

Medical Marijuana Dispensaries A Federal Tax Nightmare

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Nevada is considering the legalization of recreational pot use. Flickr

With marijuana now legal in Colorado and Washington, and medicinal cannabis allowed in 18 other states, state-licensed dispensaries will be cropping up in every one of these lands.

Just because state voters and legislatures are OK with them, however, doesn't mean that the federal government is, especially the IRS.

According to [Forbes contributor](#) and tax attorney Robert W. Wood, the IRS still considers marijuana dispensaries to be drug traffickers, thus denying them any business deductions on their taxes.

This hurts, as businesses pay taxes on their net, not their gross, income.

In California, where medical marijuana has been legal since 1996, dispensaries have been fighting against the intractable tax policies for years. They've even gotten the federal government to budge, ever so slightly, on its tight stance.

In Tax Court, the judicial branch has ruled that purveyors are allowed to deduct other expenses distinct from dispensing marijuana. That means cannabis outlets can deduct for a second business of caregiving. Then, if less than 10 percent of the business's premises are used for distribution, the company can deduct most of its rent.

This doesn't mean that the IRS hasn't fought pot deductions in tax court. Against Martin Olive, a California businessman who sold vaporizers at his medical marijuana shop, the tax court upheld a large bill the IRS presented him with, ruling out many of his deductions.

The end result is that dispensaries must walk a tight rope when dealing with IRS deductions. Increasingly, they need to keep close records to show the IRS that they're maintaining two businesses—one caregiving—under one roof. With increased legalization however, businesses stand a better chance of having their case for deductions publicized and heard in federal courts.