**DIVISION OF REVENUE**

**TECHNICAL INFORMATION MEMORANDUM 2025-1**

**March 20, 2025**

**SUBJECT: Marijuana Tax Business Deductions**

**FOR INFORMATION, CONTACT:**

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This memorandum serves to inform marijuana establishments, as defined in [§ 1302(17)](https://delcode.delaware.gov/title4/c013/sc01/index.html#1302) of [The Delaware Marijuana Control Act](https://delcode.delaware.gov/title4/c013/index.html) (4 *Del. C.* ch. 13), of the rules regarding the income tax deduction for ordinary and necessary business expenses.

Federal law (§ 280E of the Internal Revenue Service tax code) currently prohibits the deduction of ordinary and necessary business expenses on a federal tax return if the company is engaged in the trade or business of the sale of Schedule I or Schedule II controlled substances. At this time, marijuana (cannabis, THC) is classified as a Schedule I controlled substance.

Effective August 1, 2023, the Delaware Marijuana Control Act allows a deduction on Delaware state tax returns for ordinary and necessary business expenses incurred by a marijuana establishment.

Please note that should a federal deduction for ordinary and necessary business expenses become available for marijuana establishments, the Delaware deduction will no longer be permitted as the deduction would already have been incorporated into federal adjusted gross income.

Questions regarding the memorandum should be directed towards the Division of Revenue’s Corporate Acting Tax Audit Manager, John McKinny at (302) 577-8267.