



TIMOTHY P. NOONAN

Partner, Tax Residency Practice Leader

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Tim focuses his practice in the state and local tax area. His work primarily involves New York State and New York City tax litigation and controversy. Over the past 20 years, he has handled more than 1,500 personal income tax, sales tax, corporate tax, or other New York tax audits. Tim also has handled about 100 cases in New York's Division of Tax Appeals.

Tim leads the firm's Tax Residency Practice and he is one of the leading practitioners in this area of the law. He has handled some of the most high-profile residency cases in New York over the past decade, including a 2014 win in the *Gaied* case, one of the first New York residency cases to ever reach New York's highest court. Tim also co-authored the 2018 edition of the CCH *Residency and Allocation Audit Handbook* and *Contesting New York State Tax Assessments*-Fourth Edition, published by the New York State Bar Association. He is often quoted by media outlets, including *The Wall Street Journal*, *The New York Times* and *Forbes*, on residency and other state tax issues. Under his direction, the Tax Residency Practice authored a publication, *What to Expect in a Residency Audit*, a copy of which can be accessed [here](#).

As the "Noonan" in "Noonan's Notes," a monthly column in *Tax Notes State*, Tim is a nationally recognized author and speaker on state tax issues and is a member of the Advisory Board of Tax Analysts' *State Tax Notes*. In addition to the CCH *Residency and Allocation Audit Handbook*, Tim has served as a contributing author or editor for several other tax publications and treatises, including the American Bar Association's *Sales and Use Tax Deskbook*, the "New York Sales Tax Guide" published by practicallaw.com, the corporate apportionment chapter in Thomson Reuters' *Checkpoint Analyst*, the New York chapter of LexisNexis's Practice Insights, and the New York Tax Litigation chapter in Thomson Reuters' *Commercial Litigation in New York State Courts* treatise. He has also written more than 200 articles in state and local tax publications around the country over the past several years.

Tim speaks on state tax issues for audiences around the country on an average of 20 times a year, including a regular stint on the CCH webinar circuit. He also runs the award-winning Noonan's Notes Blog, where he and his colleagues offer regular

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Practices & Industries

State & Local Tax
Tax Residency
Accountant Professional
Sales & Use Tax
Tax Dispute Resolution

Admissions

Connecticut
New York
U.S. Supreme Court

Education

University at Buffalo, B.A., *Magna Cum Laude*
University at Buffalo School of Law,
J.D., *Magna Cum Laude*

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commentary on developments in the world of New York and multistate tax law. Tim co-authors a monthly column for *Law360* titled "NY Tax Minute."

Tim also has handled a significant number of residency and sales tax issues in other states, including work with many national and international clients on multistate compliance or voluntary disclosures. He has also appeared before the Connecticut Supreme Court and the Michigan Court of Appeals in litigated matters and is admitted to practice law in Connecticut.

Honors

- Listed, *Upstate New York Super Lawyers* Rising Stars, 2013 - 2014
- Listed, *Upstate New York Super Lawyers*, (Tax) 2017 - 2020
- Noonan's Notes Blog listed among "Best Tax Blogs 2017" on Credit Donkey.com
- 2004 Burton Award for Excellence in Legal Writing for his co-authorship of "Executive Compensation and Employer Withholding," *Journal of Multistate Taxation*, August 2003
- As special legal advisor to a company called Topia, Tim assisted in the creation of a GPS-powered smartphone application and software service to help taxpayers track their time for tax purposes

Experience

As the chief litigator in the firm's State & Local Tax Practice, Tim has handled hundreds of audits, litigated cases, and appeals. His track record in reported cases within New York's Division of Tax Appeals is exceptional, and his experience extends into the state courts as well, highlighted by a win in a watershed 2014 residency case in New York's highest court.

Hodgson Russ represented major hotel chains in litigation against the New York State Department of Taxation and Finance concerning more than \$20 million in refund claims for sales taxes paid on reimbursements related to hotel loyalty and rewards points programs.

Hodgson Russ served as tax counsel on behalf of a banking client in a Division of Tax Appeals case reversing a New York Department of Taxation and Finance position on tax planning involving the usage of tax-favored subsidiaries for New York bank tax purposes.

Hodgson Russ attorneys litigated a case for a client that operated two locations in Penn Station where customers could purchase food items and alcoholic beverages. The Tax Department initially assessed the client over \$700,000. We were able to have the assessment canceled.

Hodgson Russ served as tax counsel in a New York litigation involving a software and information services provider. The scope of litigation included questions about New York's ability to tax cloud-computing transactions as well as bundling of taxable and non-taxable information services. We reached a settlement for cents on the dollar shortly before the scheduled administrative law judge hearing.

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Hodgson Russ served as lead tax counsel in two New York State Tax Appeals Tribunal cases that redefined rules outlining the manner in which part-year residents of New York State allocate flow-through income. In one, our attorneys successfully enforced the doctrine of estoppel against the New York State Department of Taxation and Finance, one of the few times ever in reported cases where the estoppel doctrine has been used against the Department. In the second case, we reversed a long-standing position that the Tax Appeals Tribunal had taken, and the result of that case was ultimately incorporated into a tax law amendment.

Following a unanimous unfavorable decision by an intermediate court, Christopher L. Doyle successfully secured a unanimous favorable decision involving a natural gas pipeline operator. The decision by New York's highest court declared the natural gas import tax unconstitutional in violation of the Interstate Commerce Clause.

Hodgson Russ assisted major hotel chains in a pilot project with the New York State Department of Taxation and Finance to streamline review and audit of sales tax on renovation and capital projects.

Hodgson Russ served as tax counsel in a New York State Division of Tax Appeals case in which we successfully proved that a commercial bridge painting project in New York City satisfied New York State's rules for capital improvements. The litigation included a hearing before an administrative law judge and a successful appeal to New York's Tax Appeals Tribunal.

Hodgson Russ attorneys assisted a high-net-worth individual with his residency change from New York to Florida prior to a multi-hundred-million-dollar sale of foreign investment. Planning for the residency change involved a detailed review of residency requirements as well as the application of New York's accrual provisions for changes of residency.

Hodgson Russ assisted a high-net-worth taxpayer with planning associated with New York State's 548-day rule. The planning involved detailed work with our client and his advisors on interpretation and application of New York's residency provisions as well as the obtainment of a favorable advisory opinion on certain points related to the 548-day rule.

Hodgson Russ assisted a large investment research provider through a difficult New York sales and use tax audit involving taxability of investment research services under New York sales tax law. Ultimately, we reached a resolution where the taxpayer leveraged significant refund for use taxes paid on acquisition of certain research services.

Hodgson Russ attorneys represented the victorious taxpayer in a highly anticipated decision in a tax residency case before the New York Court of Appeals in February 2014. In *John Gaied v. New York State Tax Appeals Tribunal*, the court agreed with the position advocated by Hodgson Russ on behalf of Mr. Gaied and established a new rule for determining when individuals domiciled outside of New York may still be taxed in New York as "statutory residents." This was the first case in several decades to prompt New York's highest court examined the scope and extent of New York's residency rules. The case has been widely cited in the press, including the *Wall Street Journal* and *Law360*.

In the News

Many of Tim's litigated cases have garnered significant media attention from the *Wall Street Journal*, *New York Times*, and *Forbes*, and he is often quoted by media outlets on residency and other state tax issues.

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The Blue Jays are coming back to Buffalo. Here's what that means in dollars and cents.

Buffalo Business First, May 31, 2021

Hedge Funds Are Ready to Get Out of New York and Move to Florida

Bloomberg Wealth, April 17, 2021

High earners were already leaving New York, higher taxes could drive more out

Albany Business Review, April 14, 2021

Living in one state and working remotely from another? You could owe income taxes in both

CNN Business, March 30, 2021

Remote Work and Taxes: Start Preparing for Next Year Now

Bloomberg, February 26, 2021

Telecommuting Boom Puts Employers at Risk for Millions in Taxes

Bloomberg Tax, February 23, 2021

NH Remote Tax Case Could Upend NY's Income Sourcing Rule

Law 360, February 5, 2021

New York Tribunal Finds Vacation Home Causes Statutory Residency

Tax Notes, February 5, 2021

Election Increases Hope for SALT Cap Repeal

Tax Notes, January 27, 2021

SCOTUS Invites Solicitor General's Input in Remote Worker Tax Suit

Tax Notes, January 26, 2021

Press Releases

Many of Tim's litigated cases have garnered significant media attention from the *Wall Street Journal*, *New York Times*, and *Forbes*, and he is often quoted by media outlets on residency and other state tax issues.

Publications

Over the past 20 years, Tim has written more than 200 articles for state and local tax publications around the country and has authored or edited several books on state tax matters.

Taxes are Going Up: Highlights from the NYS 2021-2022 Budget

Hodgson Russ State & Local Tax Alert, April 12, 2021

COVID-19: The Year of Great Migration

Tax Notes State, March 1, 2021

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SALT Business: A Glimpse in the Eye of the Pandemic

Taxstringer, January 1, 2021

IRS Blesses SALT Cap Workaround: What's Next in 2021?

Tax Notes State, December 21, 2020

New Jersey CBT Technical Corrections Made Final and NJ Tax Court Decides Case Involving COVID-19 Extension of Appeal Filing Deadline

Hodgson Russ Tristate Tax Alert, November 10, 2020

New York Tax Department Finally Issues Guidance on COVID-19 Telecommuting

Hodgson Russ State & Local Tax Alert, October 22, 2020

Remote Workforce Doctrine and Policy: Short-Term and Long-Term Considerations

Columbia Law School Journal of Tax Law, October 21, 2020

Taxing Times to Be a Telecommuter: Convenience Rules During COVID-19

Tax Notes, September 17, 2020

Taking the Stink Out of New York's Cheeseboard Rule

Tax Notes State, July 13, 2020

Telecommuting During COVID-19: One Headache After Another

Tax Notes State, June 22, 2020

Presentations & Events

Tim speaks before audiences around the country on New York State and multistate tax issues, on average of 20 times per year.

NY Residency: Hot Topics and Nuts & Bolts Audit Issues

CCH, June 24, 2021

2021 Hodgson Russ Summer Tax Series

CCH CPENLink, June 16, 2021

Covid-19 New York Tax Hot Topics

Shenkman Private Client Group of Oppenheimer & Co., Inc., April 29, 2021

Tax Implications in a New Remote Work Environment: State Tax Nexus and Income Tax Issues

CCH, April 26, 2021

COVID 19 Impact: Residency and Payroll Tax Withholding Tax Issues

Tax Executives Institute New York Chapter, April 20, 2021

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2021 Florida Residency Webinar Series

February 26, 2021

Ask an Auditor Webinar: Preparing for Post-Covid

Monaco, January 27, 2021

Residency Rules in NY: Tax Issues and Audits

CCH, December 14, 2020

New York Residency: Issues During COVID and Beyond

Raich Ende Malter & Co. LLP, December 3, 2020

A Day with Hodgson Russ: Selected NY State and City Tax Topics Workshop Webcast Parts 1 & 2

NYSSCPA, December 2, 2020

Blog Posts

- Finally, Connecticut Joins the Telecommuting Guidance Party *Noonan's Notes Blog*, April 15, 2021
- A New Type of Pied-à-Terre Tax: A Surcharge on Non-Primary Owners *Noonan's Notes Blog*, March 17, 2021
- New York Legislative Tracker: February 12, 2021 Update *Noonan's Notes Blog*, February 12, 2021
- New York Legislative Tracker: Budget Proposal - February 8, 2021 Update *Noonan's Notes Blog*, February 8, 2021
- New York Legislative Tracker: Budget Proposal - February 3, 2021 Update *Noonan's Notes Blog*, February 3, 2021
- New York Legislative Tracker: January 22, 2021 Update *Noonan's Notes Blog*, January 22, 2021
- Change on the Horizon? - New York Budget Bill Proposes Pass-Through Entity SALT Cap Workaround *Noonan's Notes Blog*, January 21, 2021
- New York Tax Rates Going Up, With a Twist *Noonan's Notes Blog*, January 21, 2021
- UPDATE: Can a New York Resident Claim a Resident Tax Credit for the Connecticut Pass-through Entity Tax? New Legislation Provides An Answer *Noonan's Notes Blog*, January 21, 2021
- New York Legislative Tracker: January 14, 2021 Update *Noonan's Notes Blog*, January 14, 2021

Professional Affiliations

- New York State Bar Association
- NYSBA Committee on Continuing Legal Education
- Member, Advisory Board: *Tax Notes State*

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Community & Pro Bono

Tim served on the board of the Erie County Bar Foundation and the St. Thomas More Guild. He is a past school board member at Ss. Peter and Paul School in Williamsville, New York, and he currently runs a contemporary music group at Nativity Church in Orchard Park, New York. In 2017, he was inducted into the Signum Fidei Society at St. Joseph's Collegiate Institute, a lifetime achievement award and the highest accolade bestowed by the school to alumni who are distinguished in professional career, community activities and who share in the spirit characteristic of the Christian Brothers. His most time-consuming community activity, though, is at home; Tim and his wife are the proud parents of 13 children. He and his family were featured in an October 2015 profile on large Buffalo families published in *Buffalo Magazine*.