tax issues.

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Businesses that sell marijuana have a heavy federal income tax burden. They are taxed on their income but can't write off most of their business expenses. Section 280E of the federal tax code bars marijuana firms from claiming business expenses on their federal tax return other than for their cost of goods sold. It doesn't matter that the use and sale of marijuana are legal under the laws of the state where the business is located. Twenty-three states and the District of Columbia, have legalized

Lobbyists for the marijuana industry have urged Congress to legalize marijuana for federal purposes or to let marijuana firms located in states where the drug is legal take deductions on federal returns. Their efforts have so far gone nowhere, and the odds of getting relief from Congress over the next couple of years are slim.

The marijuana industry is hoping for some help from President Biden's administration. Under the Controlled Substances Act, drugs are sorted into five schedules based on their medical use and their abuse or dependency potential.

Currently, marijuana is a Schedule 1 drug, the highest level. Last year, the president asked for a review on whether to reclassify marijuana to a lower schedule or take it off the list altogether. Here is the main federal income tax implication.

Section 280E actually prohibits businesses that traffic in Schedule 1 or Schedule 2 drugs that are illegal under federal law from claiming business expenses on their federal income tax returns. If marijuana is reclassified as a Schedule 2 drug, then legal marijuana firms won't get federal tax relief. But if it is downgraded to a Schedule 3, 4, or 5 drug, or taken off the list, then legal marijuana sellers could deduct business expenses.

State tax relief for marijuana businesses

A growing number of states are enacting their own tax relief. They're bucking the federal laws and decoupling from federal tax code Section 280E, meaning that legal marijuana firms located in these states can deduct expenses for state tax purposes, even if they can't do so on their federal income tax returns.

Around 13 states, including California, Colorado, Connecticut, Illinois, Massachusetts, Michigan, Minnesota, New Jersey, New York, and Oregon, have such a law on their books. Look for more states to follow suit.

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