

Congress of the United States

Washington, DC 20510

July 11, 2014

Commissioner John Koskinen
Internal Revenue Service
1111 Constitution Ave, NW
Washington, DC 20224

Dear Commissioner Koskinen:

We write to request that the Internal Revenue Service (“the Service”) waive certain penalties it is applying to Colorado-based marijuana businesses that are paying their taxes on time. It is our understanding the Service is imposing this penalty on these licensed and regulated businesses for making their tax payments in cash. As you know, marijuana businesses in Colorado are having extreme difficulties accessing the banking system and are therefore unable to make their deposits through the Electronic Federal Tax Payment System.

In February 2014, the Department of Justice and the Financial Crimes Enforcement Network issued guidance that permitted financial institutions to serve these businesses in a manner that is consistent with the Bank Secrecy Act. It is still not clear, however, whether the guidance provides the necessary certainty to Colorado-based financial institutions interested in serving marijuana businesses. In the meantime, most marijuana businesses still lack access to the banking system and continue to operate in cash. This has left these businesses with little option other than to make their tax payments in cash.

It is our understanding the Service is assessing a ten percent penalty on these businesses for paying their federal employee withholding taxes in cash. While the Service has suggested alternative methods for paying their taxes, these are likely inconsistent with federal anti-money laundering laws.

Given these current challenges, we request the IRS waive this ten percent penalty for marijuana businesses at least on a temporary basis until there is greater clarity whether these businesses have sufficient access to the banking system to meet their obligations under the Internal Revenue Code.

If you have any questions, please do not hesitate to contact us.

Thank you in advance for your consideration.

Sincerely,



Michael F. Bennet
United States Senator



Ed Perlmutter
Member of Congress