



## Cannabis Licensee Income Computation and Reporting for Corporation Business Tax and Gross Income Tax Purposes Pursuant to P.L. 2023, c. 50

**TB-106 - Issued July 6, 2023**  
**Tax: Corporation Business Tax**  
**Gross Income Tax**

Income computation and reporting for New Jersey cannabis licensees was revised under P.L. 2023, c. 50, which was signed into law on May 8, 2023. Changes were made to both the Corporation Business Tax Act and the Gross Income Tax Act and apply to tax years beginning on and after January 1, 2023. The purpose of this Technical Bulletin is to provide an overview of these changes.

### **Corporation Business Tax Cannabis Licensees**

For tax years beginning on and after January 1, 2023, the income of a registered cannabis licensee is computed as though 26 U.S.C. s.280E does not apply. Thus, these taxpayers can deduct an amount equal to the expenditures that would have been eligible to be claimed as a federal income tax deduction but were disallowed for federal purposes because cannabis is a controlled substance under federal law. Furthermore, these taxpayers can deduct any expenditures that otherwise would have qualified as a qualified research expenditures pursuant to section 174 of the Internal Revenue Code. Taxpayers must still include a copy of their federal return as filed with the IRS. In addition, the taxpayer must include a rider detailing their computations as though 26 U.S.C. s.280E did not apply.

A registered cannabis licensee that claims a qualified research expense as a deduction on their New Jersey Corporation Business Tax return, may also claim that expense for purpose of the New Jersey Research and Development Tax Credit on Form 306, even though such expenses were disallowed for the federal research and development tax credit. Taxpayers must include a detailed rider explaining the calculations.

### **Gross Income Tax Cannabis Licensees**

Net profits from a business income, distributive share of partnership income, and S corporation income, earned by registered cannabis licensees are computed as though 26 U.S.C. s.280E does not apply. Thus, these taxpayers can deduct an amount equal to any expenditure that otherwise would have been eligible to be claimed as a deduction for federal purposes but were disallowed because cannabis is a controlled substance under federal law.

As the Pass-Through Business Alternative Income Tax (PTE, also called BAIT) is part of the Gross Income Tax Act. Cannabis licensees must compute the BAIT/PTE taking into account the P.L. 2023, c. 50 changes. Thus, when computing the BAIT/PTE, these pass-through entities may also deduct an amount equal to any expenditure that would otherwise be eligible to be claimed as though the deduction had been allowed federally but is currently disallowed federally because cannabis is a controlled substance under federal law.

Note: A Technical Bulletin is an informational document that provides guidance on a topic of interest to taxpayers and may describe recent changes to the relevant laws, regulations, and/or Division policies. It is accurate as of the date issued. However, taxpayers should be aware that subsequent changes to the applicable laws, regulations, and/or the Division's interpretation thereof may affect the accuracy of a Technical Bulletin. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.

### **Other Information**

For general information on recreational cannabis and licensed cannabis establishments, see [TB-104](#).