

STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition	:	
of	:	
LIAM P. BURNS	:	ORDER
	:	DTA NO. 852486
for Redetermination of Deficiencies or for Refund of	:	
Tax on Adult-Use Cannabis Products under Article	:	
20-C of the Tax Law for the Period July 19, 2023.	:	

Petitioner, Liam P. Burns, filed a petition for redetermination of deficiencies or for refund of tax on adult-use cannabis products under article 20-C of the Tax Law for the period July 19, 2023.

Petitioner, appearing pro se, served a demand for a bill of particulars on the Division of Taxation on May 29, 2026. The Division of Taxation, by its representative, Amanda Hiller, Esq. (Brian Evans, Esq., of counsel), brought a motion on June 23, 2026, seeking an order vacating the demand for a bill of particulars pursuant to section 3000.6 (a) (2) of the Rules of Practice and Procedure of the Tax Appeals Tribunal. Petitioner filed a response by July 13, 2026, which date commenced the 90-day period for the issuance of this order.

Based upon the motion papers and all pleadings and documents submitted in connection with this matter, Jennifer L. Baldwin, Administrative Law Judge, renders the following order.

ISSUE

Whether petitioner's demand for a bill of particulars should be vacated.

FINDINGS OF FACT

1. On February 25, 2026, petitioner, Liam P. Burns, filed a petition with the Division of Tax Appeals in protest of a conciliation order, CMS number 000359282, issued by the Division of Taxation's (Division's) Bureau of Conciliation and Mediation Services (BCMS), dated December 19, 2025. The conciliation order sustained two notices of deficiency, notice numbers L-059385529 and L-059385526, issued by the Division to petitioner, both dated January 18, 2024 (notices). Notice number L-059385529 asserted penalty of \$7,500.00 for possession of adult-use cannabis products without a valid certificate of registration. Notice number L-059385526 asserted penalties of \$75,450.00 for knowingly possessing illicit cannabis for sale and knowingly possessing illicit cannabis for sale in a commercial location. The notices were issued as a result of an inspection of petitioner's business, Hemp Geek LLC, conducted by the Division's Criminal Investigations Division (CID) on July 19, 2023.

2. In a rider to section VIII of the petition, petitioner alleged in 20 separately numbered paragraphs the errors of the Division and the facts supporting such alleged errors.

3. On April 29, 2026, the Division filed its answer to the petition. Paragraph (1) of the answer generally denied all allegations in the petition. Paragraphs (2) through (9) contained the Division's affirmative statements. In relevant part, the Division stated as follows:

“2. AFFIRMATIVELY STATES that on or about July 19, 2023 . . . members of the Division's Criminal Investigation[s] Division . . . conducted a regulatory cannabis inspection of [p]etitioner's business Hemp Geek LLC, located [in Ithaca, New York,] where [p]etitioner was found to be in possession of illicit adult-use cannabis and offering for sale cannabis without a valid certificate of registration.

3. AFFIRMATIVELY STATES that for the period at issue, [p]etitioner was an owner and responsible person of the business.”

4. On May 29, 2026, petitioner served a demand for a bill of particulars on the Division. The demand requested “the factual, classification, weight, THC, and computational predicates

for the two Article 20-C penalty notices.” In 26 separately numbered items, the demand asked the Division to “[i]dentify every product or evidence item the Division contends supports either [n]otice.” The instructions in the demand provided: “Do not attach documents unless the Division elects to do so; identification of the relied-upon source entry is sufficient for this [d]emand.”

5. On June 23, 2026, the Division made a motion to vacate petitioner’s demand for a bill of particulars on the basis that the demand improperly shifted the burden of proof onto the Division and was unduly burdensome and constituted impermissible requests for discovery.

6. On June 29, 2026, petitioner filed a response in opposition to the Division’s motion to vacate petitioner’s demand for a bill of particulars wherein petitioner argued that:

“[t]he [d]emand seeks no documents, no witnesses, no laboratory records, no certificates of analysis, and no attorney work product. It asks only that the Division identify the source entries, product groupings, weights, THC figures, and Article 20-C classifications behind the penalties it seeks to sustain. That is the proper office of a bill of particulars.”

CONCLUSIONS OF LAW

A. The Rules of Practice and Procedure of the Tax Appeals Tribunal (Rules) permit the use of a bill of particulars in proceedings in the Division of Tax Appeals. Specifically, section 3000.6 (a) of the Rules provides, in relevant part, as follows:

“(1) After all pleadings have been served, a party may wish the adverse party to supply further details of the allegations in a pleading to prevent surprise at the hearing and to limit the scope of the proof. For this purpose, a party may serve written notice on the adverse party demanding a bill of particulars within 30 days from the date on which the last pleading was served.

(2) The written demand for a bill of particulars must state the items concerning which such particulars are desired. If the party upon whom such demand is served is unwilling to give such particulars, he or she may, in writing to the supervising administrative law judge, make a motion to the tribunal to vacate or modify such demand within 20 days after receipt thereof. The motion to vacate or

modify should be supported by papers which specify clearly the objections and the grounds for objection.”

B. As noted, the Rules permit the use of a bill of particulars in proceedings in the Division of Tax Appeals “to prevent surprise at the hearing and to limit the scope of the proof” (20 NYCRR 3000.6 [a] [1]). An administrative law judge is guided but not bound by the provisions of the New York Civil Practice Law and Rules (CPLR) (*see* 20 NYCRR 3000.5 [a]). Therefore, it is helpful to refer to CPLR 3041, “Bill of particulars in any case,” and caselaw arising under that section for guidance.

C. The function of the bill of particulars is to enable the party demanding the particulars to definitely know the claims which he or she must defend against (*see Johnson, Drake & Piper v State of New York*, 43 Misc 2d 513, 515 [Ct Cl 1964]). A demand for a bill of particulars may be used to amplify the pleadings, prevent surprise and limit issues, but may not be used to gain disclosure of evidentiary detail that adverse parties will rely on to prove their claims (*see Bassett v Bando Sangsa Co.*, 94 AD2d 358, 359 [1st Dept 1983], *appeal dismissed* 60 NY2d 962 [1983]; *State of New York v Horsemen’s Benevolent & Protective Assn. [N.Y. Div.]*, 34 AD2d 769, 770 [1st Dept 1970]). Generally, a party need particularize only those matters on which it has the burden of proof (*see Holland v St. Paul Fire & Mar. Ins. Co.*, 101 AD2d 625, 625 [3d Dept 1984]).

D. In proceedings in the Division of Tax Appeals, a presumption of correctness attaches to a notice of deficiency and petitioner bears the burden of overcoming that presumption (*see Matter of Hammerman*, Tax Appeals Tribunal, August 17, 1995, citing *Matter of Atlantic & Hudson Ltd. Partnership*, Tax Appeals Tribunal, January 30, 1992). Specifically, in matters before the Division of Tax Appeals, petitioner bears the burden of proof except as otherwise provided by law (*see* 20 NYCRR 3000.15 [d] [5]).

E. After considering the purpose of a demand for a bill of particulars, and the types of requests that impermissibly go beyond that purpose, it must be concluded that petitioner's demand is improper as it seeks evidentiary detail and particulars on issues for which the Division does not have the burden of proof. In petitioner's own words, the demand seeks "the factual, classification, weight, THC, and computational predicates for the two Article 20-C penalty notices." This is precisely the evidentiary detail that a demand for a bill of particulars may not be used to obtain (*see Bassett v Bando Sangsa Co.*, 94 AD2d at 359; *State of New York v Horsemen's Benevolent & Protective Assn. [N.Y. Div.]*, 34 AD2d at 770). The fact that the demand does not seek documents or witnesses does not change this result. Therefore, given the substantial number of requests for information that are not the proper subject of a demand for a bill of particulars, the Division of Tax Appeals "will not involve itself in pruning . . . the demand for a bill of particulars . . . but rather will vacate the entire demand . . ." (*see Posh Pillows v Hawes*, 138 AD2d 472, 474 [2d Dept 1988]). At the hearing in this matter, petitioner and the Division will be given the opportunity to present their cases and to argue the law and facts that support their respective positions.

F. The Division of Taxation's motion to vacate the demand for a bill of particulars is granted, and a hearing will be scheduled in due course.

DATED: Albany, New York
October 8, 2026

/s/ Jennifer L. Baldwin
ADMINISTRATIVE LAW JUDGE