any necessary utilities unless the employee contracts and purchases the utilities directly from the supplier.
- In *Harrison v. Com- missioner*, T.C. Memo. 1981-211, gas and electricity furnished to the residence were included in the term *lodging* because they were necessary to make the residence habitable.
  - The value of telephone service provided by the employer was not required to make the residence habitable and therefore was included in the employee's income.
- Self-Employed Persons -- I.R.C. § 119 does not treat a self-employed person as an employee for purposes of the exclusion.
  - Sole proprietors and individuals who are the sole members of LLCs treated as disregarded entities cannot benefit from the §119 exclusion of employer-provided meals and lodging because they are not employees.
  - The value of employer- provided meals and lodging is included in the gross income of a 2% S corporation shareholder or a partner-service provider.
  - Occasional meals may be excluded as a de minimis fringe benefit (discussed next).

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P 244

DE MINIMIS FRINGE BENEFITS

I.R.C.§ 132(a)(4) -- excluded from an employee's income

2% S corporation shareholder-employee and a partner providing services to the partnership can be employees.

de minimis benefit -- is any property or service that has so little value
- that accounting for it would be unreasonable or administratively impracticable.

Not de minimis -- Cash and cash equivalent fringe benefits (for example, gift certificates, gift cards, and the use of a charge card or credit card)

Meal money and local transportation fare, if provided on an occasional basis and because of overtime work, may be excluded.

70

DE MINIMIS EXAMPLES P 244-245

- Occasional snacks, coffee, doughnuts, etc.
- Occasional meal money or transportation expenses for working overtime
- Personal use of an employer-provided cell phone provided primarily for non-compensatory business purposes
- Occasional personal use of a company copying machine if the employer sufficiently controls its use so that at least 85% of its use is for business purposes
- Holiday or birthday gifts, other than cash, with a low fair market value
- Flowers, fruit, or similar items provided to employees under special circumstances (for example, on account of illness, a family cri- sis, or outstanding performance)
- Group-term life insurance payable on the death of an employee's spouse or dependent if the face amount is not more than $2,000
- Certain meals provided in an employer operated eating facility (through 2025)
- Occasional parties or picnics for employees and their guests
- Occasional tickets for theater or sporting events

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TAXABLE DE MINIMIS FRINGE BENEFITS P 245

- Season tickets to sporting or theatrical events;
- The commuting use of an employer-provided automobile or other vehicle more than 1 day a month;
- Membership in a private country club or athletic facility, regardless of the frequency with which the employee uses the facility
- Use of employer-owned or leased facilities (such as an apartment, hunting lodge, boat, etc.) For a weekend.
- If a benefit provided to an employee does not qualify as de minimis, then generally the entire benefit must be included in income
- Example 7.15 – Infrequent Travel Expense
- Practitioner Note – Meal Expense Deduction

72

NO ADDITIONAL COST SERVICES P 245

- I.R.C. § 132(a)(1) -- a *no additional cost service* is available on a tax-favored basis and the employer can exclude the cost from the employee's wages
- The exclusion is available to Partners & 2% S Corp shareholder-employees
- A no additional cost service means a service provided by an employer to an employee if
  - such service is offered for sale to customers in the ordinary course of the employer's business in which the employee is performing services, and
  - the employer incurs no substantial additional cost (including forgone revenue) in providing such service to the employee (determined without regard to any amount paid by the employee for such service).
- The exclusion for a no additional cost ser- vice applies whether the service is provided at no charge or at a reduced price.
- The services cannot discriminate in favor of highly compensated employees.

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NO ADDITIONAL COST – EXCESS CAPACITY P 245-246

- Treas. Reg. § 1.132-2(a)(2)
  - such as airline, bus, or train tickets; hotel rooms; or telephone services provided free, at a reduced price, or through a cash rebate to employees working in those lines of business
  - To determine whether the employer incurs substantial additional costs to provide a service to an employee, lost revenue is included as a cost.
- Practitioner Note – Definition of Employee
- Example 7.16 – Lost Revenue

74

QUALIFIED EMPLOYEE DISCOUNTS

- I.R.C. § 132(a)(2) -- qualified employee discounts are excluded from wages.
- Available to partners who provide services for the partnership and 2% S corporation shareholder-employees.
- *qualified employee discount* –
  - reduction in the price of property (other than real property and certain investment property)
  - reduction in price of the services offered to customers in the line of business in which the employee performs substantial services.
- The discount cannot favor highly compensated employees
- The value of the exclusion cannot exceed the following:
  - for property, the employer's gross profit percentage multiplied by the price at which the property is being offered by the employer to customers; or
  - for services, 20% of the price at which the services are being offered by the employer to customers.
- Treas. Reg. 1. § 132-3(c) -- the gross profit percentage is the total sale price of the property less the total cost of the property, divided by the total sale price of the property

75

EDUCATIONAL ASSISTANCE P 246

An employer may establish a qualified educational assistance program.

The program must be a separate written plan.

The employer's contributions are fully deductible, and the distributions may be tax free to the employee who receives the benefit, up to $5,250 per year [I.R.C. § 127(a)(2)].

The program must not discriminate in favor of highly compensated employees.

76

EDUCATIONAL ASSISTANCE P 246

The antidiscrimination rule limits the amounts payable for shareholders or owners (as a group) who own more than 5% of the stock, capital, or profits interest of the employer.

The limit is 5% of the total benefits paid for the year [I.R.C. § 127(b)(3)].

Somewhat narrow attribution rules extend the shareholder ownership rules to a spouse and minor children [I.R.C. § 127(e)(4)(A); I.R.C. § 1563(e)].

77

EDUCATIONAL ASSISTANCE P 247

Example 7.17 – Calculating the Amount of Educational Assistance

Eligible Employees -- Treas. Reg. § 1.127-2(h)(1)(iii)

- current employees and former employees who were laid off, retired, or disabled.
- A current employee who is on leave is eligible to participate.
- Spouses or dependents of employees are not eligible.
- A partner providing services to the partnership and a 2% S corporation shareholder-employee are treated as an employee, and distributions are excluded from income

78

EDUCATIONAL EXPENSES P 247

- Tuition, books, supplies and equipment necessary for class.
- Education is not limited to courses that are job related or part of a degree program.
- Do not include tools or supplies that the employee may keep after the course is completed; education involving sports, games, hobbies (unless job-related); or meals, lodging or transportation.
- § 2206 of the 2020 CARES Act -- includes certain employer payments of student loans paid after March 27, 2020, and before January 1, 2026.
  - The exclusion applies to the payment by an employer of principal or interest on any qualified education loan incurred by the employee for the employee's education.

79

DEPENDENT CARE ASSISTANCE P 247

- I.R.C. § 129 -- exclude employer paid amounts to provide dependent care assistance
- Paid to a qualifying person's care
- Provided to allow the employee to work.
- The maximum exclusion is $5,000 per year ($2,500 for married persons filing separate returns)
- Cannot < earned income of either the employee or employee's spouse.

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DEPENDENT CARE ASSISTANCE P 247

- Partners providing services to a partnership can participate
- S corporation 2% shareholder-employees can participate
- The value of benefits provided to principal owners (those who own more than 5%) cannot exceed 25% of the total paid by the employer to all employees for the year [I.R.C. § 129(d)(4)].
- The program cannot discriminate in favor of highly compensated employees
- Example 7.18 – Limit on Dependent Care Assistance

81

MICHIGAN EARNED SICK TIME ACT

PUBLIC ACT 338 OF 2018 (ESTA)

82

KEY PROVISIONS

Effective February 21, 2025	All Michigan Employers	1 or more employee
Employee = anyone receiving wages/salaries/compensation subject to FICA	Employee = salaried exempt, salaried non-exempt	Employee = full & part-time hourly

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EMPLOYEE SICK TIME ACCRUAL

- Minimum of 1 hour for every 30 hours worked
- Employer < 10 employees = 40 hours per year minimum
- Employer <10 employees – must provide 32 hours unpaid sick time per year
- Employer < 10 employees – use paid earned sick time before unpaid sick time
- Employer >10 employees – 72 hours per year minimum
- Carry-over up to 72 hours per year
- Employers with PTO meeting these standards is deemed compliant

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10-EMPLOYEE THRESHOLD

Employee works 20 or more workweeks in the current or previous calendar year

The 20 workweeks do not need to be consecutive

When 10 or more employee threshold is met – must provide sick time for that year and the following calendar yer

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USING EARNED SICK TIME

- Employees mental or physical illness
- Employee family member's mental of physical illness
- Employer can restrict use until after new-employee probationary period of not more than 90-days
- Can be taken in 1-hour increments
- Can be taken in smaller increments – minimum of 1/10th or 6 minutes

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EMPLOYEE NOTICE OR DOCUMENTATION

Employer may require reasonable documentation if sick time is used for more than 3 consecutive days

Upon request employee must provide

Documentation without detail of illness or details of domestic violence	Employer pays any out-of-pocket expenses if employee incurs such for obtaining documentation	Employer cannot delay leave based on failure to receive documentation

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COMPLIANCE, RECORD KEEPING & NOTICE

- Employers must retain records of hours worked & earned sick time for at least 3 years
- Record of how earned sick time is accrued, used & carried over
- Written notice must be given to employees at time of hire
- Written notice must be given to employees prior to the effective date of February 21, 2025
- **www.michigan.gov/wagehour**

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ISSUE 6

Marijuana & Other Illegal Businesses

89

P 254

MARIJUANA

- 38 states and the District of Columbia allow the medical use of cannabis products,
- 24 states and the District of Columbia allow non- medical (recreational) cannabis use.
- Under federal law, marijuana is a Schedule I controlled substance and is illegal.
- Practitioner Note – Schedule 1 Substance

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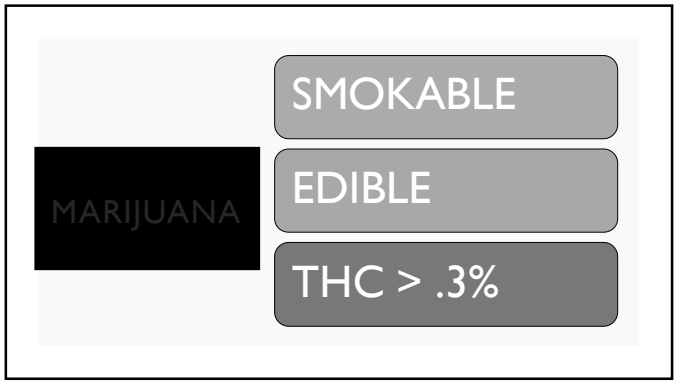
CANNABIS INDUSTRY

Industrial Hemp
- Farm Bill of 2018
- Federally Legal
- NO §280E prohibition

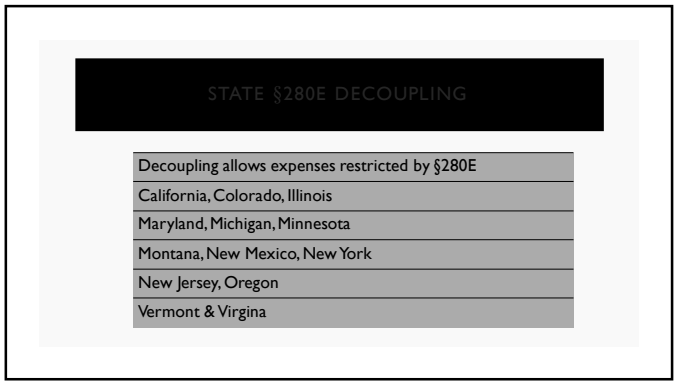
Marijuana
- Federally Illegal
- State Legal
- §280E Prohibition
- §471 Only
- NO §263A (UNICAP)

Schedule 1 Substances
- Proposed to unscheduled marijuana
- Psilocybin (psychedelic mushrooms) – legal in Oregon

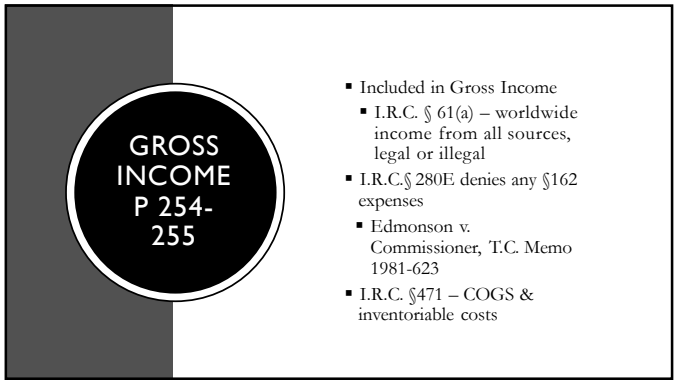
91


MARIJUANA
SMOKABLE
EDIBLE
THC > .3%

92


STATE §280E DECOUPLING
Decoupling allows expenses restricted by §280E
California, Colorado, Illinois
Maryland, Michigan, Minnesota
Montana, New Mexico, New York
New Jersey, Oregon
Vermont & Virgina

93


GROSS INCOME P 254-255
Included in Gross Income
I.R.C. § 61(a) – worldwide income from all sources, legal or illegal
I.R.C.§ 280E denies any §162 expenses
Edmonson v. Commissioner, T.C. Memo 1981-623
I.R.C. §471 – COGS & inventoriable costs

94

FEDERAL TAXATION OF MARIJUANA BUSINESSES

- No Other Deductions
  - I.R.C. § 164 -- a loss deduction
  - I.R.C. § 165 -- a depreciation deduction (I.R.C. § 167), and
  - I.R.C. § 170 -- a charitable contribution deduction (*San Jose Wellness v. Commissioner*, 156 T.C. 62 (2021))

95

MULTIPLE TRADE OR BUSINESS P 256

- *Californians Helping to Alleviate Medical Problems v. Commissioner*, 128 T.C. 173 (2007),
  - Provided counseling and caregiving services to its members, who were individuals with debilitating diseases. Californians Helping to Alleviate Medical Problems (CHAMP)
  - Also provided its members with medical marijuana.
  - The IRS argued that CHAMP had a single trade or business of trafficking in medical marijuana, and its expenses were not deductible.
  - CHAMP argued that it engaged in separate trades or businesses.
  - The IRS generally accepts a taxpayer's characterization of two or more undertakings as separate activities unless the characterization is artificial or unreasonable [Treas. Reg. § 1.183-1(d)(1)].
  - The court found that it was not artificial or unreasonable for CHAMP to characterize its provision of caregiving services and its provision of medical marijuana as separate activities.

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MULTIPLE TRADE OR BUSINESS

- *Olive v. Commissioner*, 792 F.3d. 1146 (9th Cir. 2015)
- They were unable to establish that it was a dual-purpose business.
  - The court reasoned that selling snacks, movies, and games with some counseling was not significant enough to substantiate a dual-purpose business.
  - The taxpayer's books and records were not as clearly defined as in CHAMP

97

MULTIPLE TRADE OR BUSINESS

- In *Alterman v. Commissioner*, T.C. Memo. 2018-83,
  - the taxpayers owned an LLC that operated a legal medical marijuana store in Colorado.
  - The store also sold nonmarijuana products such as pipes, papers, and other items used in the consumption of marijuana.
  - The court found that the sale of marijuana and nonmarijuana merchandise was part of one business because the LLC derived almost all its revenue from marijuana merchandise and the types of nonmarijuana products that it sold complemented its efforts to sell marijuana.
  - The LLC records were insufficient to identify the separate sales of the nonmarijuana merchandise.
  - The court noted that if selling nonmarijuana merchandise was considered a separate business, then the expenses of that business would be deductible.

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COST OF GOODS SOLD

- Treas. Reg. § 1.61-3 -- *gross income* the excess of receipts over cost of goods sold.
- *Cost of goods sold* (COGS) is the term given to the adjusted basis of merchandise sold during the tax year.
- COGS -- acquire, construct, or extract a physical product that is to be sold
- Sellers can have no gain until they recover the economic investment that they made directly in the actual item sold
- COGS = beginning inventories + current-year production costs (in the case of a producer) or current-year purchases (in the case of a reseller) - ending inventories.
- 280E-affected taxpayers must calculate their COGS pursuant to I.R.C. § 471

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COST OF GOODS SOLD

- Capitalize an item's cost in the year of acquisition or production
- Amortize it or wait until the year the item is sold to make the corresponding adjustment to gross income.
- Marijuana Resellers
  - The direct costs of the inventory include the invoice price of the marijuana purchased (less trade or other discounts) and transportation or other necessary charges incurred in acquiring possession of the marijuana
- Practitioner Note – Uniform Capitalization Rules (§263A) do not apply

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COURT CASES

- *Patients Mutual Assistance Collective v. Com- missioner*, 151 T.C. 176 (2018), Patients Mutual Assistance Collective Corporation d.b.a. Harborside Health Center (Harborside)
  - A medical marijuana dispensary.
  - Harborside sold a wide variety of products, clones (cuttings from a female marijuana plant), marijuana flowers (buds), marijuana-containing products (such as edibles), and non-marijuana-containing products (such as T-shirts and rolling papers).
  - Harborside purchased its flowers from its members.
  - Harborside argued that it produced its marijuana flowers because they were grown by its members.
  - The court agreed that a taxpayer can be a producer even if it uses contract manufacturers to do the actual production.
  - However, production turns on ownership.
  - Harborside had complete discretion over whether to purchase what bud growers brought in, and paid growers only if it purchased their bud.
  - Harborside was a reseller, not a producer, and it could not include its indirect inventory costs in COGS

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COURT CASES

- *Alternative Health Care Advocates v. Commissioner, 151 T.C. 225 (2018)*
  - The taxpayer operated a medical marijuana dispensary in California.
  - The corporation had members instead of shareholders, and the members supplied the marijuana and purchased marijuana products created by the corporation.
  - The corporation also sold nonmarijuana items such as T-shirts, rolling papers, and pipes.
  - The IRS disallowed its § 162 expenses.
  - The court noted that a taxpayer engaged in manufacturing or merchandising can subtract COGS from gross receipts to arrive at gross income.
  - The taxpayer argued that Alternative Health Care Advocates was a producer and therefore it could include its production costs in inventory.
  - The court found that Alternative was not a producer of the marijuana but resellers

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EXAMPLE 7.24 -- COST OF GOODS SOLD

- Sales = $ 450,000
- Beginning Inventory = $ 275,000
- Eligible expenses = $ 105,000 (product & transportation)
- Ending Inventory = $ 225,000
- COGS = $ 155,000
- Gross Profit = $ 295,000

FIGURE 7.4
Green Thumb's 2024 Expenses

Expense	Amount
Marijuana product purchased	$100,000
Product transportation	5,000
Payroll	30,000
Bookkeeping	12,000
Rent and utilities	14,000
Total	$161,000

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COST OF GOODS SOLD

Example 7.25 – Dual Purpose Business

Practitioner Note – State Excise Tax

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MARIJUANA PRODUCER COGS

Direct and Indirect costs

Capitalize –

cost of raw materials, | expenditures for direct labor, | indirect production costs

Direct material costs (marijuana seeds or plants) and direct labor costs (e.g., planting, cultivating, harvesting, sorting).

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MARIJUANA PRODUCER COGS

Fixed indirect production costs

Fixed costs may include, rent and property taxes on buildings and machinery incident to and necessary for manufacturing operations or processes.

Variable indirect production costs may include, among other costs, indirect materials, factory janitorial supplies, and utilities.

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EXAMPLE 7.26 MARIJUANA PRODUCER

- Sales = $ 750,000
- Eligible expenses = $ 377,700
- Bookkeeping is not COGS
- Beginning Inventory = $ 1,035,000
- Ending Inventory = $ 985,000
- Total COGS = $ 427,700
- Gross Profit = $ 323,300

FIGURE 7.5
Windward Farm's 2024 Expenses

Expense	Amount
Marijuana seeds	$ 43,500
Payroll	150,000
Soil enrichment	2,200
Fuel and tools	10,000
Laboratory fees	12,000
Bookkeeping	14,500
Rent and utilities	160,000
Total	$392,200

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FEDERAL EMPLOYMENT TAXES & ESTIMATED TAX PAYMENTS

- IRS Taxpayer Assistance Centers accept Cash
- Taxpayers must call 844-545-5640 to schedule an appointment 30 to 60 days prior to the payment date.
- There are other cash payment methods, including purchasing a prepaid credit card and paying online, paying with a mobile app, mailing a money order or cashier's check to the IRS
  - www.irs. gov/payments/pay-with-cash-at-a-retail-partner

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FEDERAL EMPLOYMENT TAXES & ESTIMATED TAX PAYMENTS

Businesses may be assessed a penalty if they do not make federal tax deposits using the Electronic Federal Tax (EFT) Payment System.

Reasonable cause relief -- failing to make a deposit in the proper format.

Allgreen's v. Commissioner

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OTHER PAYMENTS & ISSUES

Practitioner Note – Cash payments over $ 10,000

Unbanked Taxpayers Employment Tax Penalty Relief

- Obtain a signed and dated statement from the bank that declined the account. The statement must be less than 2 years old.
- Write the word "Unbanked" at the top of the employment tax return (Forms 941, 943, 944
- or 945).
- Write a letter asking for penalty relief. In the letter, describe the steps taken to try to get a bank account.
- Attach the signed and dated statement from the bank and the request letter to the employ- ment tax return.
- Mail the request to the address in the form instructions.

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QUESTIONS?

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