

Cannabis Industry State Tax Guide

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About This Guide

Businesses in the legalized cannabis sector face a daunting task in complying with state and Federal tax laws. This Guide is designed to assist in tax compliance by providing quick access to the relevant tax provisions in the 50 states and the District of Columbia. This Guide contains two sections: (1) a quick reference chart, which summarizes certain provisions by state, and (2) a state-by-state detailed reference guide.

For each state, the chart notes:

- status of legalization for medical and/or recreational use
- applicability of state level sales taxes
- applicability of state level excise taxes
- whether the Federal Code Section 280E applies for state income tax purposes
- whether the state imposes a Stamp Tax (or Controlled Substance Tax)

The detailed reference guide provides a page dedicated to each state's specific statutes and other guidance.

Status of Legalization

The chart notes whether medical and recreational (or retail) cannabis is legal in each state. The chart only refers to medical cannabis as being legal if the state has enacted a law legalizing medical cannabis, even though several states that have not fully legalized medical marijuana have legalized some form of medical marijuana, such as the use of cannabis extracts that are high in CBD and low in THC. For a complete survey of cannabis laws, refer to Fox Rothschild's [National Survey on Marijuana Laws and Regulations](#).

Applicability of State Level Sales Taxes

The chart notes whether sales of medical and recreational cannabis are subject to state sales tax. Most states levy a sales tax on the sale of tangible personal property. The seller is required to collect and remit the applicable sales tax due unless a specific exemption applies. Many states provide an exemption for "prescription drugs." Some states consider medical marijuana a prescription drug, in which case sales of medical marijuana may be exempt from sales tax or subject to a special tax rate.

Applicability of State Level Excise Taxes

The chart notes whether each state levies an excise tax on the production or sale of medical and recreational cannabis, and whether such excise tax is imposed in addition to any applicable state sales taxes. An excise tax differs from a sales tax in that it applies only to specific goods – in this case, cannabis.



Whether the Federal Code Section 280E Applies for State Income Tax Purposes

In 1982, Congress enacted Internal Revenue Code Section 280E. Section 280E prohibits taxpayers from deducting trade or business expenses incurred in the trafficking of controlled substances. Because cannabis is considered a controlled substance under Federal law, Section 280E prevents businesses that sell cannabis from deducting ordinary and necessary business expenses, even where the sale of cannabis is legal under state law.

The chart notes whether Section 280E applies for state income tax purposes. Although Section 280E is a provision in the Federal Internal Revenue Code, many states conform to the provisions of the Internal Revenue Code for personal income taxes, corporate income taxes, or both.¹ Consequently, Section 280E often applies in determining state taxable income. Few states (such as Colorado and Oregon) have enacted a provision that allows cannabis businesses to deduct business expenses that would otherwise be nondeductible because of Section 280E.

Stamp Taxes or Controlled Substance Taxes

This chart notes whether each state levies a “Stamp Tax” or “Controlled Substance Tax.” Some states have historically imposed a tax on the sale or possession of illegal drugs. This tax is often imposed on “dealers” of illegal drugs. These taxes are generally payable by requiring the dealer to purchase official stamps from the State Department of Revenue which are affixed to the product as evidence of payment of the tax, hence the name “Stamp Tax.”

About Fox Rothschild

Fox Rothschild LLP is a national law firm ranked in the Am Law 100. Home to more than 950 attorneys in 27 offices coast to coast, Fox offers clients a team of accomplished professionals who have honed their legal skills in government and industry and who excel at crafting the legal solutions that match our clients’ goals.

About the Authors

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¹ Note: Many states’ income tax laws provide for a “starting point” in calculating state taxable income. For corporations, this starting point is often Federal taxable income before NOLs and other special deductions or after taking NOLs and other deductions into account. This guide does not note whether NOLs and other special deductions are taken into consideration to calculate the starting point. In addition, some states automatically conform to the current version of the Internal Revenue Code on a rolling basis, while others have a static conformity date and require legislation to adopt any changes to the Internal Revenue Code that are enacted after the conformity date. This guide does not note whether a state has a static conformity date or conforms on a rolling basis.



Quick Reference Chart

	AL	AK	AZ	AR	CA	CO	CT	DE	DC	FL	GA	HI	ID	IL	IN	IA	KS
Is Medical MJ Legal?	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	N	Y	N	Y	N
Is Recreational MJ Legal?	N	Y	N	N	Y	Y	N	N	Y	N	N	N	N	N	N	N	N
Are sales of medical MJ subject to state sales tax?	N/A	N	Y	Y	Y	Y	Y	N/A	Y	N	N/A	N/A	N/A	Y	N/A	U	N/A
Are sales of recreational MJ subject to state sales tax?	N/A	N	N/A	N/A	Y	Y	N/A										
Is medical MJ subject to an excise tax?	N/A	Y	N	Y	Y	N	N	N	N	N	N/A	Y	N/A	Y	N/A	U	N/A
Is recreational MJ subject to an excise tax?	N/A	Y	N/A	N/A	Y	Y	N/A										
Does § 280E Apply for State Income Tax Purposes (C Corps)?	N/A	Y	Y	N	N	N	Y	Y	Y	Y	N/A	N	N/A	Y	N/A	Y	N/A
Does § 280E Apply for State Income Tax Purposes (Individuals)?	N/A	N	Y	N	Y	N	Y	Y	Y	N/A	N/A	N	N/A	Y	N/A	Y	N/A
Does State impose a Stamp Tax or Controlled Substance Tax?	Y	N	N	N	N	N	Y	N	N	N	Y	N	Y	Y	N	Y	Y



Quick Reference Chart

	KY	LA	ME	MD	MA	MI	MN	MS	MO	MT	NE	NV	NH	NJ	NM	NY	NC
Is Medical MJ Legal?	N	Y	Y	Y	Y	Y	Y	N	N	Y	N	Y	Y	Y	Y	Y	N
Is Recreational MJ Legal?	N	N	Y	N	Y	N	N	N	N	N	N	Y	N	N	N	N	N
Are sales of medical MJ subject to state sales tax?	N/A	U	Y	N	N	Y	N	N/A	N/A	N/A	N/A	Y	N/A	Y	Y	N	N/A
Are sales of recreational MJ subject to state sales tax?	N/A	N/A	Y	N/A	Y	N/A	N/A	N/A	N/A	N/A	N/A	Y	N/A	N/A	N/A	N/A	N/A
Is medical MJ subject to an excise tax?	N/A	U	N	N	N	Y	N	N/A	N/A	Y	N/A	Y	N	N	N	Y	N/A
Is recreational MJ subject to an excise tax?	N/A	N/A	Y	N/A	Y	N/A	N/A	N/A	N/A	N/A	N/A	Y	N/A	N/A	N/A	N/A	N/A
Does § 280E Apply for State Income Tax Purposes (C Corps)?	N/A	Y	Y	Y	Y	Y	Y	N/A	N/A	Y	N/A	N/A	Y	Y	Y	Y	N/A
Does § 280E Apply for State Income Tax Purposes (Individuals)?	N/A	Y	Y	Y	Y	Y	Y	N/A	N/A	Y	N/A	N/A	N	N	Y	Y	N/A
Does State impose a Stamp Tax or Controlled Substance Tax?	Y	Y	N	N	Y	N	Y	N	N	N	Y	N	N	N	N	N	Y



Quick Reference Chart

	ND	OH	OK	OR	PA	RI	SC	SD	TN	TX	UT	VT	VA	WA	WV	WI	WY
Is Medical MJ Legal?	Y	Y	Y	Y	Y	Y	N	N	N	N	N	Y	N	Y	Y	N	N
Is Recreational MJ Legal?	N	N	N	Y	N	N	N	N	N	N	N	Y	N	Y	N	N	N
Are sales of medical MJ subject to state sales tax?	U	Y	Y	N/A	N	Y	N/A	N/A	N/A	N/A	N/A	N	N/A	Y	N	N/A	N/A
Are sales of recreational MJ subject to state sales tax?	N/A	TBD	N/A	Y	N	N/A	N/A										
Is medical MJ subject to an excise tax?	U	N	Y	N	Y	Y	N/A	N/A	N/A	N/A	N/A	N	N/A	Y	Y	N/A	N/A
Is recreational MJ subject to an excise tax?	N/A	N/A	N/A	Y	N/A	TBD	N/A	Y	N/A	N/A	N/A						
Does § 280E Apply for State Income Tax Purposes (C Corps)?	Y	N/A	N/A	N	Y	Y	N/A	N/A	N/A	N/A	N/A	Y	N/A	N/A	Y	N/A	N/A
Does § 280E Apply for State Income Tax Purposes (Individuals)?	Y	Y	N/A	N	N	Y	N/A	N/A	N/A	N/A	N/A	Y	N/A	N/A	Y	N/A	N/A
Does State impose a Stamp Tax or Controlled Substance Tax?	N	N	Y	N	N	Y	Y	N	Y	N	N	N	N	N	N	N	N



Alabama

Is Medical Marijuana Legal?	No.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	N/A.
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	N/A.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	N/A.
Does Section 280E apply to state corporate income tax?	N/A.
Does the State impose a Stamp Tax or Controlled Substances Tax?	<p>Yes. Alabama imposes a Controlled Substances Tax. See Ala. Code Sec. 40-17A-1 through Ala. Code Sec. 40-17A-16. Dealers must pay the tax if they possess, distribute, sell, transport, import, transfer or otherwise use any marihuana.</p> <p>The tax is imposed on marihuana and controlled substances at the rate of \$3.50 per gram of marihuana or portion of a gram.</p> <p>Official stamps, labels or other indicia to be affixed on marihuana or controlled substances must be bought from the Department of Revenue.</p>



Alaska

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	Yes.
Are sales of medical marijuana subject to sales tax?	No. Alaska does not have a state sales tax. However, local jurisdictions may impose sales tax.
Are sales of recreational marijuana subject to sales tax?	No. Alaska does not have a state sales tax. However, local jurisdictions may impose sales tax.
Is medical marijuana subject to an excise tax?	<p>Yes. Alaska imposes an excise tax when marijuana is sold or transferred from a marijuana cultivation facility to a retail marijuana store or marijuana product manufacturing facility. The cultivator is liable for the tax.</p> <p>Any part of the bud and flower is taxed at \$50 per ounce. The remainder of the plant is taxed at \$15 per ounce.</p> <p>For reference: Alaska Department of Revenue Excise Tax Statute Regulations</p> <p>On July 2, 2018, the Department of Revenue issued proposed regulations that make changes to the way the state taxes parts of the marijuana plant. Updates are posted to the Department of Revenue website.</p>
Is recreational marijuana subject to an excise tax?	Yes. The same excise tax that applies to medical marijuana applies to recreational marijuana.
Does Section 280E Apply to state individual income tax?	No. Alaska does not have a personal income tax.
Does Section 280E apply to state corporate income tax?	Yes. The starting point for the Alaska corporate income tax is Federal taxable income. There is no provision that states Section 280E does not apply.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No.



Arizona

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	Yes. Medical marijuana sales are taxable under the retail classification of Arizona's transaction privilege (sales) tax. For reference: Statement from Arizona Attorney General
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	No.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	Yes. Arizona conforms to the Internal Revenue Code. There is no provision that states Section 280E does not apply.
Does Section 280E apply to state corporate income tax?	Yes. The starting point for the Arizona corporate income tax is Federal taxable income as reported on line 30. There is no provision that states Section 280E does not apply.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No.



Arkansas

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	Yes. The sale of usable marijuana is subject to Arkansas state and local sales taxes at the same rate as other tangible personal property. "Usable marijuana" means the stalk, seeds, roots, dried leaves, flowers, oils, vapors, waxes and other portions of the marijuana plant and any mixture or preparation thereof.
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	Yes. Effective July 1, 2017, a cultivation facility, dispensary or other marijuana business is required to collect and remit an Arkansas medical marijuana special privilege tax of 4% from the gross receipts or gross proceeds derived from each sale of usable marijuana. <i>See</i> Ark. Code Sec. 26-57-1504(a). The Medical Marijuana Special Privilege Tax is imposed in addition to regular sales tax.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	No. Arkansas does not conform to Federal. Arkansas imposes tax on the entire net income of individuals. Ark. Code Sec. 26-51-201. Net income is AGI with deductions allowed. <i>See</i> Ark. Code Sec. 26-51-403(a). AGI means gross income with certain deductions, including trade or business deductions. <i>See</i> Ark. Code Sec. 26-51-403(b)(1). In calculating net income, deductions allowed by IRC 162 are allowed. However, there is no reference to 280E or state provisions.
Does Section 280E apply to state corporate income tax?	No. Similar rules for corporations – no reference to 280E or similar state provision.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No.



California

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	Yes.
Are sales of medical marijuana subject to sales tax?	<p>Subject to exceptions, yes. Certain sales of medicinal cannabis are exempt from sales and use tax. Effective November 9, 2016, sales and use tax does not apply to retail sales of medical cannabis, medical cannabis concentrate, edible medical cannabis products or topical cannabis when a qualified patient or primary caregiver for a qualified patient provides his or her card issued under the Health and Safety Code and a valid government-issued identification card. See Cal. Rev. & Tax. Code Sec. 34011(g).</p> <p>For reference: California Tax Guide for Cannabis Businesses</p>
Are sales of recreational marijuana subject to sales tax?	Yes, beginning January 1, 2018.
Is medical marijuana subject to an excise tax?	<p>Yes. Effective January 1, 2018, the Cannabis Excise Tax will be imposed upon purchasers of cannabis or cannabis products sold in California at the rate of 15% of the average market price of any retail sale by a cannabis retailer. Retailers are required to collect the excise tax from the purchaser and pay it to the cannabis distributor.</p> <p>Effective January 1, 2018, a Cultivation Tax on the cultivation of cannabis that enters the commercial market is imposed upon cultivators. Cultivators are required to pay the cultivation tax to either a distributor or a manufacturer depending upon the nature of the transaction. The cultivation tax rates are: \$9.25 per dry-weight ounce of cannabis flowers, and \$2.75 per dry-weight ounce of cannabis leaves.</p> <p>For reference: California Tax Guide for Cannabis Businesses</p>
Is recreational marijuana subject to an excise tax?	Yes. The Cannabis Excise Tax and Cultivation Tax also apply to recreational marijuana.
Does Section 280E Apply to state individual income tax?	Yes. California personal income tax conforms to the Internal Revenue Code. The starting point is federal adjusted gross income. There is no provision that states Section 280E does not apply. See Cal. Rev. & Tax Code § 17201(c)
Does Section 280E apply to state corporate income tax?	No. California's corporation tax law does not conform to the Internal Revenue Code, meaning the automatic denial of deductions under IRC Section 280E does not apply.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No.



Colorado

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	Yes.
Are sales of medical marijuana subject to sales tax?	<p>Subject to exceptions, yes. Medical marijuana is generally subject to the general 2.9% state sales tax and applicable local and special district taxes. A sale of medical marijuana is exempt from sales tax if the purchaser's medical marijuana registry identification card indicates the tax-exempt status of the purchaser.</p> <p>For reference: Colorado FYI Sales 93</p>
Are sales of recreational marijuana subject to sales tax?	<p>Yes, at a special rate. Sales of retail marijuana are exempt from general state sales tax of 2.9%. However, there is a 15% retail marijuana sales tax on all sales of retail marijuana and retail marijuana-infused products in the state charged on the final consumer purchase price (15% beginning July 1, 2017; 10% between Jan. 1, 2014 - June 30, 2017). <i>See</i> CRS Sec. 39-28.8-201.</p> <p>For reference: Colorado FYI Sales 93</p>
Is medical marijuana subject to an excise tax?	No.
Is recreational marijuana subject to an excise tax?	<p>Yes. Colorado levies a 15% retail marijuana excise tax on the first sale or transfer of unprocessed retail marijuana by a retail marijuana cultivation facility to either a retail marijuana store or a facility that manufactures marijuana products. The base depends upon whether the cultivation facility is affiliated with the retail marijuana store or manufacturing facility. <i>See</i> CRS 39-28.8-301.</p> <p>For reference: Colorado FYI Excise 23</p>
Does Section 280E Apply to state individual income tax?	No. Colorado specifically allows individuals to subtract expenses disallowed by Section 280E to determine Colorado taxable income. <i>See</i> Colo. Rev. Stat. Sec. 39-22-104(4).
Does Section 280E apply to state corporate income tax?	No. Colorado specifically allows corporations to subtract expenses disallowed by Section 280E to determine Colorado taxable income. <i>See</i> Colo. Rev. Stat. § 39-22-304(3)(m), (n).
Does the State impose a Stamp Tax or Controlled Substances Tax?	No.



Connecticut

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	Yes. Sales of medical marijuana by licensed dispensaries are subject to sales and use taxes. The prescription medicine exemption does not apply. For reference: Connecticut Department of Revenue Guidance
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	No.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	Yes. Connecticut personal income tax conforms to the Internal Revenue Code. The starting point is Federal Adjusted Gross Income. There is no provision that states Section 280E does not apply.
Does Section 280E apply to state corporate income tax?	Yes. Connecticut corporate income tax starts with Federal taxable income as reported on line 28. There is no provision that states Section 280E does not apply.
Does the State impose a Stamp Tax or Controlled Substances Tax?	Yes. The Marijuana and Controlled Substances Tax imposes a tax at the rate of \$3.50 per gram of marijuana purchased, acquired, transported or imported into the state is imposed. All illicit drugs must have Connecticut tax stamps permanently affixed. The Marijuana and Controlled Substances Tax does not apply to persons in lawful possession of medical marijuana. Qualifying patients, physicians, primary caregivers, producers and dispensaries are considered to be in lawful possession of marijuana, and therefore, are not subject to the tax. For reference: Connecticut Marijuana and Controlled Substance Tax FAQ



Delaware

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	N/A. Delaware does not have a state sales tax.
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	No.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	Yes. Delaware personal income tax conforms to the Internal Revenue Code. The starting point is Federal Adjusted Gross Income. There is no provision that states Section 280E does not apply.
Does Section 280E apply to state corporate income tax?	Yes. The starting point for the Delaware corporate income tax is Federal taxable income. There is no provision that states Section 280E does not apply.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No.



District of Columbia

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	Yes, but retail sales are not allowed.
Are sales of medical marijuana subject to sales tax?	Yes. Medical marijuana is taxed at a special rate of 6%. See D.C. Code Sec. 47-2002.02.
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	No.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	Yes. Washington D.C. personal income tax conforms to the Internal Revenue Code. There is no provision that states Section 280E does not apply.
Does Section 280E apply to state corporate income tax?	Yes. Washington D.C. conforms to the most recent version of the Internal Revenue Code. There is no provision that states Section 280E does not apply.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No.



Florida

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	No. Purchases of medical marijuana are exempt from sales and use tax. See Fl. Stat. 212.08(2)(l).
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	No.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	N/A (no personal income tax).
Does Section 280E apply to state corporate income tax?	Yes. Florida conforms to the Internal Revenue Code. The starting point is Federal taxable income. There is no provision stating that Section 280E does not apply.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No.



Georgia

Is Medical Marijuana Legal?	No.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	N/A.
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	N/A.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	N/A.
Does Section 280E apply to state corporate income tax?	N/A.
Does the State impose a Stamp Tax or Controlled Substances Tax?	Yes. A Controlled Substances Tax is imposed on the use, possession, consumption, storage or transfer of marijuana. The tax rate for marijuana is \$3.50 per gram. The tax is not applicable to persons who lawfully possess marijuana under a medical prescription. See Ga. Code. Ann. Sec. 48-15-4.



Hawaii

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	No – Hawaii does not have a sales tax; instead, it has a General Excise Tax. <i>See</i> General Excise Tax below.
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	Yes. Hawaii’s General Excise Tax applies to sales of medical marijuana. <i>See</i> Haw. Rev. Stat. § 237-24.3(6)
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	<p>No. Act 230, SLH 2016 (Act 230) allows taxpayers engaged in medical marijuana businesses to deduct business expenses and claim tax credits on their income taxes. Act 230 is effective for taxable years beginning after December 31, 2015. <i>See</i> Haw. Rev. Stat. § 235-2.4(r).</p> <p>Applicable to tax years beginning after December 31, 2015, Section 280E does not apply to the production and sale of medical marijuana and manufactured marijuana products by dispensaries licensed under Chapter 329D and their subcontractors. <i>See</i> Haw. Rev. Stat. § 235-2.4(r).</p> <p>For reference: Hawaii Department of Taxation announcement.</p>
Does Section 280E apply to state corporate income tax?	No. The same rule that applies to individuals applies to corporations. <i>See</i> Haw. Rev. Stat. § 235-2.4(r).
Does the State impose a Stamp Tax or Controlled Substances Tax?	No.



Idaho

Is Medical Marijuana Legal?	No.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	N/A.
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	N/A.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	N/A.
Does Section 280E apply to state corporate income tax?	N/A.
Does the State impose a Stamp Tax or Controlled Substances Tax?	<p>Yes. Idaho imposes an “Illegal Drug Tax” on persons who possess controlled substances in violation of Idaho law. A “controlled substance” includes (1) more than 42.5 grams of marijuana, and (2) one or more growing marijuana plants, that are possessed in violation of Idaho law. The tax rate is \$3.50 per gram of marijuana or portion of a gram, and \$775 per growing marijuana plant. See Idaho Code § 63-4203.</p> <p>The tax is payable through the medium of official stamps, labels or other indicia designated by, purchased from and sold by the State Tax Commission. See Idaho Code § 63-4204(3).</p> <p>For reference: Idaho Illegal Drug Stamp Tax Act</p>



Illinois

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	Yes, but at a reduced rate. Medical marijuana is taxed at the 1% pharmaceutical rate. See ILCS Chapter 35 § 120/2-10; ILCS Chapter 35 § 105/3-10; Ill. Admin. Code 86 Sec. 130.311(a). For reference: Illinois Admin. Code
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	Yes. In addition to other occupation or privilege taxes, until July 1, 2020, a Medical Cannabis Cultivation Privilege Tax is imposed on the privilege of cultivating medical cannabis at a rate of 7% of the sales price per ounce. The tax is calculated based on the sales price of the number of ounces or partial ounces of usable medical cannabis sold by a cultivation center. The tax will be paid by the cultivation center and is not the responsibility of a dispensing organization or a qualifying patient. See ILCS Chapter 410 Sec. 130/200(a); ILCS Chapter 410 Sec. 130/220 Ill. Admin. Code 86 Sec. 429.110(a); Ill. Admin. Code 86 Sec. 429.110(d). For reference: Medical Cannabis Cultivation Privilege Tax Regulations NOTE: Income Tax surcharge. Effective January 1, 2014, a surcharge is imposed on all taxpayers on income arising from the sale or exchange of capital assets, depreciable business property, real property used in the trade or business and IRC Sec. 197 intangibles of an organization registrant under the Compassionate Use of Medical Cannabis Pilot Program Act. See ILCS Chapter 35 Sec. 5/201(o); Ill. Admin. Code 86 Sec. 100.2060(a). For reference: Compassionate Use of Medical Cannabis Surcharge
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	Yes. Illinois conforms to the Internal Revenue Code. The starting point is Federal Adjusted Gross Income. There is no provision that states Section 280E does not apply.
Does Section 280E apply to state corporate income tax?	Yes. Illinois conforms to the Internal Revenue Code. The starting point is Federal taxable income. There is no provision that states Section 280E does not apply.
Does the State impose a Stamp Tax or Controlled Substances Tax?	Yes. The Cannabis and Controlled Substances Tax on dealers who illegally possess cannabis. A dealer is a person who, in violation of the Illinois Controlled Substance Act or Cannabis Control Act, manufactures, produces, ships, transports, imports, sells, or transfers or possesses with intent to deliver to another person more than 30 grams of cannabis. The rate is \$10 on each gram of cannabis or part of a gram. For reference: Cannabis and Controlled Substances Tax Act



Please be mindful that possessing, using, distributing and/or selling marijuana is a federal crime, and no legal advice we give is intended to provide any guidance or assistance in violating federal law nor will it provide any guidance or assistance in complying with federal law. Please also note that we are not advising you regarding the federal, state or local tax consequences of engaging in any business in this industry.

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ATTORNEYS AT LAW

Indiana

Is Medical Marijuana Legal?	No.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	N/A.
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	N/A.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	N/A.
Does Section 280E apply to state corporate income tax?	N/A.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No. The Indiana Controlled Substance Excise Tax was repealed on October 14, 2014. See 45 IAC § 19.



Iowa

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	Uncertain. While the Medical Cannabidiol Act legalizes limited use of medical cannabis, it is unclear how, or if, Iowa will tax sales of such cannabis.
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	Uncertain.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	Yes. Iowa conforms the Internal Revenue Code. The starting point is Federal Adjusted Gross Income. There is no provision that states Section 280E does not apply.
Does Section 280E apply to state corporate income tax?	Yes. Iowa conforms to the Internal Revenue Code. The starting point is Federal taxable income. There is no provision that states Section 280E does not apply.
Does the State impose a Stamp Tax or Controlled Substances Tax?	<p>Yes. Iowa imposes a Drug Stamp Tax on any person acting as a dealer in certain controlled substances, which include marijuana. A person is a dealer if he or she unlawfully acquires, possesses, purchases, imports or manufactures 42.5 grams or more of marijuana or one or more unprocessed marijuana plants at any stage of growth. See Iowa Code Sec. 453B.1(3)(a); Iowa Code Sec. 453B.1(10).</p> <p>The tax rate is \$5 on each gram or portion thereof of processed marijuana and \$750 on each unprocessed marijuana plant.</p> <p>A dealer subject to the tax must purchase stamps, labels or other official indicia from the Department of Revenue and affix them to the controlled substance to indicate payment of the tax.</p> <p>For reference: Iowa's Drug Stamp Act.</p>



Kansas

Is Medical Marijuana Legal?	No.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	N/A.
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	N/A.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	N/A.
Does Section 280E apply to state corporate income tax?	N/A.
Does the State impose a Stamp Tax or Controlled Substances Tax?	<p>Yes. The Kansas Tax on Marijuana and Controlled Substances imposes a tax upon marijuana and domestic marijuana plants. The tax rate is \$3.50 on each gram of marijuana, or each portion of a gram; \$0.40 on each gram of a wet domestic marijuana plant; and \$0.90 on each gram of a dry domestic marijuana plant. See K.S.A. § 79-5202.</p> <p>The tax must be paid immediately upon a person acquiring or possessing the marijuana or domestic marijuana plant within the State of Kansas. The payment of the tax must be evidenced by attaching the proper denominations of drug tax stamps to the marijuana, domestic marijuana plants, or controlled substance. See K.S.A. § 79-5204.</p> <p>For reference: Kansas Department of Revenue Guidance</p>



Kentucky

Is Medical Marijuana Legal?	No.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	N/A.
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	N/A.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	N/A.
Does Section 280E apply to state corporate income tax?	N/A.
Does the State impose a Stamp Tax or Controlled Substances Tax?	<p>Yes. The Kentucky Marijuana and Controlled Substances Tax imposes a tax on producing, cultivating, manufacturing, importing, transporting, distributing, acquiring, purchasing, storing, selling, using or otherwise possessing in violation of KRS C. 218A, more than 5 marijuana plants with foliage, 42.5 grams of marijuana which has been detached from the plant on which it grew, 7 grams of any controlled substance, or 50 or more dosage units of any controlled substance, which is not sold by weight. See Ky. Rev. Stat. Ann. Sec. 138.870.</p> <p>The tax rate is \$1,000 per plant, whether growing or detached from the soil, on each marijuana plant with foliage; and \$3.50 on each gram, or portion thereof, of marijuana which has been detached from the plant on which it grew.</p> <p>Tax stamps, labels or other tax indicia required to be affixed to marijuana must be purchased from the Department of Revenue. See Ky. Rev. Stat. Ann. Sec. 138.874.</p>



Louisiana

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	Yes. Physicians “recommend” medical cannabis. For reference: Senate Bill No. 271
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	No.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	Yes. Louisiana conforms to the Internal Revenue Code. The starting point is Federal Adjusted Gross Income. There is no provision that states Section 280E does not apply.
Does Section 280E apply to state corporate income tax?	Yes. Louisiana generally conforms to the Internal Revenue Code. The starting point is Federal taxable income after adjustments and the deduction for Federal income taxes paid. There is no provision that states Section 280E does not apply.
Does the State impose a Stamp Tax or Controlled Substances Tax?	Yes. Louisiana imposes a Marijuana and Controlled Dangerous Substances Tax on dealers of marijuana and controlled dangerous substances within the state. <i>See</i> La. Rev. Stat. Ann. Sec. 47:2601. The tax does not apply to persons who are lawfully in possession of marijuana. <i>Id.</i> A dealer is a person who manufactures, produces, ships, transports or imports into Louisiana, or in any manner acquires or possesses, more than 42.5 grams of marijuana. <i>See</i> La. Rev. Stat. Ann. Sec. 47:2602(2). The tax rate is \$3.50 per gram or portion of a gram. The tax is payable by dealers through stamps purchased from the Secretary of Revenue, and attached by the dealer to the package of marijuana that is subject to the tax. <i>See</i> La. Rev. Stat. Ann. Sec. 47:2603. For reference: Louisiana Marijuana and Controlled Dangerous Substances Tax



Maine

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	Yes.
Are sales of medical marijuana subject to sales tax?	Yes (normal rate). For reference: Maine Revenue Services Bulletin
Are sales of recreational marijuana subject to sales tax?	Yes (increased rate). The sales tax is 10% on the value of adult use marijuana and adult use marijuana products. See 36 MRSA § 1811.
Is medical marijuana subject to an excise tax?	Currently, no excise tax.
Is recreational marijuana subject to an excise tax?	Yes. Beginning on the first day of the calendar month in which adult use marijuana may be sold in Maine by a cultivation facility, Maine imposes the following excise tax: (1) Excise tax on marijuana flower and mature marijuana plants. A cultivation facility licensee shall pay an excise tax of \$335 per pound of marijuana flower or mature marijuana plants sold to other licensees in the State; (2) Excise tax on marijuana trim. A cultivation facility licensee shall pay an excise tax of \$94 per pound of marijuana trim sold to other licensees in the State; (3) Excise tax on immature marijuana plants and seedlings. A cultivation facility licensee shall pay an excise tax of \$1.50 per immature marijuana plant or seedling sold to other licensees in the State; (4) Excise tax on marijuana seeds. A cultivation facility licensee shall pay an excise tax of \$0.30 per marijuana seed sold to other licensees in the State. See 28-B MRSA § 1001.
Does Section 280E Apply to state individual income tax?	Yes, currently Section 280E applies. Maine conforms to the Internal Revenue Code. The starting point is Federal Adjusted Gross Income. Currently, there is no provision that states Section 280E does not apply. However, the legislature has considered enacting a provision that would allow deductions that are otherwise disallowed by Section 280.
Does Section 280E apply to state corporate income tax?	Yes, currently Section 280E applies. Maine conforms to the Internal Revenue Code. The starting point is Federal taxable income. Currently, there is no provision that states Section 280E does not apply. However, the legislature has considered enacting a provision that would allow deductions that are otherwise disallowed by Section 280E.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No.



Maryland

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	No.
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	No.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	Yes. Maryland conforms to the Internal Revenue Code. The starting point is Federal Adjusted Gross Income. There is no provision that states Section 280E does not apply.
Does Section 280E apply to state corporate income tax?	Yes. Maryland conforms to the Internal Revenue Code. The starting point is Federal Taxable Income. There is no provision that states Section 280E does not apply.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No.



Massachusetts

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	Yes.
Are sales of medical marijuana subject to sales tax?	Generally, no. Sales of medical marijuana to a qualifying patient or the patient's personal caregiver pursuant to a written certification by a licensed physician are exempt. For reference: Massachusetts Department of Revenue Directive
Are sales of recreational marijuana subject to sales tax?	Yes. Sales of recreational marijuana are subject to state sales tax (plus applicable local taxes).
Is medical marijuana subject to an excise tax?	No.
Is recreational marijuana subject to an excise tax?	Yes. Retail sales of marijuana are subject to a 10.75% excise tax (the excise tax was initially 3.75%, but Section 12 of H3818 increased the excise tax to 10.75%). For reference: Department of Revenue Marijuana Retail Taxes
Does Section 280E Apply to state individual income tax?	Yes. Massachusetts conforms to the Internal Revenue Code. The starting point is Federal Adjusted Gross Income. There is no provision that states Section 280E does not apply.
Does Section 280E apply to state corporate income tax?	Yes. Massachusetts conforms to the Internal Revenue Code. The starting point is Federal taxable income. There is no provision that states Section 280E does not apply.
Does the State impose a Stamp Tax or Controlled Substances Tax?	Yes. Massachusetts imposes a Controlled Substances Tax. No dealer may possess any marijuana or controlled substance on which a tax is imposed unless the tax has been paid, as evidenced by a stamp. A "dealer" is a person who, in violation of Massachusetts law, manufactures, produces, ships, transports, or imports into the state, or in any manner acquires or possesses more than 40 grams of marijuana. The tax is \$3.50 per gram of marijuana. Dealers pay the commissioner for stamps or indicia that they must affix to the marijuana or substance. The tax does not apply to persons lawfully in possession of marijuana. See Mass. Gen. L. Chapter 64K Sec. 6. For reference: Massachusetts Controlled Substances Tax



Michigan

Is Medical Marijuana Legal?	Yes
Is Recreational Marijuana Legal?	Yes
Are sales of medical marijuana subject to sales tax?	Yes. The retail sales of marijuana and marijuana-derived products by a provisioning center are subject to sales tax. For reference: Michigan Revenue Administrative Bulletin 2018-2
Are sales of recreational marijuana subject to sales tax?	Yes
Is medical marijuana subject to an excise tax?	At the time of this writing, yes. Effective December 20, 2016, the Medical Marijuana Facilities Licensing Act imposes a tax on each marijuana provisioning center at the rate of 3% of the provisioning center's gross retail receipts. This tax is imposed in addition to the general sales tax. For reference: Michigan Revenue Administrative Bulletin 2018-2 However, the Medical Marijuana Facilities Licensing Act provides that the 3 percent excise tax is repealed by operation of law beginning 90 days after the effective date of a law "authorizing recreational or nonmedical use of marijuana in this state." The Michigan Regulation and Taxation of Marijuana Act ("MRTMA"), which legalizes the recreational use and possession of marijuana for adults 21 years of age and older, became effective on December 6, 2018. Accordingly, due to the passage of MRTMA, the 3 percent excise tax on medical marijuana provisioning centers will not be applicable beginning on March 6, 2019. For Reference: Notice to Taxpayers Regarding the Michigan Regulation and Taxation of Marijuana Act
Is recreational marijuana subject to an excise tax?	Yes. An excise tax is imposed on each marijuana retailer and on each marijuana microbusiness at the rate of 10% of the sales price for marijuana sold or otherwise transferred to anyone other than a marijuana establishment. The excise tax applies in addition to all other taxes." For Reference: Official Text for Proposal 18-1
Does Section 280E Apply to state individual income tax?	No. Section 12 of the Michigan Regulation and Taxation of Marijuana Act provides: 'In computing net income for marijuana establishments, deductions from state taxes are allowed for all ordinary and necessary expenses paid or incurred during the taxable year in carrying out a trade or business.
Does Section 280E apply to state corporate income tax?	No. Section 12 of the Michigan Regulation and Taxation of Marijuana Act provides: 'In computing net income for marijuana establishments, deductions from state taxes are allowed for all ordinary and necessary expenses paid or incurred during the taxable year in carrying out a trade or business.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No.



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Minnesota

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	No. For reference: Minnesota Tax Information on Medical Cannabis
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	No.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	Yes. Minnesota conforms to the Internal Revenue Code. The starting point is Federal Adjusted Gross Income. There is no provision that states Section 280E does not apply.
Does Section 280E apply to state corporate income tax?	Yes. Minnesota conforms to the Internal Revenue Code. The starting point is Federal taxable income. There is no provision that states Section 280E does not apply. For reference: Minnesota Tax Information on Medical Cannabis
Does the State impose a Stamp Tax or Controlled Substances Tax?	Yes. The Minnesota Marijuana and Controlled Substance Tax imposes a tax on any person who, in violation of Minnesota law, manufactures, sells, or is in possession of unstamped marijuana. The tax rate is \$3.50 on each gram of marijuana, or each portion of a gram. Persons lawfully in possession of marijuana are not required to pay the tax. Official stamps, labels or other indicia to be affixed to all marijuana must be purchased from the Commissioner of Revenue. For reference: Minnesota Marijuana and Controlled Substance Tax



Mississippi

Is Medical Marijuana Legal?	No.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	N/A.
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	N/A.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	N/A.
Does Section 280E apply to state corporate income tax?	N/A.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No.



Missouri

Is Medical Marijuana Legal?	Yes
Is Recreational Marijuana Legal?	No
Are sales of medical marijuana subject to sales tax?	Yes. Sales of medical marijuana will be subject to sales tax. Amendment 2 allows physicians to <i>recommend</i> medical cannabis.
Are sales of recreational marijuana subject to sales tax?	N/A
Is medical marijuana subject to an excise tax?	Yes. An excise tax is levied upon the retail sale of marijuana for medical use sold at Medical Marijuana Dispensary Facilities within the state. The rate is 4% of the retail price and is levied in addition to state and local sales taxes. For Reference: Amendment 2
Is recreational marijuana subject to an excise tax?	N/A
Does Section 280E Apply to state individual income tax?	Yes. Missouri conforms to the Internal Revenue Code on a rolling basis. There is no provision that states Section 280E does not apply.
Does Section 280E apply to state corporate income tax?	Yes. Missouri conforms to the Internal Revenue Code on a rolling basis. There is no provision that states Section 280E does not apply.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No



Montana

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	N/A – no state sales tax in Montana.
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	<p>Yes. Effective July 1, 2017, the Medical Marijuana Provider Tax is imposed on medical marijuana product providers. All gross sales of marijuana and marijuana-infused products are taxable. The tax is on the gross retail price, which is the established price for which a marijuana product is sold to a purchaser before any discount or reduction.</p> <p>Effective July 1, 2018, the tax is 2%. Prior to July 1, 2018, the tax was 4%.</p> <p>For reference: Montana Department of Revenue Guidance</p> <p>For reference: Medical Marijuana Act: Activities to Date</p>
Is recreational marijuana subject to an excise tax?	N/A
Does Section 280E Apply to state individual income tax?	Yes. Montana conforms to the Internal Revenue Code. The starting point is Federal Adjusted Gross Income. There is no provision that states Section 280E does not apply.
Does Section 280E apply to state corporate income tax?	Yes. Montana conforms to the Internal Revenue Code. The starting point is Federal taxable income. There is no provision that states Section 280E does not apply.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No.



Nebraska

Is Medical Marijuana Legal?	No.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	N/A.
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	N/A.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	N/A.
Does Section 280E apply to state corporate income tax?	N/A.
Does the State impose a Stamp Tax or Controlled Substances Tax?	<p>Yes. Nebraska imposes a Marijuana and Controlled Substances Tax on any person acting as a dealer in marijuana. A person is a dealer if he or she illegally acquires, possesses, manufactures, ships, transports or imports 6 or more ounces of marijuana. See Neb. Rev. Stat. § 77-4301. The tax rate is \$100 on each ounce or portion thereof of marijuana.</p> <p>A dealer subject to the tax must purchase stamps, labels or other official indicia from the Department of Revenue and affix them to the marijuana or controlled substances.</p> <p>For reference: Nebraska Marijuana and Controlled Substances Tax Information Guide</p> <p>For reference: Nebraska Marijuana and Controlled Substances Tax Statutes</p>



Nevada

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	Yes.
Are sales of medical marijuana subject to sales tax?	Yes.
Are sales of recreational marijuana subject to sales tax?	Yes.
Is medical marijuana subject to an excise tax?	<p>Yes. During the 2017 legislative session, the tax structure for medical marijuana was changed from a 2% excise tax on each sale to a 15% excise tax on the wholesale sale, paid by the cultivator.</p> <p>Nevada imposes a 10% excise tax on the retail sale, but marijuana or products sold to a patient cardholder are not subject to this 10% excise tax.</p>
Is recreational marijuana subject to an excise tax?	<p>Yes – two excise taxes apply. First, Nevada imposes a 15% excise tax on the first wholesale sale of marijuana by a cultivator. The 15% tax is calculated on the fair market value at wholesale and is paid by the cultivator.</p> <p>Second, Nevada imposes a 10% excise tax on the sale of marijuana to a customer for adult use. The rate is 10%, calculated on the sale price (not including regular sales tax).</p> <p>For reference: Marijuana Taxes in Nevada</p> <p>For reference: FAQs for Marijuana Establishments</p>
Does Section 280E Apply to state individual income tax?	N/A – no personal income tax in Nevada.
Does Section 280E apply to state corporate income tax?	N/A – no corporate income tax in Nevada.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No.



New Hampshire

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	N/A – no states sales tax in New Hampshire.
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	No.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	No. NH does not conform to the IRC. New Hampshire's individual income tax is limited to an individual's income from interest and dividends.
Does Section 280E apply to state corporate income tax?	Yes. New Hampshire conforms to the Internal Revenue Code. The starting point is Federal taxable income. There is no provision that states Section 280E does not apply.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No.



New Jersey

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	Yes. Retail sales of medical marijuana are subject to tax. See N.J.S.A. § 54:32B-3(a). For reference: New Jersey Division of Taxation Bulletin
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	No.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	No. Section 280E should not apply. New Jersey does not conform to the Internal Revenue Code. New Jersey taxable income starts with New Jersey gross income and is adjusted for modifications. A taxpayer is subject to tax on the taxpayer's net profits from business. A taxpayer's net profits from business is determined by taking into account all ordinary costs and expenses incurred in the conduct of that business. There is no state provision similar to Section 280E.
Does Section 280E apply to state corporate income tax?	Yes. The starting point is Federal taxable income. There is no provision that states Section 280E does not apply.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No.



New Mexico

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	Yes. Sales of medical marijuana are subject to New Mexico's gross receipts tax. See <i>In the Matter of Sacred Garden</i>
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	No.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	Yes. New Mexico conforms to the Internal Revenue Code. The starting point is Federal Adjusted Gross Income. There is no provision that states Section 280E does not apply.
Does Section 280E apply to state corporate income tax?	Yes. New Mexico conforms to the Internal Revenue Code. The starting point is Federal taxable income. There is no provision that states Section 280E does not apply.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No.



New York

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	No. For reference: New York Department of Taxation and Finance Tax Requirements
Are sales of recreational marijuana subject to sales tax?	No.
Is medical marijuana subject to an excise tax?	Yes. New York imposes an Excise Tax on Medical Marijuana, which is a 7% tax on the gross receipts from medical marijuana sold or furnished by a registered organization to a certified patient or designated caregiver. The tax is imposed on the registered organization. For reference: New York Excise Tax on Medical Marijuana
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	Yes. New York conforms to the Internal Revenue Code. The starting point is Federal Adjusted Gross Income. There is no provision that states Section 280E does not apply.
Does Section 280E apply to state corporate income tax?	Yes. New York conforms to the Internal Revenue Code. The starting point is Federal taxable income. There is no provision that states Section 280E does not apply.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No.



North Carolina

Is Medical Marijuana Legal?	No
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	N/A.
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	N/A.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	N/A.
Does Section 280E apply to state corporate income tax?	N/A.
Does the State impose a Stamp Tax or Controlled Substances Tax?	<p>Yes. North Carolina imposes an Unauthorized Substances Tax on marijuana illegally possessed by dealers. The tax rate \$0.40 per gram, or fraction thereof, of harvested marijuana stems and stalks that have been separated from and are not mixed with any other parts of the marijuana plant; and \$3.50 per gram, or fraction thereof, or marijuana, other than separated stems and stalks or synthetic cannabinoids. Payment of the tax is evidenced by a stamp.</p> <p>An exemption applies to the certain marijuana parts. See N.C. Gen. Stat. Sec. 105-113.107A.</p> <p>For reference: About the Unauthorized Substances Tax</p>



North Dakota

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	Although legalized, the law is not yet operational. There is no formal guidance as to whether medical marijuana sales will be subject to sales tax.
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	Although legalized, the law is not yet operational. There is no formal guidance as to whether medical marijuana sales will be subject to an excise tax.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	Yes. North Dakota conforms to the Internal Revenue Code. The starting point is Federal Adjusted Gross Income. There is no provision that states Section 280E does not apply.
Does Section 280E apply to state corporate income tax?	Yes. North Dakota conforms to the Internal Revenue Code. The starting point is Federal taxable income. There is no provision that states Section 280E does not apply. NOTE: Lawmakers have considered a provision that would render Section 280E inapplicable. See House Bill No. 1430, Section 19-24-19 . However, current law suggests that Section 280E is applicable.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No.



Ohio

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	Yes, sales of medical marijuana are likely subject to sales tax. Medical marijuana is not available under a prescription (the patient receives a recommendation from a physician), so the exemption for prescriptions may not apply.
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	No.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	Yes. Ohio conforms to the Internal Revenue Code. The starting point is Federal Adjusted Gross Income. There is no provision that states Section 280E does not apply.
Does Section 280E apply to state corporate income tax?	N/A – Ohio does not have a corporate income tax.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No.



Oklahoma

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	Yes. In June 2018, Oklahoma voted to legalize medical marijuana. Shortly thereafter, the Oklahoma Tax Commission issued an emergency rule providing that sales of medical marijuana will be subject to state sales tax plus an excise tax.
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	Yes. Pursuant to the same emergency rule referenced above, a 7% excise tax will apply to sales of medical marijuana.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	N/A.
Does Section 280E apply to state corporate income tax?	N/A.
Does the State impose a Stamp Tax or Controlled Substances Tax?	Yes. Oklahoma imposes a Marijuana and Controlled Substances Tax on dealers who purchase, acquire, transport, or import into Oklahoma marijuana. A dealer is a person who illegally possesses more than 42.5 grams of marijuana. The tax rate is \$3.50 per gram or each portion of a gram. The tax is paid by affixing stamps to the substance. See Okla. Stat. 68 § 450.



Oregon

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	Yes.
Are sales of medical marijuana subject to sales tax?	N/A – no state sales tax in Oregon.
Are sales of recreational marijuana subject to sales tax?	N/A – no state sales tax in Oregon.
Is medical marijuana subject to an excise tax?	No.
Is recreational marijuana subject to an excise tax?	Yes. A Marijuana Tax is imposed on sales of recreational marijuana (plus local municipalities can enact a tax of up to 3%). The tax does not apply to sales of medical marijuana. <i>See</i> Or. Rev. Stat. § 475B.705; Or. Rev. Stat. § 475B.345; Or. Rev. Stat. § 475B.750(3). For reference: Oregon Department of Revenue Fact Sheet
Does Section 280E Apply to state individual income tax?	No. Oregon has enacted a provision that allows individual taxpayers to subtract expenses for any federal deduction that a taxpayer would have been allowed if not for Section 280E to determine state taxable income. <i>See</i> O.R.S. § 316.680(1)(i).
Does Section 280E apply to state corporate income tax?	No. Oregon has enacted a provision that allows corporate taxpayers to subtract expenses for any federal deduction that a taxpayer would have been allowed if not for Section 280E to determine state taxable income. <i>See</i> ORS § 317.763.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No.



Pennsylvania

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	No. For reference: Pennsylvania Department of Revenue Medical Marijuana FAQ
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	Yes. Pennsylvania imposes a Medical Marijuana Tax, which is a 5% excise tax on the gross receipts received from the sale of medical marijuana by a grower/processor to a dispensary. For reference: Pennsylvania Department of Revenue Medical Marijuana FAQ
Is recreational marijuana subject to an excise tax?	N/A
Does Section 280E Apply to state individual income tax?	No. Pennsylvania does not conform to the Internal Revenue Code. Pennsylvania taxable income starts with state gross income. There is no provision similar to Section 280E that would disallow the expenses that Section 280E disallows.
Does Section 280E apply to state corporate income tax?	Yes. Pennsylvania conforms to the Internal Revenue Code. The starting point is Federal taxable income. There is no provision that states Section 280E does not apply.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No.



Rhode Island

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	Yes. See R.I. Gen. Laws § 44-18-7(15); R.I. Reg. SU 11-60, effective October 1, 2011. For reference: Rhode Island's Sales and Use Tax Regulations
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	Yes. Effective June 30, 2011, the Compassion Center Surcharge imposes a 4% monthly surcharge is on the net patient revenue received each month by every compassion center. A "compassion center" means a registered nonprofit entity that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies or dispenses marijuana, or related supplies and educational materials, to registered qualifying patients and their registered primary caregivers who have designated it as one of their primary caregivers. See R.I. Gen. Laws § 44-67-2(2); R.I. Gen. Laws Sec. 44-67-3; R.I. Reg. CCS 11-01. For reference: Compassion Center Surcharge Regulations
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	Yes. Rhode Island conforms to the Internal Revenue Code. The starting point is Federal Adjusted Gross Income. There is no provision that states Section 280E does not apply.
Does Section 280E apply to state corporate income tax?	Yes. Rhode Island conforms to the Internal Revenue Code. The starting point is Federal taxable income. There is no provision that states Section 280E does not apply.
Does the State impose a Stamp Tax or Controlled Substances Tax?	Yes. Rhode Island imposes a Controlled Substances Tax, which provides that a dealer may not possess marijuana unless the tax has been paid as evidenced by a stamp or other official indicia. The tax rate is \$3.50 per gram of marijuana. "Marijuana" for purposes of the controlled substances tax only means marijuana that is held, possessed, transported, etc. <i>in violation of Rhode Island law</i> , so the tax does not apply to legal sales of medical marijuana. See R.I. Gen. Laws. Sec. 44-49-1



South Carolina

Is Medical Marijuana Legal?	No
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	N/A.
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	N/A.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	N/A.
Does Section 280E apply to state corporate income tax?	N/A.
Does the State impose a Stamp Tax or Controlled Substances Tax?	Yes. The South Carolina Marijuana and Controlled Substances Tax imposes a tax on marijuana illegally possessed by dealers. A dealer means a person who illegally manufactures, produces, ships, transports, or imports into South Carolina or in any manner acquires or possess more than 42.5 grams of marijuana. See S.C. Code Ann. § 12-21-5020(3). The tax rate is \$3.50 per gram or portion of a gram of marijuana. Official stamps, labels or other indicia to be affixed to all marijuana must be purchased from the Department. See S.C. Code. Ann. § 12-21-5010.



South Dakota

Is Medical Marijuana Legal?	No.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	N/A.
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	N/A.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	N/A.
Does Section 280E apply to state corporate income tax?	N/A.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No.



Tennessee

Is Medical Marijuana Legal?	No
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	N/A.
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	N/A.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	N/A.
Does Section 280E apply to state corporate income tax?	N/A.
Does the State impose a Stamp Tax or Controlled Substances Tax?	<p>Yes. Tennessee imposes an Unauthorized Substances Tax on controlled substances, including marijuana. The tax is due by any merchant or peddler who possesses an unauthorized substances upon which the tax has not been paid. The tax rate is \$.40 per gram of harvested marijuana stems and stalks that have been separated from and are not mixed with any other parts of the plant; \$3.50 per of other marijuana; and \$350 per plant. See Tenn. Code Ann. § 67-4-2803(a). Certain marijuana is not subject to the excise tax. See Tenn. Code Ann. § 67-4-2804(b).</p> <p>For reference: Tennessee Unauthorized Substances Tax</p>



Texas

Is Medical Marijuana Legal?	No
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	N/A.
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	N/A.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	N/A.
Does Section 280E apply to state corporate income tax?	N/A.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No. Tax on controlled substances was abolished effective September 1, 2015.



Utah

Is Medical Marijuana Legal?	Yes
Is Recreational Marijuana Legal?	No
Are sales of medical marijuana subject to sales tax?	No. The sale by a licensed medical cannabis pharmacy or the state central fill medical cannabis pharmacy of cannabis in medicinal dosage form or a cannabis product in medicinal dosage form is exempt from sales tax. See Section 131 of H.B. 3001 .
Are sales of recreational marijuana subject to sales tax?	N/A
Is medical marijuana subject to an excise tax?	No
Is recreational marijuana subject to an excise tax?	N/A
Does Section 280E Apply to state individual income tax?	Yes. Utah conforms to the Internal Revenue Code on a rolling basis. There is no provision that states Section 280E does not apply.
Does Section 280E apply to state corporate income tax?	Yes. Utah generally conforms to the Internal Revenue Code on a rolling basis. There is no provision that states Section 280E does not apply.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No. The Illegal Drug Stamp Act was repealed effective July 1, 2012. See Utah Code Ann. § 59-19-103.



Vermont

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	Yes.
Are sales of medical marijuana subject to sales tax?	No. Purchases of medical marijuana are exempt from sales and use tax under the prescription drug statutory definition. For reference: Vermont Department of Taxes Fact Sheet
Are sales of recreational marijuana subject to sales tax?	The Governor has appointed a panel to determine how the state will tax recreational marijuana.
Is medical marijuana subject to an excise tax?	No.
Is recreational marijuana subject to an excise tax?	The Governor has appointed a panel to determine how the state will tax recreational marijuana.
Does Section 280E Apply to state individual income tax?	Yes. Vermont conforms to the Internal Revenue Code. The starting point is Federal Adjusted Gross Income. There is no provision that states Section 280E does not apply.
Does Section 280E apply to state corporate income tax?	Yes. Vermont conforms to the Internal Revenue Code. The starting point is Federal taxable income. There is no provision that states Section 280E does not apply.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No.



Virginia

Is Medical Marijuana Legal?	No.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	N/A.
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	N/A.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	N/A.
Does Section 280E apply to state corporate income tax?	N/A.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No.



Washington

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	Yes.
Are sales of medical marijuana subject to sales tax?	<p>Generally, yes. Sales of medical marijuana are generally subject to retail sales tax (6.5%). Starting July 1, 2016, certain transactions by medical marijuana retailers are exempt from sales tax.</p> <p>For additional information, see this special notice from the Washington State Department of Revenue.</p>
Are sales of recreational marijuana subject to sales tax?	<p>Yes.</p> <p>For reference: Recreational Marijuana Retailers</p>
Is medical marijuana subject to an excise tax?	<p>Yes. Washington imposes a 37% Marijuana Excise Tax (which is paid to Liquor and Cannabis Board), which is due regardless of whether sales are exempt from sales tax.</p> <p>NOTE: Washington's B&O Tax applies to gross receipts, regardless of whether sales are exempt from sales tax.</p> <p>For reference: Medical Marijuana Retailers</p>
Is recreational marijuana subject to an excise tax?	<p>Yes. The 37% Marijuana Excise Tax is imposed on consumers. Retailers must collect and remit the tax on each sale of usable marijuana, marijuana concentrates, and marijuana-infused products.</p> <p>In addition, the B&O Tax applies.</p> <p>For reference: Producers, Processors, Retailers,</p>
Does Section 280E Apply to state individual income tax?	N/A – no personal income tax.
Does Section 280E apply to state corporate income tax?	N/A – no corporate income tax.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No.



West Virginia

Is Medical Marijuana Legal?	Yes.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	No. Medical cannabis is exempt from sales tax. <i>See</i> W. Va. Code Sec. 16A-9-1(d).
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	Effective July 5, 2017, a 10% excise tax is imposed on the gross receipts of a grower/processor received from the sale of medical cannabis by the grower/processor to a dispensary. The tax is charged against and paid by the grower/processor. <i>See</i> W. Va. Code Sec. 16A-9-1.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	Yes. West Virginia conforms to the Internal Revenue Code. The starting point is Federal Adjusted Gross Income. There is no provision that states Section 280E does not apply.
Does Section 280E apply to state corporate income tax?	Yes. West Virginia conforms to the Internal Revenue Code. The starting point is Federal taxable income. There is no provision that states Section 280E does not apply.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No.



Wisconsin

Is Medical Marijuana Legal?	No.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	N/A.
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	N/A.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	N/A.
Does Section 280E apply to state corporate income tax?	N/A.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No.



Wyoming

Is Medical Marijuana Legal?	No.
Is Recreational Marijuana Legal?	No.
Are sales of medical marijuana subject to sales tax?	N/A.
Are sales of recreational marijuana subject to sales tax?	N/A.
Is medical marijuana subject to an excise tax?	N/A.
Is recreational marijuana subject to an excise tax?	N/A.
Does Section 280E Apply to state individual income tax?	N/A.
Does Section 280E apply to state corporate income tax?	N/A.
Does the State impose a Stamp Tax or Controlled Substances Tax?	No.

