

# Troutman Pepper Cannabis Communications Newsletter — April 30, 2024

## WRITTEN BY

[Agustin E. Rodriguez](#) | [Michael A. Lafleur](#) | [Jean Smith-Gonnell](#) | [Zie Alere](#) | [Randy L. Varner](#)

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Troutman Pepper's Cannabis Practice helps clients throughout their business cycle enter or expand into the cannabis space. Our team combines the resources of attorneys in areas such as licensing and taxation, regulatory compliance, corporate and transactional, intellectual property, and real estate, among others, to provide comprehensive services.

Our Cannabis Practice provides advice on issues related to applicable federal and state law. Marijuana remains an illegal controlled substance under federal law.

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## CANNABIS REGULATORY UPDATES

### POSSIBLE CSA RESCHEDULING OF MARIJUANA

By [Jean Smith-Gonnell](#) and [Agustin Rodriguez](#)

Troutman Pepper is carefully following the recent news related to rescheduling of marijuana from Schedule I to Schedule III of the Controlled Substances Act (CSA), based on the recommendation of the Department of Health and Human Services. We will ensure all readers remain up to date.

### AWARDING MEDICAL CANNABIS LICENSES: TAKEAWAYS FROM RECENT ALABAMA LAWSUIT

By [Jean Smith-Gonnell](#) and [Zie Alere](#)

A recent lawsuit in Alabama, challenging the award of medical cannabis licenses by regulators, underscores the potential pitfalls in licensing regimes where applicants are selected based on specific enumerated factors. Below, we examine the Alabama lawsuit in greater detail and consider the alternative policy of utilizing a lottery system to award licenses.

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### MASSACHUSETTS CANNABIS FIRMS CONTEST ALLEGED MISDOCUMENTATION OF COMMUNITY IMPACT FEES

By [Jean Smith-Gonnell](#) and [Michael Lafleur](#)

Recent developments in the Massachusetts cannabis industry, significant legislative changes, and legal actions

have spotlighted the contentious issue of so-called community impact fees. These fees, which are intended to offset municipal costs associated with hosting cannabis businesses, have sparked debate regarding their fairness and implementation.

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## **TAX REFUNDS FOR CANNABIS BUSINESSES? WHAT IS THE STORY?**

By [Jean Smith-Gonnell](#) and Randy Varner

In January, we published an article in this newsletter on the state of cannabis taxation, including a discussion of the crippling impact of Internal Revenue Code §280E (IRC §280E) on the industry. Since that article was published, the industry has been shaken and encouraged by the news that Trulieve Cannabis Corp. received refunds totaling \$113 million from the Internal Revenue Service (IRS). To date, Trulieve has refused to divulge the specific basis for the refunds, citing competitive, trade-secret, and pending litigation reasons. In an article in Cannabis Business Times posted on February 29, however, it was reported that Trulieve CEO Kim Rivers responded “yes” to a question on X (formerly Twitter) on whether the refund was related to IRC §280E.[1] In addition to Trulieve, another cannabis business, Ascend Wellness Holdings, has also reported it has amended federal tax returns for several years and is expecting to receive refunds.[2] Before jumping into the speculation as to what the specific basis of the refunds are, it is helpful to briefly review IRC §280E.

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