

# The Dilemma in Assessing Marijuana Cultivation Facilities

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**LEGAL**   
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PROPERTY TAXATION AND THE LAW:  
CHALLENGES AND SOLUTIONS

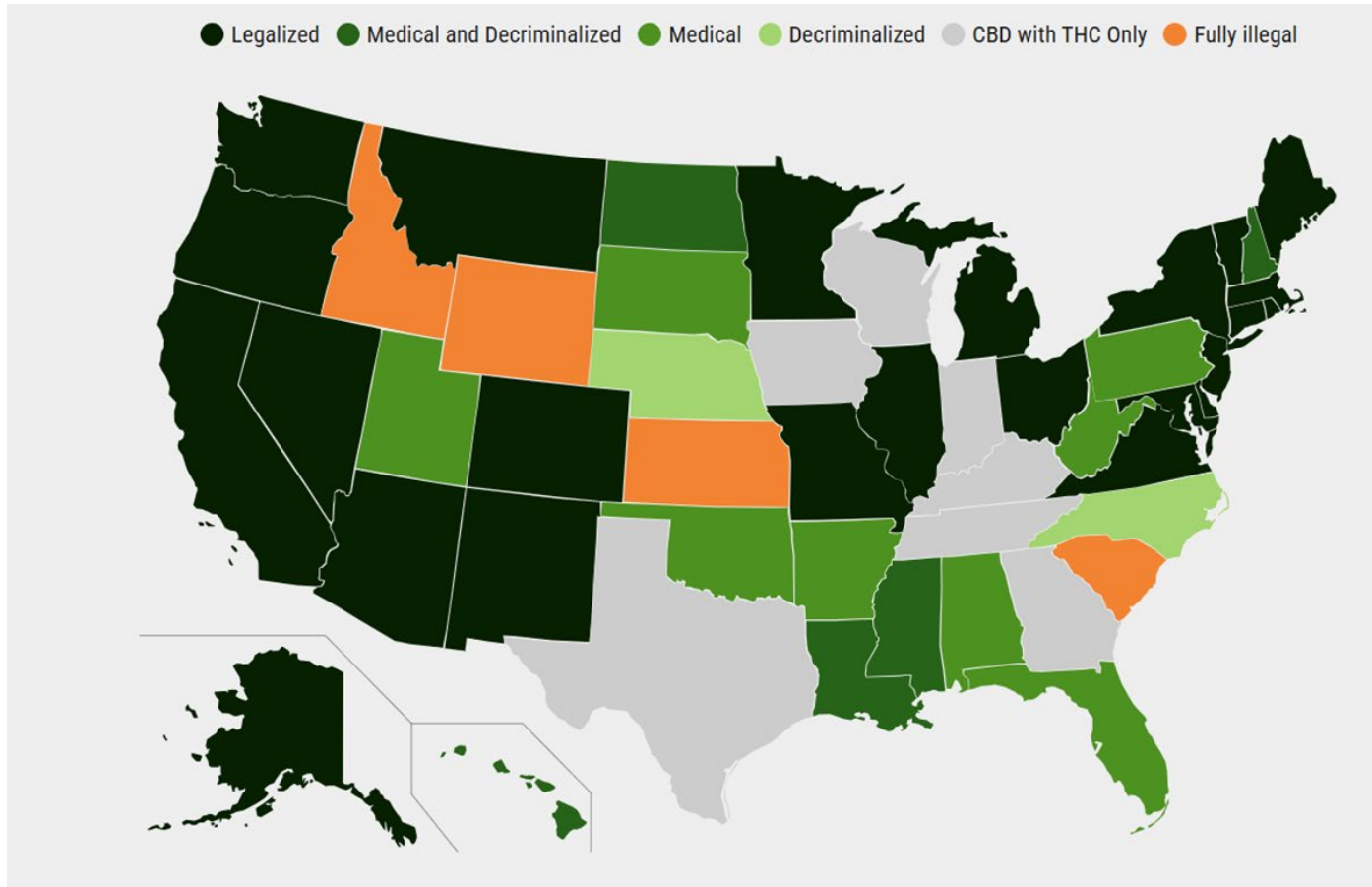


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# 50 States, 50 Different Regulations

- How do we assess fairly and accurately?



As of March 10, 2025  
(Source: DISA Global Solutions, Inc.)

# U.S. Market Continues to Grow

## Market Overview

- **Rapid Market Growth:** The projected 2028 U.S. legal cannabis sales forecast is \$46 billion, surpassing the 2023 U.S. spirits market (\$38 billion), beer market (\$37 billion), and wine market (\$14 billion)<sup>(1)</sup>
- **Emerging Adult-Use Markets:** Projected to drive meaningful growth through 2028, in particular NY, NJ, FL, OH, PA, MN, CT and MD<sup>(1)</sup>
- **Expansion of Legalization:** Approximately 74% of Americans live in a state where marijuana is legal for either recreational or medical use and 54% of Americans live in a state where the recreational use of marijuana is legal<sup>(2)</sup>

## Industry Revenue Comparison<sup>(1)</sup>



BDSA Legal Cannabis Market Forecast (March 2024); Distilled Spirits Council of the United States; Pew Research Center (March 2024); Gallup News Service; October 2-23, 2023 - Final Topline; National Conference of State Legislatures ([www.ncsl.org](http://www.ncsl.org)); MJBizDaily ([mjbizdaily.com](http://mjbizdaily.com))

## Increasing U.S. Acceptance<sup>(3)</sup>



## Growing U.S. Legalization<sup>(4)</sup>



# *Know Your State's Regulations*

- <https://disa.com/marijuana-legality-by-state>
  - <https://www.mpp.org/states/arizona/>
- CANNRA: Cannabis Regulators Association ([www.cann-ra.org](http://www.cann-ra.org))
- MJBizDaily ([www.mjbizdaily.com](http://www.mjbizdaily.com))

## Licensing

- A regulated cannabis operator must obtain proper licensing from the state for the facility
- Licensing driven by state specific program requirements, including limited licensing, costs and applicant requirements for licensing, identification of specific real estate for license approval
- In many states, a highly competitive process, with highly valued license

## Zoning

- Limited opportunities for locating regulated cannabis facilities based on zoning and permitting requirements imposed at county and city levels, including community support
- Extensive negotiations with local governments for permitting and approvals

## Regulatory

- Highly regulated at the state and local levels, including extensive security, fire protection, seed to sale tracking, testing, and other requirements
- Periodic inspections by local fire and safety officials and cannabis authorities to ensure compliance

# Who has the Data?

- Retail Stores, Dispensaries and Cultivation Facilities...
  - ...What if they claim confidentiality and won't release the info?
- Does your state's cannabis regulatory agency have the data?
- Does your county/city/town have the data?
- If they own their building, what does the deed say?
- If they rent their building, what does the lease say?

# Retail Stores and Dispensaries

- Fairly easy to assess
- Treat them like any other retail store or medical office
- Many retail stores tend to be “high end”



# Cultivation Facilities

- They are not your “standard” industrial buildings
  - Not all cultivation facilities are the same
  - Mostly indoors in colder climates
- They are food-grade/pharmaceutical grade manufacturing facilities
- Think of inspecting them as if you are going into a hospital’s Operating Room
  - Don’t be surprised if you are asked to wear a “bunny suit”



# Cultivation Facilities: What to Look For

- They are special-use buildings, with very expensive equipment, including:
  - Climate control systems
  - Electricity supply
  - Lighting
  - Water Irrigation Systems
  - Commercial Kitchens
  - Packaging Equipment
  - Emergency Power Systems



## Focus: Processing & Manufacturing

The production and manufacturing of cannabis is the stage in the process where natural by-products are created. Examples of popular natural by-products can include the following: wax, oils, concentrates, edibles, and light manufacturing (used to break down cannabis plant into smaller pieces). Manufacturing facilities, also called extractions facilities, are where the plants are moved after they are harvested and begin the transformation to various end products.

### The Cannabis Extraction Process



#### Harvest & Dry

- ❑ Requires hours of human labor to harvest a crop in the minimal amount of time
- ❑ Drying rooms are light and temperature controlled - optimized for moisture removal without spoiling product



#### Extract

- ❑ Extraction is the process of separating THC, CBD, and cannabinoids from the plant remnants
- ❑ This process can be completed multiple ways, but most often uses a hydrocarbon or ethanol solvent



#### Winterize & Filter

- ❑ Winterization is the process of removing compounds from the crude oil before the distillation process
- ❑ Filtrating the distillate increases THC concentration & removes undesired compounds



#### Distill

- ❑ Used to isolate specific compounds after the raw oil has been extracted in a prior process.
- ❑ One of the final steps to create high THC content distillate used in vapes and edibles



#### Package

- ❑ Depending on the final product, extractions can be used for vaporizers, infused in topical creams, infused into food, etc.
- ❑ Commercial kitchens are used to test and create edibles

Sophisticated manufacturing techniques and machinery create various commercial-grade cannabis products.

Source: Green Street Advisory Group

[www.greenstreet.com](http://www.greenstreet.com)  
Strictly Proprietary & Confidential

# Case Study #1 – Leased Facility

- Background:

A cultivator leases one floor in a three-story commercial/industrial building. The cultivator's Canadian-based parent company decides to save money by closing this facility and combining its operations with another facility located elsewhere in the same state. The landlord is left with this space fitted out specifically for marijuana cultivation and says it will cost him \$1 million to remove it and make it suitable for re-leasing.

- Questions to Consider:

- Is the equipment considered Real Estate or (Tangible) Personal Property?
- Who pays for the equipment after the tenant vacates the building?

# Case Study #2 – Owned Facility

- Background:

Cannabis Construction Company builds marijuana cultivation facilities across the United States and leases them to various cultivation companies. All of CCC's tenants have triple net leases, making them each responsible for paying the property taxes on their particular leased facility.

- Questions to Consider:

- Is the equipment in each building considered Real Estate or (Tangible) Personal Property?
- Who pays for the property taxes on the building? On the equipment?

# Case Study #3 – MA Department of Revenue

- The Massachusetts Department of Revenue has two separate focuses:
  - “Big DOR” decides state tax policy and handles personal and corporate state taxes
  - The Division of Local Services oversees city/town property taxation
- During the Great depression, to encourage manufacturing companies to stay in the state, the Massachusetts state legislature enacted a law that any company deemed to be a “manufacturing operation” would be exempt from (Tangible) Personal Property taxes (which are assessed by cities and towns).
- “Big DOR” decides whether or not a company has a “manufacturing operation” and notifies the municipality in which the company has such an operation.
- The Division of Local Services is not informed of that decision by “Big DOR.”
- Depending upon whether or not is applied to “Big DOR,” a marijuana cultivator may or many not pay TPP taxes.

# Case Study #4 – *PharmaCannis v. Holliston (MA)*

- Massachusetts Appellate Tax Board (ATB) Docket No. F-352144-24 and Docket F-353586-25
  - PharmaCannis Massachusetts, Inc. v. Town of Holliston (MA) Board of Assessors
- Company contested its Fiscal Year 2024 and 2025 assessed valuation of \$13 million, claiming a value of \$2.5 million
- Property owner lists 2024 depreciated value of \$31 million
  
- What did the ATB decide?

# Contact Information

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