

July 27, 2020

Marijuana Businesses Have Major Tax Problem

Businesses that LEGALLY grow or sell marijuana have a major tax problem, in that, the Internal Revenue Service takes the position that even in states where it is LEGAL to sell and use marijuana, a federal statute prohibits tax deductions for sellers of controlled substances that are considered illegal under U.S. law. In this case, a California retail seller of marijuana can deduct only the cost of what is paid for the inventory. Other expenses are not deductible. (*Richmond Patients Group, TC Memo 2020-52*).

Presumably, the store was selling marijuana for its THC content and not dealing in CBD oils, which is legal since the passing of the Farm Bill, which allowed it a couple of years ago.

If the store was selling CBD, it probably did not differentiate its costs between CBD and THC products.

I look forward to such case addressing CBD sales.

Are You A Lawyer Looking For Work?

The New York State Bar Association is concerned that of the approximately 183,000 lawyers in New York State, only 3% of them live and work in the rural areas that spread across thousands of square miles. This has caused a scarcity of attorneys in the state's small-town communities and a mounting access to justice crisis that up until now has gone unaddressed.

Last April, the Government Law Center at Albany Law School published a report on rural law practice in New York, which was based on a survey of rural attorneys conducted between August and October 2018. One of the more alarming findings from the survey confirmed the aging of the bar in rural New York as nearly 75% of attorneys were 45 years of age or older. With few to no new attorneys entering rural practices, this suggests that within 20-30 years, the great majority of current rural lawyers will be retired.

The research revealed other trends including:

- 1) Most rural legal practices are comprised of solo practitioners or small practices of two to five attorneys.
- 2) Rural attorneys are OVERWHELMED by the volume of cases, financial stress, and limited resources, among many other rural practice burdens.
- 3) Rural practitioners have trouble finding qualified attorneys to REFER cases to and several high-needs practice areas have a shortage of experts. *NYSBA State Bar News Fall 2019 p. 4.*

Left unmentioned in the report, is that the cost of living was much less than the down state urban and suburban areas, where most attorneys congregate.

Thoughts On US Response To The Pandemic

Why was it that Singapore and South Korea were able to test their population so much faster than the U.S.? It seems that the U.S. lost two precious months because the aforementioned countries used the reliable SARS-COV-2 tests that were widely available, having been developed for the much ballyhooed SARS pandemic.

Had they been used, testing would have been widespread and epidemiologists would have had a better handle on the virus' prevalence and progression. Containment measures could have been narrower in scope. Health professionals would have been better able to target care to those who needed it.

Instead, the Food and Drug Administration created a shortage of tests by blocking Americans from purchasing those or any other tests for two months. Losing that freedom made us more vulnerable by allowing this disease to spread unchecked across the country. *Cato Policy Report May/June 2020 p. 17.*

Of course, there still would have been a shortage of protective clothing and equipment because the U.S. government under the Obama Administration did not restock the national stockpile after successfully dealing with the Ebola outbreak. New York did not stockpile in 2015, after running a pandemic simulation that showed it and all hospitals were short of protective clothing and equipment and ventilators. Not only the U.S. and New York, but Great Britain ran a pandemic simulation in 2015, and came up with the same answer, they were not prepared. They also chose not to purchase the clothing and equipment.

More Thoughts On The Pandemic

Why has Sweden done so much better than many predicted? Because others failed to see that society could respond voluntarily to the pandemic. For example, the influential Imperial College model estimated a higher reproduction rate of the disease in Sweden than in other countries “not because the mortality trends are significantly different from any other country, but as an artifact of our model.....because no full lockdown has been ordered.”

In other words, the model could only handle two scenarios: an enforced national lockdown or zero change in behavior. It had no way of computing Swedes who decided to socially distance voluntarily. But we did. *Cato Policy Report May/June 2020 p. 17.*

Sweden also chose, like Florida, to protect the vulnerable individuals in long term care facilities. Because they acted this way, they did not destroy their economy and businesses like we did with millions out of work and \$8 trillion in additional debt.

The Imperial College algorithm calculated 2,000,000 deaths in the U.S. unless the U.S. had a full lockdown. That is why National Security Agency Director O'Brien advised President Trump to ban travel from China.

Of course, there was no way to consider the response of NY, NJ, MI and PA, which forced

nursing homes to accept sick COVID-19 patients from hospitals, and deny the homes the necessary protection clothing and equipment, and in so doing, put the most vulnerable at the most risk. In NJ, the result was 50% of the deaths occurred in the long care term care community inclusive of patients and staff (see NJ COVID-19 Dashboard as of 7/11/20 of total confirmed state deaths of 13,532, 6,662 were in LTC facilities). Conversely, in Florida they immediately took steps to protect the long term care facilities from the disease, and in so doing, dramatically reduced the death rate and amount of deaths.

Why don't we hear more from Dr. Marc Siegel, a contemporary of Dr. Fauci, who in 2006 wrote *False Alarm: The Truth about the Epidemic of Fear; Bird Flu: Everything you Need to Know About The Next Pandemic*. In the book, Dr. Siegel, who currently works at NYU Langone, states the reason we will have pandemics is because of airplane travel. In today's day and age, a new disease can travel around the world in minutes, whereas in the past it travelled as fast as on ox cart (check out his Wikipedia site).

NJ Plans \$10 Billion Borrowing & Tax Increases

Governor Murphy and Democratic leaders in the legislature, announced an agreement on July 10, to fast track the largest borrowing scheme in New Jersey history to help make up massive losses in tax revenue due to the pandemic in order to fund state spending over the next 12 months. Debt and interest payments could cost New Jersey taxpayers *\$40 billion* over the next 35 years.

They are not any plans to put the plan on the ballot for voters' approval as the New Jersey Constitution requires, ensuring a legal challenge by the Republican legislators.

The Governor has also suggested that tax increases will likely be part of his upcoming budget proposal that is due in several weeks.

No proposals have been made by the government to achieve significant savings by cutting or freezing expenses. Senbateman@njleg.org 7/13/20.

As always, if you have any questions about these or any other matters, do not hesitate to call us.