



## Jennifer Benda

Partner

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**Jennifer brings sophisticated experience as a tax attorney and former CPA to counsel businesses and individuals on emerging and complex tax controversy and litigation issues.**

### PRACTICES

Tax Controversy and Litigation  
Federal Income Taxation  
State and Local Tax  
Tax

### INDUSTRIES

Cannabis and Psychedelics

### EDUCATION

George Washington University School of  
Law, J.D., 2005  
*With honors*

Texas A&M University, M.S., 1995  
Accounting - Tax

Certified Public Accountant, Texas, 1995  
to present

Texas A&M University, B.B.A., 1994  
Accounting

### BAR ADMISSIONS

Colorado

### COURT ADMISSIONS

U.S. District Court for Colorado  
U.S. Court of Appeals, Tenth Circuit  
U.S. Court of Appeals, Ninth Circuit  
U.S. Tax Court

Jennifer handles high-dollar, sensitive tax matters with significant legal issues at stake for businesses and individuals. Drawing on experience as a tax accountant and as a tax lawyer, she is respected by clients for her ability to navigate and explain complex situations and provide front-line protection with the goal of alleviating the stress clients experience when facing scrutiny from tax authorities.

In disputes with the IRS and state and local tax authorities, she is a deft, respected negotiator in reaching out-of-court solutions; and an ardent advocate, litigating issues to ensure her clients receive even-handed treatment.

Clients appreciate Jennifer's straightforward, no-nonsense approach to tax planning: keep matters streamlined and don't make things complicated when they don't need to be. She helps clients plan and implement proactive tax strategies to protect their assets and achieve their business and financial goals.

Bringing clarity to the hazy area of federal and state taxation of cannabis businesses, Jennifer counsels cannabis industry clients and their business advisors on tax strategy and filings, and how to navigate income, excise, and state tax audits, including IRC Section 280E adjustments and challenges.

Before joining Holland & Hart, Jennifer practiced at two Am Law 100 firms and the Denver office of a mid-sized firm.

### EXPERIENCE

#### Tax Litigation and Controversy

- Advise high net worth individuals subject to IRS scrutiny or audit
- Cryptocurrency reporting and compliance
- Valuation in estate and gift disputes
- Advise individuals on offshore asset reporting requirements and voluntary disclosures
- Captive insurance
- Conservation easements

- Cannabis industry expertise, including IRC § 280E Adjustments and Challenges
- IRS Penalty Abatements
- IRS Collections
- Examinations, Appeals, and Litigation
- Federal, State, and Local Tax Compliance
- Marijuana excise tax issues
- Sales and use tax issues

## **CLIENT RESULTS**

### **Negotiations with Tax Authorities**

Assisted individual who failed to file tax returns for more than 20 years to achieve state and federal compliance without prosecution or collection action.\*

Achieved abatement of tax assessment due to IRS issuance of invalid notice of deficiency. (*PRL Co, Inc. v. Commissioner*, T.C. Dkt. 19800-18)\*

Prepared voluntary disclosures for clients with an undisclosed off-shore bank account to avoid criminal prosecution.\*

### **Audit Work**

Resolved large estate tax audit for client with investments held through family limited partnership, including resolution of valuation issues, Section 2036 issues, and dispute about the amount of charitable deduction allowed.\*

Resolved a large estate tax audit for a client with significant oil and gas holdings. Addressed valuation issues and used specific case details to reach an effective resolution.\*

Counsel clients with Section 831(b) captive insurance companies during IRS audit, IRS appeals, and Tax Court.\*

### **Cannabis Industry**

Regularly represent state-licensed cannabis businesses during IRS examinations, Appeals and Tax Court. Apply accounting background and solid legal arguments to achieve proper settlements for cannabis companies.\*

Transactional tax planning and due diligence for state-licensed cannabis businesses.\*

Assist clients with department of revenue audits for cannabis industry taxes.\*

On behalf of two major industry groups, filed amicus brief in *Patients Mutual Assistance Collective Corporation, dba Harborside Health Center v. Commissioner of Internal Revenue*, Ninth Circuit Dkt. No. 19-73078,

appealing 151 T.C. 176 (2018).\*

### **Other Experience**

\*Indicates matters Jennifer worked on before joining Holland & Hart

### **PUBLICATIONS**

"Opinion: Is Trulieve's refund claim the cannabis industry's way out of 280E?," *MJBizDaily*, February 9, 2024

"Publicly Traded Cannabis Companies: To Be or Not To Be?," *Holland & Hart Client Alert*, July 12, 2023

"Cannabis Taxation: Where Does the Money Go?," *Holland & Hart Client Alert*, March 30, 2023

"Finally, Good News from the IRS: Cannabis Operators Could Be Eligible for the Qualified Business Income Deduction," *Holland & Hart Client Alert*, February 15, 2023

"If You Want a Natural Medicine Company, Start Tax Planning Now," *Bloomberg Tax*, December 27, 2022

"The Great Delta-8 Debate: Many Shades of Grey?," *Cannabis Business Executive*, June 17, 2022

"The Future of Marijuana Taxation: The MORE Act Could Mean More Complications for the Marijuana Industry," *Law Week Colorado*, May 24, 2021

"Settle or fight? The Challenges of Section 280E and Cannabis," *Los Angeles/San Francisco Daily Journal*, 4/30/2021

"10th Circ. IRS Summons Ruling Shows Cannabis Biz Dilemma," *Law360 Tax Authority*, 11/5/2020

"Some Progress In Battle For Cannabis Biz Tax Deductions," *Law360 Tax Authority*, 11/5/2019

### **SPEAKING ENGAGEMENTS**

"High on Taxes: A Global Ganja Gala," *ABA Business Law Spring Meeting*, April 5, 2024

"Section 280E Application & Litigation," *8th Annual Cannabis Symposium*, February 29, 2024

"Current Tax Landscape of in the Cannabis Industry," *ABA Tax Section: 2024 Midyear Tax Meeting*, January 19, 2024

"Hot Topics in Tax Enforcement," *Denver Tax Conference 2023*, December 14, 2023

"IRS Focus on Cryptocurrency: Navigating Tax Compliance," *Denver Tax*

Conference 2023, December 14, 2023

"280E: IRS Audits and Takeaways," *Connecticut Society of CPAs (CTCPA) Cannabis Tax Update*, December 12, 2023

"Important Tax Court Opinions and IRS Arguments in Current Matters," *AICPA Cannabis Conference*, August 16, 2023

"Unconventional IRS Tax Accounting Positions: How to Handle Them and Their Broader Implications," *TEI 73rd Midyear Conference*, March 20, 2023

"The Cannabis Minefield for Closely Held Businesses," *ABA Tax Section 2023 Midyear Meeting*, February 10, 2023

"Hashing Out the Tax Treatment of Cannabis Businesses," *ABA Tax Section 2023 Midyear Meeting*, February 10, 2023

"Navigating the Challenges and Hurdles of 280E in the Cannabis Industry," *AICPA Cannabis Conference*, August 8, 2022

"(First) Annual Summary of Precedential Rulings and Litigation Trends," *INCBA Cannabis Law Institute*, June 10, 2022

"The Next Generation of Cannabis Tax Issues: Lessons from the Front Lines," *Cannalaw Summit*, May 3, 2022

"How to Hash it Out with the IRS," *Cannabis Higher Learning: Your Legal Roadmap*, April 19, 2022

"Marijuana Business Taxation: Watching Your Profits Go Up in Smoke," *Colorado Bar Association Tax Section*, 4/13/2022

"Practical Impact of Section 280E Litigation on Structuring and Due Diligence," *AICPA & CIMA Cannabis Industry Conference, Panelist*, 11/9/2021

"Section 280E Disputes: When to Hold 'Em, When to Fold 'Em," *AICPA & CIMA Cannabis Industry Conference*, 11/8/2021

"Cannabis is Going National – Opportunities and Pitfalls," *Federal Bar Association Section of Taxation 45th Annual Tax Law Conference*, 5/5/2021

"Tax Issues Relating to High Regulated Industries," *International Bar Association Tax Section Meeting*, Toronto, November 2019

"Cannabis and Marijuana Tax Issues," *Celesq*, November 2019

"Ethical Considerations for Advising and Representing Client on Cannabis and Cryptocurrency," *ABA Section of Taxation May Meeting*, San Francisco, October 2019

"Marijuana Tax Issues and Reporting Requirements," *Lorman Education*

Services, 8/29/2019

"How To Avoid Professional Liability Claims Against CPA Firms," *Lorman Education Services*, 5/20/2019

"Emerging Issues in AML and Money Laundering: Bank Secrecy Act Reform, Cryptocurrencies and the Cannabis Industry," *Practicing Law Institute*, 5/14/2019

## RECOGNITION

- *Chambers USA*, Tax, Colorado, 2020-2023
- *Chambers USA*, Nationwide Cannabis Law: Western United States, 2019-2023
- *National Law Journal* Cannabis Law Trailblazer, 2018
- *5280 Magazine* Top Lawyers, Marijuana Law, 2020-2024
- *Cannabis Law Report*, Global Top 200 Cannabis Lawyers, 2023-2024
- Colorado Super Lawyers®, Tax, 2023, 2024
- Colorado Super Lawyers® Rising Stars, Tax, 2010-2015

## PROFESSIONAL AND CIVIC AFFILIATIONS

- American College of Tax Counsel, Fellow, 2021-present
- Colorado Leads, Board of Directors, 2021-2023
- American Bar Association, Section of Taxation
  - Administrative Practice, Civil and Criminal Tax Penalties Committee
  - Court Procedure and Practice Committee
- Colorado Bar Association, Tax Section Executive Council ABA Liaison, 2014-2019
- Voluntary Income Tax Assistance Program for military members, Trainer, 2014-2021
- Color of Cannabis: Instructor, 2020-2023
- ALIGHT (Alliance to Lead Impact in Global Human Trafficking), pro bono legal advisor, 2020-present