

Consequences of Rescheduling Cannabis

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What are the consequences of rescheduling [cannabis](#) in the United States?

Last week, the federal Department of Health and Human Services (HHS) sent a memo to the Drug Enforcement Administration (DEA) recommending a change in how they schedule cannabis.

The herb is currently a Schedule 1 drug, meaning it has a high potential for abuse and no medical value. It shares this category with heroin.

The recommendation to change cannabis to Schedule 3 isn't [legalization](#), but it makes cannabis research easier. It also means tax breaks for state-level cannabis companies.

Of course, the DEA could ignore the HHS. Cannabis is still a Schedule 1 drug until further notice. But what would the consequences of rescheduling cannabis be?

For answers, CLN asked three experts in the industry. Planet 13 Co-CEO [Larry Scheffler](#), Naturae co-founder [Nicolas Guarino](#), and [Jason Wilson](#), cannabis research and banking expert at ETF Managers Group (ETFMG).

What do they think the consequences of rescheduling cannabis might be?

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Suppose the U.S. federal government reschedules cannabis. What then?

"It'll be a life changing event for every cannabis company," says Larry Scheffler. His beef, like most US-based cannabis operators, is with the 280E tax code.

Typically, a business takes its gross income and deducts operating expenses to reach its net income. This is what companies pay tax on.

But, a state-level cannabis company cannot make these same deductions. They must pay tax on gross income. In most cases, this means 20-25%.

"That's really what most companies in the United States have for their profit margins," says Larry. "And we're paying that to the government as a penalty, because, of course, it's still Schedule 1."

Larry is hopeful cannabis will be rescheduled. "Let us operate like every other company in the United States. I don't care what you think of cannabis," he says.

But right now, there's too much uncertainty, even with the consequences of a potential rescheduling of cannabis. Because Schedule 3 drugs are research and medical-based, there's fear that pharmaceutical companies will crowd state-level operators out.

"Is big pharma going to take over the entire [cannabis industry](#)?" Larry asks. "Nobody knows, I don't have much of a fear of that. My partner, who is an attorney, reads that differently."

What About Banking and International Treaties?

Jason Wilson is also cautious about reading too much into the news. “It’s not like suddenly, it’s legal everywhere, and we don’t need to continue to move forward with the legislative reforms.”

However, there are some positives. “The biggest one, by far, is companies will now be able to deduct their operating expenses.” But, Jason adds, “I think that’s probably the only real absolute thing.”

Everything else is speculation right now. Jason hopes a rescheduling at the federal level will come with some national guidance. Something that will “help kind of move things forward” and get banking provisions passed, if not outright legalization.

Jason is also hopeful from an investor’s perspective. One consequence of rescheduling cannabis could be banks taking a softened approach. “That would help open up the capital valuations for the cannabis companies.”

“The other positive thing we can see coming out of this,” says Jason, “Is more push back on state law that prohibits interstate commerce.” He suspects rescheduling cannabis could result in state-level challenges to the Commerce Clause.

What about international treaties? The U.S. is a signatory to the U.N. Single Convention on Narcotics, which requires cannabis [prohibition](#).

“That’s always been a problem, globally,” says Jason. And it may prevent the U.S. government from reform without an act of Congress.

But, as Jason points out,

“Canada is a member of that same convention, and they decided to ignore it. As other countries have, Germany, for example. And there’s been no real consequences for those countries that have moved away from that obligation.”

What About Interstate Trade?

While the consequences of rescheduling cannabis may be primarily positive, it’s not all sunshine. Naturae co-founder Nick Guarino agrees that removing the 280E burden is a step in the right direction.

But, “I think in pretty much everything else is going to be neutral,” he told CLN. “Even though there’s a lot of talk about there being a lot of negative developments from it.”

While some may welcome interstate trade, Nick sees that as more of a challenge. “For any for any of operators that are in a single market right now, still building their business,” competing with bigger guys from more mature cannabis markets won’t bode well.

Instead, Nick sees more regional trading within medical programs since Schedule 3 has medical and research implications.

“So you could have potentially medical programs in California trading with medical programs in Oregon and Washington, or something like that. But I think it’s primarily going to be on the medical program.”

But as a New York operator, Nick fears the kind of market consolidation that could occur if big cannabis companies from California, Oregon, or Washington move into the region.

“New York is so late to the game,” he says. When you haven’t been able to establish and scale your business at the same level as other operators in more mature markets, “it can very threatening to see

borders open up.”

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Of course, the consequences of rescheduling cannabis will become apparent once (or if) cannabis gets rescheduled.

“From their lips to God’s ears, we hope it goes through,” says Larry Scheffler. “But there’s no guarantee with the politicians. Ever.”

Especially in the U.S., where many companies have lost 90% of their value due to federal inaction and botched plans to pass banking reform – cautious optimism is the best one can hope for.