Holland & Hart



Rachel Gillette

Partner
303.295.8241
Denver
rkgillette@hollandhart.com

IRS Cannabis/Marijuana Initiative May Signal Increased Tax Scrutiny

Insight — 10/01/2021

Today the Internal Revenue Service (IRS) announced that it is launching a new Cannabis/Marijuana Initiative. The purported goal of this initiative is to "implement a strategy to increase voluntary compliance with the tax law while also identifying and addressing non-compliance."

Specifically, the IRS states that it intends to:

- ensure training and job aids are available to IRS examiners working cases so they can conduct quality examinations (audits) consistently throughout the country;
- make sure there is coordination and a consistent approach by the IRS to the cannabis/marijuana industry;
- find ways to identify non-compliant taxpayers;
- collaborate with external stakeholders to increase an awareness of tax responsibilities to improve compliance; and
- give taxpayers access to information on how to properly comply with the filing requirements.

While it is commendable that the IRS wants to "help small business owners and others fully understand the unique tax rules before there are any compliance issues," the reality is that the "unique tax rules" for cannabis businesses are not fully settled. To date, the IRS has issued no regulations under Section 280E of the Internal Revenue Code (Section 280E), the nucleus of the tax challenges faced by cannabis businesses. Further, there is significant disagreement among legal, tax, and accounting professionals regarding how to fully comply with Section 280E. In short, "compliance" is not so straightforward. It is essential for cannabis businesses to seek professional advice regarding their taxes, especially given heightened IRS scrutiny of the industry indicated by today's announcement.

Subscribe to get our Insights delivered to your inbox.

This publication is designed to provide general information on pertinent legal topics. The statements made are provided for educational purposes only. They do not constitute legal or financial advice nor do they necessarily reflect the views of Holland & Hart LLP or any of its attorneys

other than the author(s). This publication is not intended to create an attorney-client relationship between you and Holland & Hart LLP. Substantive changes in the law subsequent to the date of this publication might affect the analysis or commentary. Similarly, the analysis may differ depending on the jurisdiction or circumstances. If you have specific questions as to the application of the law to your activities, you should seek the advice of your legal counsel.