over what direction federal policy will take. The Supreme Court ruled in *Gonzales v. Raich* in 2005 that the regulation of medical marijuana remains a commercial commodity under federal jurisdiction because of the aggregate effect of home-consumed pot on the whole—illegal—market (Epstein & Walker 473). Since the federal government has been increasing in power over the past century and leaving less power to the states, it would take a more comprehensive and collaborative approach from all three branches of the federal government to make a lasting impact.

Second, the changing social climate around the nation is forcing those in Washington D.C. to take a harder look at federal policy. Twenty states and D.C. as of 2013 had legalized marijuana for medical use, with two of them legalizing it for retail use, (Southall and Healy 2013). Those like Congressman Earl Blumenauer recognize that the "public attitude, state law, and already established practices are all creating irreconcilable difficulties" for officials at every level of the government under the traditional federal marijuana policy ("Polis"). As far back as 2000, when Colorado passed Amendment 20 with over 70% of the vote to legalize the medical use of marijuana, it was the federal prosecutor who refused to pursue cases against it. Some federal prosecutors have treated other state medical initiatives in a similar diluted way (Gerber 115).

In addition, an April 2013 Pew Research Survey revealed that although opinions on legalization split down partisan lines, both Republicans (57%) and Democrats (59%) agree that the federal government should not enforce prohibition laws in states that permit its use. Substantial majorities in both parties also agree that federal marijuana enforcement is not worth the cost ("Partisans Disagree"). With more states looking to legalize marijuana in the near future, whether for retail or medical use, it is clear that the federal response is wavering (Wilkey 2013). Two pieces of pro-legalization legislation introduced in the House in February 2013 would serve as a legitimization of the already increasing social support for the states' right to choose their own marijuana policy ("Polis").

Third, the Department of Justice is working with bank regulators to discuss a feasible marijuana tax reform after the September 2013 Senate Judiciary hearings. Since the Reagan administration imposed section 280E in the Federal Income Tax Code in 1982, taxpayers who are engaged in "trafficking controlled substances" such as marijuana cannot deduct any ordinary business expenses on their federal income tax returns; "the federal tax situation" is described by the state-legal marijuana industry as the biggest threat it faces. The state-legal marijuana industry hopes that repealing 280E would lead to a federal excise tax on cannabis, something already proposed in the House that would make the industry legitimate; Colorado's own policy consists of an excise tax, showing it is one step ahead. Former congressional tax staffer Pat Oglesby argues that a tax deduction disallowance would actually make advertising of marijuana more expensive, and therefore would lessen the federal concern that it would increase pot's demand. He further suggests drawing distinctions between what is unacceptable—expenses that tend to create demand—and what is acceptable—expenses that are necessary for the operation of business (Oglesby 2013).

However, the IRS is not likely to stop its assault on marijuana income any time soon. Marijuana is still classified as a Schedule I drug, which means the IRS must still enforce Section 280E; it does not set tax policy, but merely enforces it. As Congress is the political entity responsible for setting tax policy, action must come from it in order for the IRS to take a different approach (Wood 2013). For investors in the marijuana industry to have any hope of substantive tax reform, Congress must either repeal section 280E, declassify marijuana as a Schedule I drug, or adopt another similar measure.

Conclusions and Recommendation

Colorado's legalization of marijuana for retail use is novel in terms of the social, economic, and political contexts; it opens up the door for other states to follow its example in instituting their own legalization policies.