Ken Berry, JD • Jun. 13, 2017

The IRS continues to treat legitimate sellers of cannabis as criminals when it comes to claiming tax deductions.

In a handful of states around the country – including Alaska, California, Colorado, Maine, Massachusetts, Nevada, Oregon, Washington and the District of Columbia – residents are now legally allowed to own and smoke certain quantities of weed, while more than half of the other U.S. states have authorized marijuana use for medical purposes.

But recreational use and sale of pot remains a crime under federal law, just like other

the MERC records, the IRS can point to illegal drug activity and deny deductions. Previously, it had relied on businesses to simply 'fess up.

However, the companies involved in recreational marijuana sales in Colorado are calling the latest IRS investigations a witch hunt. The *Denver Post* reports that at least six businesses have separately filed petitions in U.S. District Court to quash IRS summonses for state records showing the amount of pot the companies have grown and sold over the last few years. In some cases, the IRS has filed subpoenas to obtain the records. According to court documents, the pot-selling businesses are protesting that the IRS is overstepping its bounds – which is just to collect taxes.

In response, the nation's tax collection agency has said it is only using the MRTC records to substantiate financial records and corroborate or dispel the information reported on the businesses' tax returns. As of now, the cases are still pending.

What will break the stalemate? One alternative would be enactment of the Small Business Tax Equity Act, a bill introduced in the Senate in March. This measure would allow legitimate cannabis-based businesses to claim the same offsetting tax deductions any other business is entitled to. A similar was introduced in the House. We will monitor any significant breakthroughs.