# CANNABIS LAW ALERT

December 22, 2025

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## A Seismic Shift Occurs for the Cannabis Industry as President Trump Orders An Expedited Rescheduling Review

The ground has shifted in the cannabis space.

On December 18, 2025, President Trump signed an executive order directing the expedited completion of the federal rescheduling review for cannabis; an initiative originally set in motion during the Biden administration. While the order does not immediately change federal law, it alters the path forward. Most notably, it directs that the process bypass the DEA, which has been the primary obstacle in the matter, and move directly to the Attorney General for rulemaking under the Controlled Substances Act of 1970.

The goal is to move cannabis from a Schedule I drug (on a par with heroin) to a Schedule III drug (alongside substances such as anabolic steroids and Tylenol with codeine.)

Importantly, Schedule III status would not fully legalize cannabis at the federal level. Substances in this category still require FDA approval and a prescription for lawful sale. As a result, major industry barriers, such as access to traditional banking, interstate commerce, and broader participation in national securities markets, would remain in place until the FDA approves specific cannabis products; and that process could take years.

The immediate benefit of rescheduling would be tax related. Moving cannabis to Schedule III would eliminate the application of Internal Revenue Code §280E to plant-touching cannabis businesses.

The significance of removing §280E cannot be overstated. For years, cannabis dispensaries, cultivators, and processors have operated under a severely punitive tax regime that disallows deductions for ordinary and necessary business expenses associated with Schedule I substances. Rescheduling to Schedule III would allow cannabis operators to be taxed like any other lawful business; able to deduct rent, payroll, insurance, utilities, and similar costs, without relying on complex, experimental, and often uncertain workarounds.

That said, we are not there yet. It remains unclear how long the Attorney General will take to complete the rulemaking process, or whether it will be completed at all. Still, this action marks a meaningful shift in momentum for the cannabis industry, and may serve as a needed catalyst to reinvigorate broader national acceptance and renewed investment in the adult-use/recreational markets.

What this may mean for cannabis operators now:

- **No immediate legal or operational changes are required.** Cannabis remains a Schedule I substance until formal rulemaking is completed.
- **Tax planning should be considered now.** Operators should work with tax advisors to model the potential elimination of §280E and how normalized deductions could affect cash flow, valuation, and expansion plans.
- **Corporate and accounting cleanup matters.** Businesses that have relied on aggressive or complex §280E workarounds should consider simplifying structures, effective upon completion of the rescheduling process.
- **Transactions and investment activity may accelerate.** The prospect of normalized taxation could drive renewed M&A interest, restructuring, and capital raises. Operators should ensure corporate records, licenses, and compliance histories are in order.

In short, this is not the finish line, but it may be the clearest signal yet that exciting and meaningful federal change is within reach for the cannabis industry. For more details, click here.

Feel free to contact the cannabis attorneys at Ruskin Moscou Faltischek, P.C., to discuss further.

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