



THE "WORLD'S MOST LIT POINT OF SALE SYSTEM"

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## Tax ID for Cannabis Businesses

Cannabis dispensary owners should not use the same federal tax ID for their cannabis business and non-cannabis business for several reasons.

- 1) Cannabis is still illegal at the federal level in the United States, even though it has been legalized at least for medical use in 39 states and Washington, DC. Using a section of the tax code known as 280E, the federal government uses ongoing prohibition to justify preventing state-licensed cannabis businesses from taking tax deductions or credits that are available to other businesses. Most importantly, this applies to any "below the line" (i.e. any operating expenses that do not qualify as cost of goods sold) expenses, meaning that the federal government will still apply a tax to a cannabis business if it has a positive gross profit even if its net profit is negative or zero. If a dispensary owner uses the same tax ID for both their cannabis and non-cannabis business, they therefore risk significantly increasing their tax liability for their non-cannabis business.
- 2) Using the same tax ID for both businesses can also make it more difficult to keep accurate financial records and distinguish between the two businesses' revenues and expenses. This can cause problems during an audit or if the business is ever investigated by the federal government. Absent those risks, it also will make it hard for a business to understand the relative financial performance of each business.
- 3) Dispensary owners using the same tax ID for both businesses are probably also using the same legal entity and bank account for both businesses. This further exposes them to the above risks, along with jeopardizing both businesses' access to basic financial services, like a business checking account, or making those services much more expensive. While it is possible for dispensaries to maintain 100% legal business bank accounts, these kinds of accounts have much more stringent reporting and review requirements than ordinary business banking accounts. They also come with higher fees. Any dispensary owner using a "normal" business banking account for his cannabis business will likely receive a letter sooner or later from his or her bank shutting down the account. And if the owner is using a cannabis-compliant account, why pay high fees to service a non-cannabis business that likely can maintain a bank account for little to no charge?
- 4) Using the same tax ID for both businesses can also increase the risk of civil and criminal penalties for both businesses. If the federal government were to discover that a non-cannabis

business was using the same tax ID as a cannabis business, they could potentially charge the non-cannabis business with aiding and abetting illegal activity.

5) Creating a federal tax ID is usually a quick and easy process. Why create so many potential risks when a solution can be easily attained?

In short, best practice for dispensary owners who also maintain a non-cannabis business is to legally separate each of these businesses from each other as much as possible, even if state cannabis regulators allow the owner to co-locate these businesses at the same physical location. Using separate tax IDs for their cannabis and non-cannabis businesses is a relatively painless way to avoid potential legal and financial complications.