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THE TAX LAWYER

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Patriots Aaron Hernandez Arrested For Murder And Fired, Racks Up Legal Bills

New England Patriots tight end Aaron Hernandez got a double whammy, arrested for murder and released—a nicer word than fired—by his team. The latter was presumably under the morals clause in his contract. See [New England Patriots Release Aaron Hernandez After Arrest. Say 'Simply The Right Thing To Do'](#). There will be legal debate whether Hernandez can still collect some or all of his guaranteed payments, but in the meantime, Hernandez has more immediate problems.



According to CNN, Hernandez is currently being investigated in connection with a double murder in Boston in July 2012. The Boston Police Department has located and impounded a silver SUV placed at the scene of the murders. Investigators now believe that Hernandez was renting the impounded vehicle at the time of the 2012 murders. See [Aaron Hernandez investigated for 2012 double murder](#).

On June 26, seven officers were present when Hernandez was arrested by Massachusetts State Police and North Attleboro Police for the murder of 27-year-old semi-pro football player Odin L. Lloyd. Lloyd's body was found in a clearing near Hernandez's home on June 17.

Hernandez was charged with one count of murder in the first degree and five related gun charges during his arraignment in Attleboro District Court. He entered a plea of not guilty to all charges and is being held without bail.

The separate lawsuit involving a shooting doesn't help. Alexander S. Bradley is suing Hernandez for allegedly shooting him in the face and the loss of his right eye. Even this civil case is scary.

According to [court papers](#), Hernandez and Alexander Bradley had an argument while visiting a Miami strip club. While traveling in a car toward Palm Beach, Hernandez allegedly discharged his firearm, wounding Bradley in the hand and face.

Bradley was found bleeding near Palm Beach. The Palm Beach Sheriff's Office says Bradley claimed he did not know who shot him, but now, after months of rehabilitation and multiple surgeries, Bradley claims Hernandez pulled the trigger and should be held liable for his medical expenses.

Whatever you think of Hernandez' athletic prowess, some lawyers must think he's good for business. Big legal bills hurt but tax deductions help: a 40% tax rate means \$10,000 in legal fees costs only \$6,000. Expenses must be [ordinary, necessary and reasonable](#) to be deductible, but those standards aren't too tough.

But personal legal fees are non-deductible. Is this personal or business? The Patriots contract with Hernandez was for five years and is said worth \$40 million.

Legal fees paid to help your business reputation could be a business or investment expense. But you really must be in business. For many individuals, even business orientated legal fees can be miscellaneous itemized deductions, triggering limitations. Legal fees up to 2% of adjusted gross income aren't deductible, deductions are phased out at higher incomes, and you get no deduction when computing the dreaded AMT, a separate 28% tax.

Even criminal charges don't necessarily prevent tax deductions. See [Acquitting John Edwards, \\$2M; Deducting His Legal Fees, Priceless](#). However, if the charges don't relate to your business or profession, it's tougher to claim deductions based on preserving your reputation. Hernandez may have a tough time here.

Remember [Winona Ryder](#) and shoplifting? [Robert Blake](#), accused of killing his wife? Telephone-brandishing supermodel [Naomi Campbell](#)? [Lindsay Lohan](#) had DUIs, probation violations, and alleged theft of a necklace. [Martha Stewart](#) paid huge legal fees on an obstruction of justice charge.

Perhaps the biggest legal fee case was Michael Jackson's acquittal of child molestation charges. It carried estimated legal expenses as high as \$20 million. It's hard to see how he could deduct them. Ironically, Dr. Conrad Murray could probably deduct his legal fees as a business expense even though he was convicted. He was treating Michael Jackson for pay and his legal expenses related to that trade or business. See [Michael Jackson Death Doctor Can Deduct His Legal Fees](#).

John Edwards' survived a criminal trial, but the charges related to his conduct in his chosen trade or business: politics. legal fees? See [The Only Good Legal Fees Are Tax Deductible Legal Fees](#). That arguably makes the legal fees deductible. See [Can Execs Deduct Legal Fees Above-The-Line?](#)

As for Mr. Hernandez, he likely won't be fussing over any tax issues just yet. His legal woes are far more immediate than what he does in 2014 when he files tax returns.

You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.