

IRS Stands Firm: 280E Limits Tax Benefits for Cannabis Industry

IRS Reminds Cannabis Businesses: Federal Tax Deductions on Hold Until Cannabis Rescheduling Finalized

[The Internal Revenue Service \(IRS\)](#) has reiterated that cannabis businesses cannot currently claim federal tax deductions for business expenses, citing Section 280E of the Internal Revenue Code. This restriction applies despite ongoing federal considerations to reschedule cannabis from Schedule I to Schedule III under the Controlled Substances Act.

IRS Advisory

In a recent press release, the IRS clarified that until a final federal rule is issued to reclassify marijuana, Section 280E continues to apply. This regulation prohibits deductions or credits for business activities involving Schedule I or II controlled substances, including marijuana.

Refund Claims and Review

Despite the clarification, some multi-state marijuana operators have filed amended returns seeking refunds under Section 280E. Entities like Trulieve, a significant player in Florida's legalization efforts, have reported applying for refunds totaling \$113 million. However, the IRS has indicated that these refund requests are under review and emphasized that such claims are not valid under current law.

Federal Rule Status

While the Department of Justice has proposed rescheduling marijuana and is currently soliciting public comments, no final rule has been published yet. This delay means that marijuana remains classified as a Schedule I substance federally, subjecting businesses to Section 280E restrictions.

State-Level Contrasts

Several states have enacted measures to provide tax relief to marijuana businesses at the state level. However, federal regulations, including Section 280E, still govern taxation at the national level, creating a disparity in tax treatment.

Legislative Efforts

Congressional efforts, such as Rep. Earl Blumenauer's bill, aim to amend the IRS code to allow state-legal marijuana businesses to access federal tax deductions like other industries. Despite ongoing legislative initiatives, the IRS maintains its current stance pending federal rescheduling.

IRS Guidance and Oversight

The IRS update follows scrutiny from the Treasury Department's inspector general for tax administration, which urged the IRS to improve guidance specific to the marijuana industry. The agency has since provided clarifications, including the allowance for cost of goods sold deductions under Section 280E.

Public and Industry Response

The Justice Department's call for public comments on the economic impacts of marijuana rescheduling underscores the complex regulatory landscape facing the industry. Stakeholders await further developments while navigating existing federal tax constraints.

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