

BILL SUMMARY
2nd Session of the 58th Legislature

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| Bill No.: | HB 3347 |
| Version: | FULLPCS1 |
| Request Number: | 10306 |
| Author: | Rep. Fetgatter |
| Date: | 3/3/2022 |
| Impact: | Tax Commission: |

Unknown Decrease in Income Tax Revenue

Research Analysis

ACCEPT
FULLPCS1

Fiscal Analysis

Analysis provided by the Tax Commission:

HB 3347 proposes to amend 68 O.S. § 2358 to allow any for-profit business entity licensed pursuant to Oklahoma law to engage in the production, transport, sale or other licensed activity related to medical marijuana¹ to deduct business expense related to the applicable licensed business activity within the state that was disallowed for the same tax year pursuant to Section 280E of the Internal Revenue Code of 1986,² in order to re-compute federal taxable income and to reduce Oklahoma taxable income, effective for tax year 2023 and subsequent years.

The revenue impact of this proposal is an unknown decrease in income tax collections for FY 23 due to expected changes in estimated payments. The full impact of this measure should occur in FY24 when the 2023 income tax returns are filed.

¹ 63 O.S. §427.14 (Oklahoma Medical Marijuana and Patient Protection Act)

² Under current federal law, marijuana (cannabis) is classified as a Schedule I controlled substance, and no deduction or credit is allowed for any amount paid or incurred during the taxable year in carrying on any trade or business if such trade or business (or the activities which comprise such trade or business) consists of trafficking in controlled substances (within the meaning of schedule I and II of the Controlled Substances Act) which is prohibited by Federal law or the law of any State in which such trade or business is conducted.

Prepared By: Mark Tygret

Other Considerations

Administrative Concern

This proposal allows an Oklahoma medical marijuana business to deduct the same business expenses twice – first to reduce federal taxable income that is used to compute Oklahoma taxable income and again to reduce Oklahoma taxable income. Because the deduction of business expense is disallowed pursuant to Section 280E of the Internal Revenue Code of 1986 for the computation of federal taxable income, no method exists for the Oklahoma Tax Commission to verify such federal deduction amounts.

