

Jushi Gains from Rare IRS Tax Credit in Cannabis Industry

The IRS Owes Jushi Holdings \$6 Million in ERC Claims, But the Cannabis MSO Opted for a Faster Payout

Jushi Holdings, a [cannabis multistate operator \(MSO\)](#), is entitled to approximately \$6 million in Employee Retention Credit (ERC) claims from the IRS. However, rather than waiting for the often slow-moving agency to process the refunds, the company chose an alternative path.

Instead of waiting, Jushi sold its ERC claims to a third party for about \$5.1 million in cash, securing immediate liquidity.

Understanding the Employee Retention Credit (ERC) Program

The ERC is a refundable tax credit designed to assist eligible businesses and tax-exempt organizations whose employees were impacted during the COVID-19 pandemic. Despite its potential value, the program remains underutilized by many cannabis companies.

While the window for claiming ERC credits remains open, time is running out. Eligible cannabis businesses still have until April 15, 2025, to submit claims for the 2021 tax year.

Why Jushi Sold Its ERC Claims for Immediate Cash

Trent Woloveck, Jushi's chief strategy officer, explained that the decision to sell ERC claims was similar to invoice factoring. This form of alternative financing involves selling outstanding invoices to a third party in exchange for upfront cash.

Jushi previously received a [\\$1.3 million check](#) from the IRS for claims it had filed, while another \$3 million in ERC claims remains outstanding. Woloveck expects those claims to be paid by the IRS "in due course."

The company had to file over 40 claims to account for each operational entity.

The Evolution of the ERC Program and the IRS Moratorium

The ERC was first introduced in March 2020 as part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act. It aimed to encourage businesses to retain employees during the pandemic. Since its inception, the program has undergone three amendments.

Rachel Gillette, a cannabis industry attorney at Denver-based Holland & Hart, noted that while the IRS initially issued credits quickly, processing times have now stretched to as long as two years.

A surge in potentially fraudulent submissions prompted the IRS to place a moratorium on processing claims filed after September 14, 2023. “Promoters” would handle filings for a percentage of the claim without thoroughly assessing eligibility, leading to increased scrutiny.

“So, the IRS said, ‘We’re going to hit the brakes because we want to figure out whether companies are qualified to make the claim,’” Gillette explained.

Failing an ERC audit can have serious consequences. Businesses face penalties ranging from 20% for accuracy issues to 75% for fraud. In severe cases, criminal charges could also be pursued.

How Cannabis Businesses Can Qualify for ERC Credits

Businesses can qualify for ERC credits through one of three criteria:

A significant reduction in gross receipts during a specific quarter.

Full or partial suspension of operations due to a government order.

Establishing operations during the pandemic.

Most cannabis retailers qualify under the second criterion, as local governments imposed operational restrictions such as limiting in-store capacity, curbside pickup, or delivery-only models.

Businesses that filed claims before September 14, 2023, have begun receiving their ERC checks. In some cases, the IRS is also paying interest exceeding 15% on delayed payments.

A Positive Sign for the Cannabis Industry

Woloveck sees the inclusion of cannabis businesses in the ERC program as a positive step for the industry. He believes Jushi’s potential to secure nearly \$10 million through the program underscores the industry’s economic significance.

Jushi Holdings’ shares trade under the ticker symbol **JUSH** on the Canadian Securities Exchange and **JUSHF** on the over-the-counter markets.

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