

Congress of the United States

Washington, DC 20515

May 28, 2026

The Honorable Frank Bisignano
Chief Executive Officer
U.S. Internal Revenue Service
1111 Constitution Ave, NW
Washington, DC 20224

The Honorable Scott Bessent
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

Dear Chief Executive Officer Bisignano and Secretary Bessent:

We write to request that the Internal Revenue Service (IRS) provide prompt guidance for qualifying state-legal cannabis businesses regarding federal income tax treatment following the Administrations' rescheduling of certain cannabis products. Likewise, we urge you to work with federal partners, like the Small Business Administration, to ensure this guidance is widely disseminated.

As you know, state-legal cannabis businesses have been denied ordinary business tax deductions and credits due to Section 280E, which prohibits any such deductions for expenditures related to controlled substances listed in Schedules I and II.¹ However, the Department of Justice has recently taken steps to place "FDA-approved products containing marijuana" and "marijuana products regulated by a state medical marijuana license" to Schedule III of the Controlled Substances Act², as well as the initiation of an expedited administrative hearing process to consider the broader rescheduling of cannabis from Schedule I to Schedule III.³ As a result of qualifying cannabis placement under Schedule III, Section 280E is no longer applicable to qualifying state-legal cannabis-related trades or businesses. This change materially alters the federal tax framework governing the cannabis industry.

As the National Taxpayer Advocate has previously noted, "the IRS must issue guidance and provide education in a proactive and timely manner. Timely guidance is vital to taxpayers, tax professionals, and industry, and it is just good tax administration."⁴ The absence of clear and timely guidance for the cannabis industry will leave taxpayers uncertain as to how they can benefit from the tax code—whether it is the treatment of ordinary and necessary business deductions or accessing of tax credits. While we acknowledge that the Treasury has announced guidance is forthcoming⁵, we urge swift and clear action. Clarifying guidance will promote uniform compliance, reduce potential tax disputes, and support efficient tax administration.

Two keys areas that require unambiguous guidance are:

¹ 26 USC 280E (2026)

² U.S. Department of Justice, Drug Enforcement Administration, "Schedules of Controlled Substances: Rescheduling of Food and Drug Administration-Approved Products Containing Marijuana From Schedule I to Schedule III; Corresponding Change to Permit Requirements," Final Rule, 91 Fed. Reg. 22714–22715 (Apr. 28, 2026), <https://www.federalregister.gov/documents/2026/04/28/2026-08176/schedules-of-controlled-substances-rescheduling-of-food-and-drug-administration-approved-products>

³ U.S. Department of Justice, Drug Enforcement Administration, "Schedules of Controlled Substances: Rescheduling of Marijuana; Notice of Hearing on Proposed Rulemaking," Notice of Hearing, Docket No. DEA-1362, 21 CFR Part 1301, Apr. 23, 2026, <https://www.justice.gov/opa/media/1437741/dl>

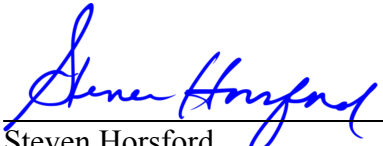
⁴ Erin M. Collins, "The IRS Must Be Proactive in Issuing Timely and Clear Guidance to Resolve Tax Reporting Ambiguities," NTA Blog, February 9, 2023.

⁵ U.S. Department of the Treasury, "Treasury, IRS Announce Process for Tax Guidance Following DOJ Final Order on Medical Marijuana Rescheduling," April 23, 2026, <https://home.treasury.gov/news/press-releases/sb0471>


- Businesses that operate state-issued cannabis licenses which cover both adult-use (recreational) and medicinal purposes. E.g., one store which sells both adult-use and medicinal cannabis.
- Businesses that operate separate state-issued cannabis licenses for adult-use and medicinal purposes.

We respectfully urge the IRS to issue guidance to address these and other issues and facilitate an orderly transition under current law. The IRS should seek input from the states, and from businesses in the cannabis-sector to ensure the guidance is robust and complete. Additionally, any guidance should promptly be shared with relevant agencies to ensure businesses have access to this timely information.


Sincerely,




Steven Horsford
Member of Congress




Steve Cohen
Member of Congress



Betty McCollum
Member of Congress




Eleanor Holmes Norton
Member of Congress



Rashida Tlaib
Member of Congress



Jared Huffman
Member of Congress



Jesús G. "Chuy" García
Member of Congress