



Hello BTLG Friends

As the nationwide heat-wave blisters, BTLG continues to address some tax litigation hot topics and developments.

I am especially happy to share that our updated [website](#) went live a few weeks ago. The updated design focuses on enhancing navigation, ensuring ease of use, and offering comprehensive information about our

services, team, and relevant FAQs on tax law. In addition, I will personally be running a series of 'Tax Law Tips' videos on our YouTube Channel, which will also be uploaded to our website. I invite you to subscribe to our YouTube channel, [@bragertaxlaw](#), so that you know when we post new videos.

On page 2, our feature article discusses a few of the tax issues faced by Cannabis businesses. Should you or anyone you know who operates a cannabis business receive contact from the IRS or any tax agency in the state of California, it is crucial that you reach out to us PRIOR to engaging in any discussions with them.

I am pleased to announce the opening of a new BTLG branch in Orange County! This strategic expansion aims to provide our valued clients in the area with easier access to our tax law services. Our new office located in Newport Beach will be managed by one of our Tax Attorneys, Guy Glaser to better serve our clients in that community.

Recently, ABC News ran a story on Good Morning America, regarding Shakira's latest tax problems, and I was asked to comment. Read more about this on page 3.

Many of our clients will already have had the pleasure of interacting with Karen Moncada, our billing clerk who you can read more about on Page 4, in our regular 'Have You Met' column, where we introduce members of our team.

The winner of our last newsletter's contest on '*Limericks created by AI versus Human*', is announced on Page 4. We are starting another Starbucks giveaway. This time as an incentive for you to provide us with your views on AI in the workplace. Your valuable insights on the role of Artificial Intelligence in the professional setting are of utmost interest to us.

Whether you are hitting the beach or simply enjoying a backyard BBQ, we wish you safe and happy travels this summer, and we look forward to connecting with you in our next edition.

DENNIS N. BRAGER



July/August 2023 E-Newsletter

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NEW ORANGE COUNTY BRANCH



Our new office located at:

5000 Birch Street,
Suite 3000, West Tower,
Newport Beach,
CA 92660

We will also continue to offer virtual meetings.

ARTIFICIAL INTELLIGENCE SURVEY

Hey there, coffee lovers and A.I. aficionados!
Share your thoughts on the hot topic of integrating Artificial Intelligence in the workplace and get a shot at winning a \$25 Starbucks gift card! We're eager to hear your views on AI's role in enhancing productivity, streamlining processes, and its implications for job dynamics.

Help us better understand the public perception of AI in professional settings, and treat yourself to your favorite cup of Joe!

Just send in a short email to our editor at: aferreira@bragertaxlaw.com, and you will be automatically entered into the draw for a chance to receive a **\$ 25 Starbucks gift card**.

Could you guess that some parts of this survey announcement was drafted with the use of ChatGPT4 A.I.?



**Resolving Cannabis Tax Problems
with a Knowledgeable
Cannabis Tax Lawyer
By Dennis N. Brager**



Why Choose a Cannabis Tax Lawyer

Our cannabis tax lawyers know that every small business entrepreneur dreads an IRS tax audit, but it can be especially painful for cannabis dispensaries. That's because, in addition to all of the tax problems that arise in every business, such as proper depreciation of equipment, substantiation of expenses for travel and entertainment and treatment of workers as employees or independent contractors, cannabis dispensaries are conducting a business which is illegal under federal law. This is true even though the sale of cannabis is legal in California, Colorado, Washington, and many other states.

The Vulnerability of Cannabis Dispensaries to IRS Tax Audits

The key cannabis tax problem is Internal Revenue Code Section 280E. That's the piece of the federal tax law which prevents even legal cannabis businesses from writing off most "normal" business deductions and creates a very high effective tax rate. Section 280E was enacted by Congress in direct response to a case in the United States Tax Court that allowed a taxpayer to deduct expenses involved in selling amphetamines, cocaine, and cannabis; however, the case, and the law predate the widespread legalization of cannabis by many states.

Understanding Section 280E: Key Cannabis Tax Law Issue

Section 280E is so short (for the tax law anyway) that it's worth quoting.

No deduction or credit shall be allowed for any amount paid or incurred during the taxable year in carrying on any trade or business if such trade or business (or the activities which comprise such trade or business) consists of trafficking in controlled substances (within the meaning of schedule I and II of the Controlled Substances Act) which is prohibited by Federal law or the law of any State in which such trade or business is conducted.

COGS Deduction: A Strategy for Cannabis Business Tax Savings

As our cannabis tax lawyers know, cannabis is a Schedule I controlled substance. Although the text of the tax law seems to deny ANY deductions, because Congress was concerned that denying deductions for Cost of Goods Sold (COGS) to a cannabis dispensary might be unconstitutional, as a tax on gross receipts, it allowed cannabis businesses (and indeed any business engaged in selling controlled substances) to continue to deduct that portion of its expenses which are allocable to COGS. Thus, one method of maximizing deductions is to allocate as much as possible to COGS. [Click here](#) to read cannabis tax lawyer Dennis Brager's article published in Cannabis Venture discussing some of the pushback from the IRS on this issue.

Income Reporting Issues in Cash-Based Cannabis Businesses

Another vulnerability that cannabis dispensaries have is related to the cash nature of their businesses. Because it is very difficult for cannabis businesses to maintain a bank account, they are subject to claims by the IRS that not all of their income is being reported. In cases where the IRS alleges substantial non-reporting of income, cannabis dispensaries and their owners are exposed to both criminal and civil tax penalties, including the 75 percent civil tax fraud penalty.

Defending Against Criminal and Civil Tax Penalties in Cannabis Industry

Our cannabis tax lawyers have years of experience in defending against these types of allegations by the IRS.

Navigating Sales Tax Audits for Cannabis Dispensaries by the CDTFA

Cannabis tax problems are not limited to tax audits by the IRS. Our cannabis tax dispute attorneys have seen sales tax audits by the California Department of Tax and Fee Administration (CDTFA) formerly known as the California State Board of Equalization (SBE or BOE) claiming that the cannabis dispensaries did not report all of their income for California Sales Tax purposes. Without good records the CDTFA can be expected to make wild guesses about the amount of income based upon such flimsy evidence as the number of people walking through the door. Nevertheless, when the CDTFA makes a determination, it is up to the cannabis dispensary to prove that the CDTFA's estimate is wrong. Worse yet the owners of the cannabis dispensary can become personally liable for any unpaid sales taxes. Our cannabis tax attorneys have had decades of experience helping all types of business fight these types of sales tax problems.

Challenges in Proving Expenses for Unbanked Cannabis Businesses

Conversely, because cannabis dispensaries don't have a bank account to write checks on it becomes difficult to prove that expenses have been paid, even if they are of a type which can be deducted.

Payroll Tax Problems in the Cannabis Industry: Employee vs Independent Contractor

Cannabis businesses are also not immune from traditional payroll tax problems such as whether workers are employees or independent contractors. This is another area where if the wrong decision is made the owners and operators of cannabis dispensaries may become personally liable for payroll taxes which the IRS claims should have been deducted from payments to workers and turned over to the IRS. On top of that they are subject to possible penalties for failure to deposit payroll taxes electronically. The IRS has issued guidelines which ease this particular cannabis tax problem, but the guidelines still require cannabis businesses to make an effort to pay payroll taxes electronically.

Seek Expert Help: Consult Our Cannabis Tax Law Attorneys

If your cannabis business is contacted by the IRS or the CDTFA, contact our office for a confidential consultation with one of our cannabis tax lawyers.

Dennis Brager Interviewed on ABC's Good Morning America, On Shakira's Tax Fraud Debacle.



On Friday, July 21st, 2023, ABC News ran a story on *Good Morning America* (GMA) regarding the developing buzz around Shakira's current tax challenges. This is the second time in less than a decade that the Columbian-born pop star finds herself in tax hot waters.

A court in Barcelona, Spain confirmed that it has opened an investigation into the international pop star's second case of alleged tax fraud. A complaint from the Prosecutor's Office accuses the Colombian artist of defrauding the Tax Agency in personal income taxes and assets for the 2018 financial year.

Shakira is already set to face trial later this year for allegedly failing to pay 14.5 million euros (almost \$14 million) in taxes on income earned from 2012 to 2014, an allegation which she fervently denies.

During the Good Morning America interview, Dennis stated that in order for criminal charges to stick, the government will have to prove she knew her tax return was wrong but filed it anyway.

Dennis went on further to comment that the Spanish authorities are going to have to prove that Shakira was physically present in Spain for at least 183 days for each of the tax years.



The hip-gyrating, global music sensation remains confident that she will be vindicated of her tax fraud allegations.

All we can say right now is "***Oh Shakira, Shakira!***".

[Click here](#) to watch the GMA clip on YouTube.

**Congratulations
Michael Greene
of Michael Greene LLC,
for winning the
Artificial Intelligence (A.I.)
Versus**

**Human Creativity
\$25 Starbucks Gift Card Contest.
We had an overwhelming
response but Michael was
the first entrant to
provide the correct answers.**

**See the correct answers next to
each heading, below:**

Poem 1— Human

Hearing from the IRS
strikes fear in most.
And the attorneys at Brager Tax Law
don't like to boast.
But, we like hearing from them.
Why, you might say?
Because we fight
so our clients don't have to pay

Poem 2 — A.I.

There once was a tax litigator
Whose clients were always the victor
With arguments so sound
her cases would astound,
and none would contradict her

Poem 3 — A.I.

A tax litigator, sharp as can be,
Had a talent for solving a dilemma, see.
With a wit as quick as a fox,
He could untangle any legal blocks,
While his clients all danced with glee

Michael pointed out that the first poem does not follow the regular rhythm of a limerick and so he guessed that poems 2 and 3 were created by Artificial Intelligence, and he is absolutely right.

Michael also wrote his own limerick, and *not* with the use of Artificial Intelligence, which he has shared with us:

*There once was a limerick writing attorney
Whose rhymes were so good
they were scary
He'd write them all day
In his own special way
And his clients would leave feeling merry.*



*Have You
Met ...
**Karen
Moncada?***

Karen commenced her career with a degree in health science before working in administrative and accounting related positions for twenty years. Karen joined Brager Tax Law Group 5 years ago where she has worked alongside a team of professionals who have years of experience working with tax liability debt in addition to both personal and business audits.

Karen takes care of the accounts payable and accounts receivable, and billing, which includes immediate response to any client or vendor inquiries. Karen is also responsible for onboarding new clients and assisting in gathering reviews from our satisfied customers.

It hard to believe that our dynamic and young looking Accounts Specialist is a grandmother. Karen loves to travel globally just as much as she enjoys planning a weekend excursion with her family.



**What sort of
taxes do
marijuana
dispensaries
file?**

Joint returns!