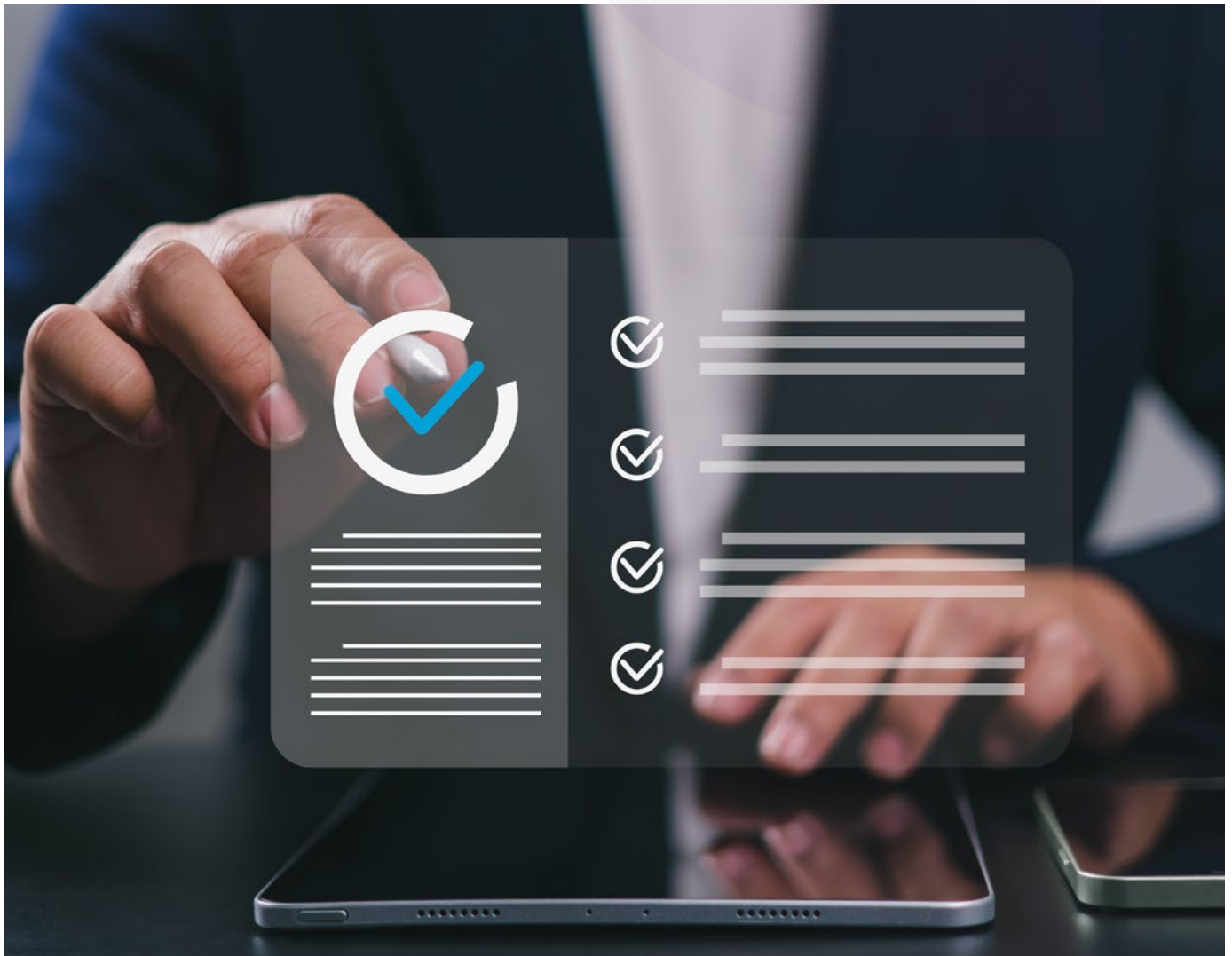


Insights

Cannabis Rescheduling and Internal Revenue Code Section 280E

What changed, what remains pending, and what finance leaders should do now



EXECUTIVE SUMMARY

Federal cannabis policy now has two distinct tracks. Effective 28 April 2026, a Department of Justice final rule placed Food and Drug Administration (FDA)-approved drug products containing marijuana and marijuana covered by a state medical marijuana license in Schedule III. Other marijuana, including adult-use activity, remains in Schedule I unless and until the separate, broader rulemaking is completed.

That distinction drives the Section 280E analysis. The statute disallows deductions and credits only for a trade or business trafficking in Schedule I or II controlled substances. The final rule states that qualifying state medical marijuana licensees are no longer subject to that disallowance, while cautioning that it does not determine any taxpayer's particular federal tax liability.

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BOTTOM LINE Relief may be meaningful, but it is not industry-wide. Eligibility, effective-date treatment, entity structure, revenue classification, shared-cost allocation, and documentation now matter more than ever.

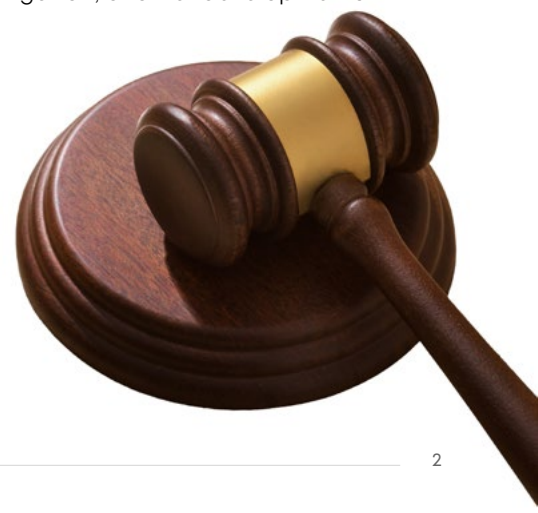
Why this matters now

For many cannabis businesses, Section 280E has been one of the largest structural differences between reported operating performance and after-tax cash generation. The targeted Schedule III rule may narrow that gap for qualifying medical activity. At the same time, it replaces one broad tax constraint with a more fact-intensive question: which parts of an organization and which costs fall within the new federal perimeter?

The answer can affect estimated payments, tax provisions, budgets, lender models, transaction pricing, and valuation. It can also affect the quality of management reporting. A company that cannot reliably distinguish medical from adult-use activity may struggle to support both its tax return and the forecasts built on the anticipated benefit.

Five conclusions for decision-makers

- The 28 April 2026, final rule provides current Schedule III treatment for defined medical categories; it is not blanket cannabis legalization or industry-wide rescheduling.
- The broader proceeding advanced through a completed evidentiary hearing, but the administrative record remains open, and no broader final rule has been issued.
- Section 280E turns on Schedule I or II status. It therefore remains relevant to adult-use and other marijuana that is still in Schedule I.
- Mixed-market organizations need reliable entity-, license-, product-, location-, and activity-level information before they can quantify a supportable benefit.
- Forecasting should distinguish benefits available under current law from benefits dependent on future agency action, implementation, litigation, or other developments.



At a glance

Activity	Current federal status	Section 280E direction
FDA-approved marijuana drug products	Schedule III	280E should not apply to a qualifying Schedule III activity.
State-licensed medical marijuana	Schedule III, within the final rule and registration framework	The final rule states that qualifying licensees are no longer subject to 280E; taxpayer-specific analysis remains necessary.
Adult-use / other marijuana	Schedule I	280E continues to apply under the current law.
Mixed medical and adult-use operations	Split treatment	Segmentation and a supportable allocation method are critical.

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WHAT CHANGED IN 2026

A targeted final rule for medical activity

The 28 April final rule moved two categories to Schedule III: (1) FDA-approved drug products containing marijuana and (2) marijuana or marijuana products subject to a qualifying state medical marijuana license. The rule defines such a license as one issued by a state, the District of Columbia, or a U.S. territory authorizing manufacture, distribution, and/or dispensing for medical purposes.

The rule also created an expedited Drug Enforcement Administration (DEA) registration pathway for qualifying state licensees. Registration does not authorize adult-use activity, and the scope of a federal registration cannot exceed the underlying state medical license.

Schedule III does not mean federal legalization

Schedule III substances remain controlled under the Controlled Substances Act. The final rule preserves a federal registration framework and imposes conditions on manufacturing, distribution, dispensing, recordkeeping, security, and other regulated activities. For state-licensed medical operators, the rule provides a pathway toward federal authorization; it does not convert all conduct permitted under state cannabis law into federally lawful conduct.

The final rule also limits the new status to the covered medical categories. Synthetic THC, hemp, previously rescheduled products, unlicensed marijuana, and nonmedical activity may be governed by different rules. Product and activity classification, therefore, should be performed with counsel rather than inferred from a brand name, cannabinoid label, or the presence of a state cannabis license alone.

The registration bridge

The expedited process is operationally important. Applicants must provide proof of a qualifying state medical marijuana license, and the DEA may consider public-interest and treaty-related factors. The rule contemplates registrations for manufacturers, distributors, and dispensers, while making clear that a registration does not authorize conduct beyond the scope of the state license or nonmedical activity.

The final rule also provides a transition mechanism for applicants filing within 60 days of publication. Because registration status and timing may affect both legal scope and the support for a tax position, companies should maintain a complete record of applications, approvals, correspondence, effective dates, and any limitations imposed by federal or state authorities.

The broader proposal is still pending

A separate rulemaking asks whether the remainder of marijuana should move from Schedule I to Schedule III. The evidentiary hearing ran from 29 June through 15 July 2026. The record is still being completed: transcript corrections and post-hearing briefs are due 17 August 2026. No final rule on the broader proposal had been issued as of 5 August 2026.

After the record closes, additional administrative action is still required before any broader change becomes effective. The timing, final scope, potential challenges, and implementation requirements cannot be assumed. Companies may model broader rescheduling, but should label it as a scenario rather than the current law and should avoid allowing a single optimistic case to become the default across budgets, valuations, and transaction materials.

IMPORTANT DISTINCTION: A completed hearing is not a completed rescheduling. Forecasts should separate benefits available under the medical final rule from benefits that depend on a future broader final rule.

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THE SECTION 280E CONSEQUENCE

Section 280E denies deductions and credits when a trade or business consists of trafficking in a Schedule I or II controlled substance prohibited by federal or applicable state law. Properly calculated cost of goods sold remains an adjustment to gross receipts rather than a deduction, but ordinary operating expenses historically have been disallowed for covered marijuana activity.

Because the targeted medical categories are now in Schedule III, the final rule states that state licensees will no longer be subject to the Section 280E deduction disallowance. That statement is consequential, but it is not a taxpayer-specific ruling. Businesses should connect each claimed deduction to an activity that actually falls within the Schedule III scope and, with tax counsel, consider the 28 April effective date, their tax year, and their accounting method.

Adult-use and other marijuana activity remain in Schedule I today. A mixed operator should not assume that all enterprise expenses have become deductible simply because part of its business is medical.

What may change for qualifying operations

For qualifying Schedule III activity, ordinary federal tax rules may permit categories of expenditure that Section 280E previously disallowed, subject to the limitations that apply to any taxpayer. Potential categories include payroll and benefits, rent and occupancy, selling and marketing costs, professional fees, depreciation and amortization, administrative overhead, and interest expense. The removal of Section 280E does not make every cost deductible: capitalization rules, interest limitations, compensation rules, substantiation requirements, related-party principles, and other provisions continue to apply.

Cost of goods sold (COGS) still matters

For an activity that remains subject to Section 280E, the properly calculated cost of goods sold continues to reduce gross receipts in determining gross income. The IRS has repeatedly distinguished that adjustment from a deduction. Operators should maintain disciplined inventory accounting and should not treat the possibility of broader future rescheduling as a reason to relax existing COGS controls or to take unsupported return positions.

Entity boundaries do not answer every question

Legal entities and licenses are a logical starting point, but the statute refers to a trade or business and the activities that comprise it. A separate entity does not automatically make every cost within it qualify, whereas a shared-services entity may incur expenses that benefit more than one operating activity. The tax analysis should be built from the actual operating facts and then reconciled to entity-level books and returns.

PRACTICAL PRINCIPLE Begin with the regulated activity and economic use of the cost, then reconcile the conclusion to licenses, entities, contracts, invoices, and the general ledger.

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FINANCE, ACCOUNTING, AND OPERATING IMPLICATIONS

Define the qualifying perimeter

- Map legal entities, locations, licenses, products, customers, and revenue streams to medical, adult-use, or shared activity.
- Confirm whether the relevant state authorization is a “state medical marijuana license” within the federal rule and whether the related DEA registration requirements are satisfied or in process.
- Identify intercompany arrangements and centralized functions that cross qualifying and nonqualifying operations.

Build an allocation that can be defended

Shared payroll, occupancy, technology, marketing, professional fees, and corporate overhead may require allocation. The methodology should reflect economic use, be consistently applied, reconcile to the general ledger, and be supported by contemporaneous records. Revenue alone may be too blunt where operational drivers differ.

Illustrative allocation drivers

Shared payroll, occupancy, technology, marketing, professional fees, and corporate overhead may require allocation. The methodology should reflect economic use, be consistently applied, reconcile to the general ledger, and be supported by contemporaneous records. Revenue alone may be too blunt where operational drivers differ.

Shared cost	Possible driver	Evidence to retain
Payroll and benefits	Time records, role responsibilities, headcount	Time studies, job descriptions, organizational charts
Rent and occupancy	Square footage, usage, operating hours	Floor plans, leases, access, or utilization data
Technology	Users, transactions, licenses, compute usage	System reports, invoices, and user lists
Marketing	Campaign purpose, audience, attributed revenue	Campaign briefs, channel data, customer analytics
Professional fees	Engagement scope or time incurred	Statements of work, invoices, and adviser time detail
Corporate overhead	Causal driver or benefit received	Policy memo, calculations, management review evidence

No single driver is universally correct. A company may need different drivers for different cost pools. The policy should explain the relationship between each driver and the benefit received, the data source, the refresh frequency, the review controls, and how exceptions are handled.

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Update forecasts without overstating certainty

- Reforecast current and deferred tax positions, estimated payments, tax distributions, and cash tax reserves
- Model at least three cases: current law; broader Schedule III finalization; and delay, challenge, or narrower-than-expected implementation
- Revisit debt-service coverage, covenant headroom, liquidity planning, and valuation assumptions using after-tax cash flow
- Evaluate financial reporting judgments, disclosures, and controls with the company's accounting and tax advisers

Financial reporting questions

Management should evaluate the impact under the accounting framework applicable to the company and the relevant reporting period. The work may include current and deferred tax calculations, uncertain tax positions, valuation allowances, interim effective tax rates, and disclosures about judgments or regulatory uncertainty. Recognition should follow the applicable accounting requirements; a press release, executive order, proposed rule, or completed hearing is not a substitute for an enacted or effective change where the accounting model requires one.

Consistency across reporting processes is essential. The assumptions used in the tax provision should be reconciled with budgets, impairment models, going-concern forecasts, debt covenant projections, board materials, and transaction models. Divergent assumptions may be appropriate for different purposes, but the difference should be intentional, documented, and explainable.

Controls and data readiness

- Define ownership for license data, product classification, allocation policies, tax calculations, and forecast assumptions.
- Create a controlled mapping between regulatory categories and general-ledger accounts or reporting dimensions.
- Establish review thresholds for manual classifications and allocation overrides.
Retain source data and calculation versions so that management can reproduce the reported conclusion.
- Monitor regulatory developments through a documented process and identify which models or disclosures require refresh when facts change.

Historical periods require separate analysis

The 2026 final rule does not, by itself, amend the law that applied before its effective date or automatically resolve prior examinations, liabilities, or refund claims. Any amended return or refund position should be assessed independently, including statutes of limitation, judicial developments, disclosure standards, and penalty exposure.

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VALUATION AND TRANSACTION IMPLICATIONS

Potential 280E relief can materially change after-tax cash flow, but transaction models should distinguish realized relief from contingent upside. Buyers, lenders, and investors are likely to test the license perimeter, registration status, allocation methodology, compliance history, and sustainability of projected deductions.

- **Enterprise value:** refresh tax-affected cash flows and terminal assumptions; avoid applying medical relief to adult-use revenue.
- **M&A diligence:** quantify pre-closing 280E exposure, uncertain positions, indemnity needs, and the quality of supporting records.
- **Financing:** reassess cash interest capacity and covenants, while preserving downside cases for implementation or litigation risk.
- **Financial reporting:** align forecasts used for impairment, going concern, deferred taxes, and purchase accounting with supportable regulatory scenarios.

A three-scenario valuation framework

Scenario	Tax perimeter	Timing	Use in analysis
Current law	Qualifying medical activity only	Effective rule and fact-specific implementation	Base case, which is supported by facts
Broader rescheduling	Medical plus assumed future adult-use relief	Explicit assumed effective date	Probability-weighted or sensitivity case
Downside	Narrower benefit, delay, challenge, or execution gap	Delayed or reduced realization	Liquidity, covenant, and impairment stress case

From cash taxes to enterprise value

The direct benefit of Section 280E relief is often a reduction in cash taxes rather than an increase in EBITDA. In a discounted cash flow analysis, lower normalized cash taxes may increase after-tax free cash flow and value. The amount depends on sustainable taxable income, ordinary tax limitations, the portion of activity that qualifies, the effective date, and the investment horizon.

Risk also matters. Broader relief could reduce company-specific regulatory and liquidity risk, but it should not automatically be treated as a lower discount rate or a dollar-for-dollar increase in value. Valuation should consider the durability of the benefit, data quality, compliance readiness, capital structure, market evidence, and whether expected changes are already reflected in pricing.

Impairment, purchase accounting, and earnouts

Forecast changes may affect impairment testing, fair value measurements, purchase price allocations, and contingent consideration. These analyses often use different measurement dates and market participant assumptions. Management should document why a regulatory scenario is included, how probability and timing were developed, and whether the same assumptions are used elsewhere in financial reporting.



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M&A, FINANCING, AND DUE DILIGENCE

Rescheduling changes the diligence agenda but does not eliminate historical risk. Buyers and lenders should separate current eligibility, execution readiness, and legacy exposure. Sellers should expect requests for license records, DEA filings, revenue segmentation, tax returns, COGS support, allocation policies, general ledger detail, examinations, correspondence, and management forecasts.

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Questions for investors, lenders, and acquirers

- ? Which entities, licenses, products, and activities fall within the targeted final rule?
- ? Has the company obtained or applied for the required DEA registration, and what conditions or timing risks remain?
- ? What percentage of revenue and gross profit is medical, adult-use, or shared, and how is that classification controlled?
- ? Can shared-cost allocations be reproduced from source data and reconciled to filed returns and audited or reviewed financial information?
- ? Do projections treat broader rescheduling as current law, a probability-weighted scenario, or contingent upside?
- ? What unpaid, disputed, or reserved historical tax liabilities exist, including interest and penalties?
- ? Could the transaction structure change the use, timing, or ownership of anticipated benefits?
- ? What representations, indemnities, escrows, covenants, or purchase-price mechanisms are appropriate for identified uncertainty?

Financing and covenant effects

Lower cash taxes may improve debt-service capacity and liquidity, but lenders may discount projected relief until eligibility and execution are demonstrated. Borrowers should review whether tax distributions, fixed-charge coverage, excess cash flow sweeps, EBITDA definitions, and reporting covenants respond as expected. Any waiver, amendment, refinancing, or new borrowing should use consistent regulatory assumptions across the model and disclosures.

Transaction model discipline

A transaction model should bridge from historical tax payments to the post-rule run rate. The bridge should identify the qualifying revenue perimeter, the deductible expense base, the ordinary tax limitations, the allocation assumptions, the one-time implementation costs, the timing of estimated payments, and the legacy liabilities. This prevents a headline tax-rate change from being converted into value without an operationally grounded calculation.

HISTORICAL TAX POSITIONS AND PRIOR-YEAR EXPOSURE

The final rule is effective April 28, 2026. It does not, by itself, change the classification that applied to earlier activity, reopen closed periods, authorize refunds, or resolve positions under examination. Historical claims, therefore, require a legal and tax analysis distinct from the analysis of deductions after the effective date.

Questions to address before changing a historical position

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? What taxable period and activity does the position cover, and what federal schedule applied when the amount was paid or incurred?

? Is the return still open under the applicable limitation period?

? Is there a controlling judicial or administrative authority for the position?

? How does the position interact with prior disclosures, examinations, settlements, or financial statement reserves?

? Can the company reproduce historical COGS, expense classifications, and entity-level records?

? What interest, penalty, procedural, and disclosure consequences could follow from filing or not filing?

Management should resist two shortcuts: treating the 2026 rule as automatically retroactive and assuming that a protective claim or disclosure cures a position lacking substantive support. The IRS has emphasized that a disclosure statement is not a free pass from penalties where a position lacks a reasonable basis.

Examinations and reserves

Existing examinations should be managed in accordance with the law and facts applicable to the period under review. A new rule may affect settlement dynamics or expectations, but it does not itself determine the result. Financial statement reserves should be reassessed under the applicable accounting model, based on technical merits and available evidence, with clear documentation of any change in judgment.

PREPARING FOR BROADER RESCHEDULING

The unresolved proceeding can be treated as a planning variable without being treated as an enacted reality. The most valuable preparation work is useful under either outcome: better data, stronger classifications, documented allocations, disciplined scenario governance, and a clear decision process for updating models.

A readiness roadmap

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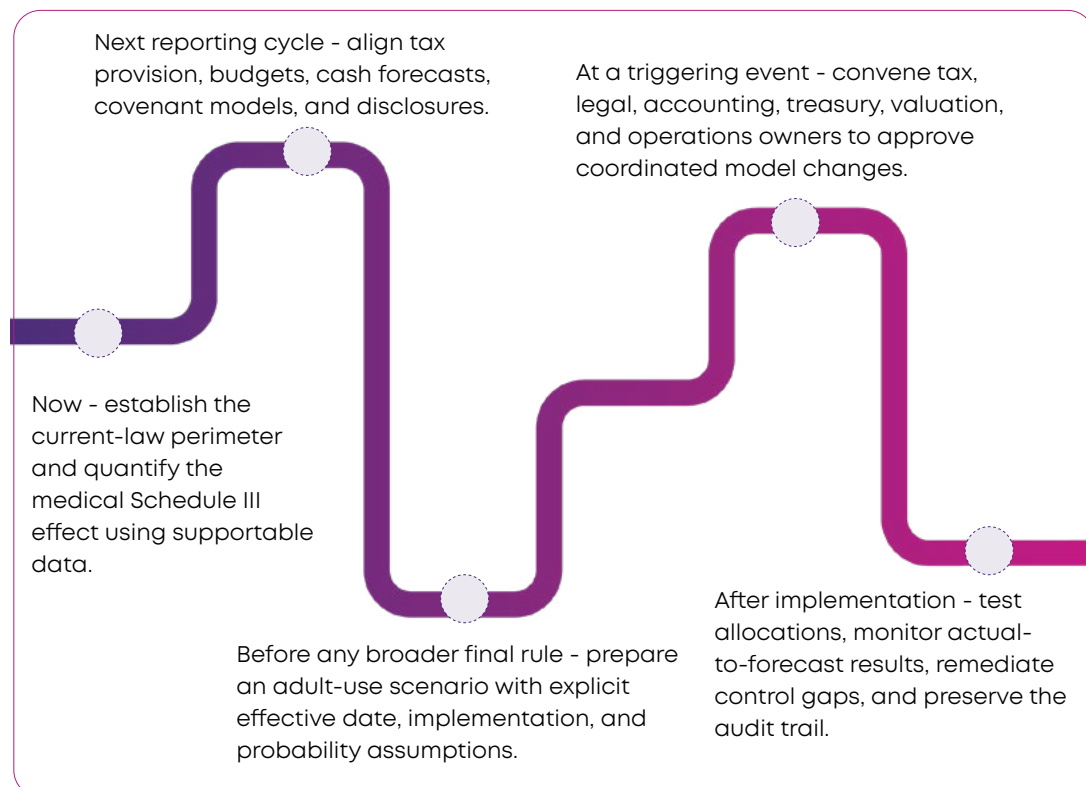
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Scenario governance

Each scenario should have an owner, a status label, a measurement date, a source list, an effective-date assumption, a probability or weighting methodology, and a record of approvals. A regulatory development should trigger a defined impact assessment rather than an uncontrolled cascade of model changes. This is especially important when the same assumptions feed external reporting, lender communication, investor materials, and transaction negotiations.

PRACTICAL PRINCIPLE Prepare for broader relief operationally, but recognize it financially only when the applicable legal, tax, and accounting thresholds are met.

TAX

PRACTICAL CLIENT ACTION CHECKLIST

- ✓ Inventory every legal entity, license, DEA registration or application, location, product, and revenue stream.
- ✓ Create separate medical, adult-use, and shared cost centers in the general ledger.
- ✓ Document the April 28, 2026, effective-date position by tax year and accounting method.
- ✓ Select allocation drivers for shared costs and write a short policy explaining why each driver is economically appropriate.
- ✓ Reconcile allocation outputs to source systems and retain time, space, transaction, inventory, and license evidence.
- ✓ Refresh estimated payments, tax provisions, reserves, cash forecasts, and tax-distribution calculations.
- ✓ Prepare current-law, broader-rescheduling, and downside scenarios for management and the board.
- ✓ Review debt agreements, acquisition models, earnouts, and valuation analyses for assumptions tied to 280E relief.
- ✓ Coordinate tax, legal, accounting, and operational owners; assign responsibility for monitoring DEA and IRS developments.
- ✓ Do not amend historical returns or release reserves without a documented, adviser-reviewed position.

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HOW UNIQUE CAN HELP

Uniquis can support management teams in translating the new rules into finance-ready decisions, working alongside legal and tax counsel when specialized legal or tax opinions are required.

- Current-state assessments that map licenses, revenue streams, entities, and processes to the regulatory perimeter.
- Scenario modeling for cash taxes, liquidity, valuation, debt capacity, and transaction economics.
- Accounting and reporting support, including forecast governance, documentation, disclosures, and control design.
- Data and process readiness for cost-center segmentation, allocation methodologies, reconciliations, and audit trails.
- Transaction and valuation support focused on supportable assumptions, diligence findings, and risk-adjusted outcomes.

ADVISORY PERSPECTIVE The strongest response is cross-functional: tax conclusions, legal scope, operational data, and financial reporting should tell the same story.

This publication provides general information and does not constitute legal, tax, accounting, or investment advice. Readers should consult qualified advisers regarding their specific facts and circumstances.

SOURCE NOTES

- 1 U.S. Department of Justice / Drug Enforcement Administration, “Schedules of Controlled Substances: Rescheduling of Food and Drug Administration Approved Products Containing Marijuana From Schedule I to Schedule III; Corresponding Change to Permit Requirements,” 91 Fed. Reg. 22,714 (Apr. 28, 2026), effective Apr. 28, 2026.
- 2 Drug Enforcement Administration, “Marijuana Rescheduling Regulatory Actions” (current as of Aug. 5, 2026).
- 3 Drug Enforcement Administration, Order for Transcript Corrections and Post-Hearing Briefs, DEA Docket No. 1362, Hearing Docket No. 26-96 (July 16, 2026).
- 4 Executive Order 14370, “Increasing Medical Marijuana and Cannabidiol Research” (Dec. 18, 2025).
- 5 26 U.S.C. § 280E, “Expenditures in connection with the illegal sale of drugs.”
- 6 Internal Revenue Service, “IRS announces launch of new enforcement campaign; highlights importance of whistleblowers and proper disclosure statements” (discussion of Section 280E and cost of goods sold).

About this brief

Regulatory status is stated as of August 5, 2026. Because the broader DEA proceeding remains open for post-hearing submissions, later developments may change the analysis. The discussion of allocations, historical periods, financial reporting, valuation, and transactions is practical advisory guidance and should be tailored to the reader’s facts.

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About Uniquis Consultech:

Uniquis Consultech is an AI and global tech-enabled consulting company that specializes in Accounting & Reporting Consulting, Governance, Risk & Compliance, Sustainability & Climate Consulting, Tech Consulting, and Valuations. The Company is co-founded by consulting veterans Jamil Khatri and Sandip Khetan and backed by marquee investors such as Nexus Venture Partners, Sorin Investments, and UST.

Uniquis has a global team of 800+ professionals, led by 100+ Partners and Directors, across 13 offices in the USA, the Middle East, and India. The company serves more than 400+ clients, including marquee names in each of the markets it operates in.

Uniquis is committed to leveraging technology and an integrated global delivery model to provide best-in-class consulting services to its clients.

About Our Valuations Services:

Increasingly complex transaction structures, heightened regulatory and governance scrutiny, and the need for transparent financial reporting demand valuations that are both rigorous and reliable.

Our Valuations practice delivers a comprehensive suite of tech-enabled valuation solutions across the breadth of asset classes, supported by deep technical expertise, strong industry knowledge, and a nuanced understanding of accounting and regulatory requirements.

With an experienced team of valuation professionals, we partner with our clients to support them in all their valuation needs, including pre-deal support, dispute resolution, regulatory compliance, financial reporting, and post-acquisition support.

A Team That You Can Trust To Deliver



Sandip Khetan

*Co-Founder, Global Head
of Accounting & Reporting
Consulting*



Kapil Bellubi

Partner, Head of Valuations



Casey Conrad Davis

Director, Valuations

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