



## Clark R. Calhoun

Partner

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### *Related Services*

State & Local Tax ■ Tax ■ Tax Controversy ■ Government & Economic Incentives ■ Retail ■ Hospitality  
■ Transfer Pricing ■ Transactional Tax Insurance

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*Businesses call Clark for practical and efficient guidance on state and local taxes. He regularly represents clients in their most important state tax disputes across the country, and he has helped clients save millions in potential tax liability.*

Clark Calhoun represents clients in state tax controversy and litigation matters in Georgia, California, and other states before state taxing authorities, city and county boards, state trial and appellate courts, and the U.S. Supreme Court. He has an unusually broad range of experiences in state and local taxes that are off the radar of many multistate practitioners, and he has worked extensively in representing clients in appeals from state transfer pricing assessments, in pursuing state and local property tax exemptions, and in evaluating the application of controlling-interest provisions in the real estate transfer tax context.

Clark also represents clients on direct and indirect tax issues that arise in corporate stock and asset transactions, and he has negotiated voluntary disclosure agreements with nearly every state in the country.

Clark been recognized by *Chambers USA*, *The Best Lawyers in America*<sup>®</sup>, and *Super Lawyers*, and he has served as chair of the Business Climate Committee of the Georgia Chamber of Commerce and the State Bar of Georgia Taxation Section. Clark serves on the *Tax Notes State* advisory board and was the subject of its “State Tax Spotlight.”

### *Representative Experience*

#### **State and Local Tax Controversies**

- Saved clients millions of dollars in favorable resolutions of income tax assessments stemming from transfer-pricing adjustments of intercompany service fees and royalties in Alabama, Georgia, Louisiana, Mississippi, North Carolina, and South Carolina.
- Earned a \$5 million property tax refund for a major billboard operator in its appeal from New York City’s assessment of Times Square billboards.
- Represented Eisai Inc. in its successful appeal from a multimillion-dollar assessment and subsequent refund of Tennessee business tax. *Eisai Inc. v. Gerregano*, No. 19-805-IV (Tenn. Chancery Ct.).
- Advising national e-commerce sites regarding the application of states’ marketplace facilitator (MPF) laws and representing clients in multistate audits reviewing the sites’ compliance with MPF laws.
- Received no-change sales/use tax audit notices from numerous states for MPF clients in audits for periods prior to the registration for collection of taxes in those states.

- Represented a multinational business in an extremely favorable resolution of a California Franchise Tax Board assessment based on an assertion that the client was operating a unitary business with its subsidiaries.
- Persuaded the Wisconsin Department of Revenue to reverse its position that certain partnerships with losses should be excluded from a financial institution's unitary group.
- Secured real and personal property tax exemptions for numerous Georgia-based charities and businesses, including charitable exemptions for arts organizations, social services providers, religious organizations, and health care entities, and freeport and port traffic exemptions for businesses with a Georgia presence.
- Represented taxpayers and amicus parties in the foundational case law that defines the scope of charitable exemptions under Georgia property tax law. *Fulton County Bd. Of Assessors v. Piedmont Park Conservancy*, 333 Ga. App. 265.
- Secured substantial income tax refunds for entity-level franchise taxes paid by the partners of a partnership to Texas in a Georgia Tax Tribunal action establishing the right of pass-through owners to adjust Georgia incomes for entity-level taxes paid in other states. *Rosenberg v. Riley*, No. 1414626 (Ga. Tax Trib.).
- Working with clients toward efficient resolutions of tax audits involving payroll and unemployment tax issues in California, New York, and other states.
- Reviewing proposed legislative language and in drafting language and working with stakeholders to achieve client objectives in various states.
- Representing a national manufacturer in an alternative apportionment petition.
- Appealed and resolved numerous assessments of local business license and commercial rent taxes in Atlanta, Los Angeles, New York City, and other localities.
- Represented a national auto retailer on appeal and negotiated a favorable resolution of Georgia sales tax issues stemming from an improper assessment and related refund claims. *DriveTime Car Sales Co. v. Riley*, No. 2019CV315264 (Fulton Super. Ct.).
- Represented Americans for Tax Reform in preparing and filing an amicus curiae brief to the U.S. Supreme Court in *South Dakota v. Wayfair Inc.*
- Secured a refund of Pennsylvania transfer taxes paid in an alleged controlling-interest transfer.
- Represented Behr, an industry-leading paint manufacturer, in securing a refund of Georgia sales taxes associated with its distribution of color cards to customers.

## ***Compliance and Transactional Advice***

- Resolved outstanding state income/franchise and sales and use tax issues in transactions involving numerous industries, with significant experience in private equity, wealth management, cloud computing, healthcare, and construction supply.
- Advising insurance companies regarding proposed state tax risks regarding potential tax positions as well as in active litigation.
- Assisted a Fortune 500 manufacturer with the negotiation and approval of a multimillion-dollar property tax and infrastructure credits incentives package in South Carolina.
- Advised clients on national controlling-interest transfer tax implications in entity sales.
- Advised California property owners on Prop 13 property tax and real estate transfer tax issues, including Los Angeles Measure ULA, related to stock and asset transactions.

- Performed a multistate review of the taxability of an advertising client's services and advised the client on a resolution of its sales and income tax exposure.
- Reviewed a hotel provider's tax matrix and provided advice regarding taxable and non-taxable services.
- Assisting clients with sales and purchases of state film tax credits in Georgia, Louisiana, and Connecticut.

## **Publications & Presentations**

### **Publications**

- "The SALT Best and Worst of 2021," *Audit & Beyond*, Tax Notes State, Vol. 102, No. 12, December 20, 2021.
- "Vectren: The Most Cogent Alternative Apportionment Decision in Years," *Tax Notes State*, Vol. 100, May 17, 2021.
- "This Sale Is Not a 'Sale': California Transfer Tax and 731 Market St.," *Tax Notes State*, August 24, 2020.
- "How Do You Win an External Consistency Challenge, Anyway?" *State Tax Notes*, Jan. 7, 2019.
- "Controlling Interest Transfer Taxes (Part Two)," *Journal of Multistate Taxation and Incentives*, Vol. 28, No. 8, November/December 2018.
- "The Wayfair Brief: What You Should Know," *Law360*, June 22, 2018.
- "Justice Should Keep Use Tax Precedent," *Los Angeles Daily Journal*, May 3, 2018.
- "At Wayfair Args, Justices Seem Hesitant to Overturn Quill," *Law360*, April 18, 2018.
- "An Interview With Georgia Revenue Commissioner Lynne Riley," *State Tax Notes*, February 19, 2018.
- "A Tale of Two Sourcing Cases," *IPT Insider*, October 2017.
- "Target Brands: Both the Best and the Worst Alternative Apportionment Analysis Yet," *Bloomberg BNA*, April 19, 2017.
- "2016 in Review: What Went Right, and What Went Wrong," *State Tax Notes*, January 8, 2017.
- "The More Things Change," *State Tax Today*, January 3, 2017.
- "Controlling Interest Transfer Taxes: A (Mostly Critical) Review," *Journal of Multistate Taxation and Incentives*, Vol. 26, No. 9, January 2017.
- "Another *Wynne* for Taxpayers: Unconstitutional Limitations on Credits For Taxes Paid to Other States," *IPT Insider*, November 2016.
- "News Analysis: Bill Pending on U.S. Senate Floor Contains TIA Exception" *State Tax Notes*, August 30, 2016
- "Are New Tax Rules for Out-of-State Retailers Unconstitutional?" CFO.com, July 11, 2016.
- "No Taxation Without Nondiscrimination: A Survey of Recent Cases," *State Tax Notes*, July 11, 2016.
- "What Makes a Loophole? Prop 13 and Change of Ownership," *Tax Management Weekly State Tax Report*, June 24, 2016.
- "Is a Sourcing Rule by Another Name Just as Sweet?" *State Tax Notes*, February 22, 2016.
- "Memo to the Tennessee Supreme Court: Read This Before You Decide Vodafone," *IPT Insider*, Institute for Professionals in Taxation, February 2016.

- “C Is for Cookie – That’s Good Enough for Ohio,” *IPT Insider*, December 2015.
- “Ask and Ye Shall Receive, Justice Kennedy: The Alabama DOR Has Proposed a Regulation to Challenge Quill,” *IPT Insider*, September 2015.
- “New Interest in Empowering States to Tax Remote Sales,” *Today’s General Counsel*, August/September 2015.
- “The Internal Consistency Problem in *Vodafone*,” *Audit & Beyond: State Tax Notes*, May 18, 2015.
- “The Potential of the Due Process Clause in State Taxation,” *Weekly State Tax Report*, April 3, 2015.
- “The State of the Tribunal: The Georgia Tax Tribunal Turns Two,” *Institute for Professionals in Taxation Tax Report*, January 2015.
- “Equifax Fallout and the Future of UDITPA Section 18,” *State Tax Notes*, August 25, 2014.
- “When Fighting Calif. Tax Disputes, See *Loeffler v. Target*,” *Law360*, June 20, 2014.
- “More Adventures in Due Process,” *State Tax Notes*, May 26, 2014.

## **Presentations**

- State Indirect Tax Seminar, Council on State Taxation (COST), Atlanta, GA, December 13, 2023.
- 30th Annual Paul J. Hartman State and Local Tax Forum, Vanderbilt University Law School, Nashville, TN, October 23–25, 2023.
- 54th Annual Meeting, Council on State Taxation (COST), Las Vegas, NV, October 17–20, 2023.

## **Education**

- University of Georgia (J.D., 2005)
- Vanderbilt University (B.A., 2002)

## **Admitted to Practice**

- Georgia
- California