ReedSmith

Driving progress
through partnership

Kyle O. Sollie

Partner

Philadelphia

+1 215 851 8852

ksollie@reedsmith.com

Kyle is the chair of Reed Smith's State Tax group, where he and his colleagues throughout the country use the right tools at the right time to help their clients pay no more state tax than legally due. Kyle's practice includes state tax return positions, audits, appeals, and litigation, focusing on Pennsylvania, New Jersey, Delaware, and California.

On the income tax side, Kyle is working with his clients on cutting edge issues such as:

- Extending the NOL carryover periods in California and New Jersey by four years—no matter what
- Avoiding "absorption" of NOLs in New Jersey on account of the receipt of dividends
- Avoiding NOL "silos" for California unitary taxpayers
- Untrapping California EZ credits by aggregating all unitary group members and aggregating all zones into a single zone
- Getting factor representation for foreign dividends received by California water's edge taxpayers
- Avoiding any California "foreign investment interest offset"
- For the franchise industry and the mutual fund industry, avoiding the market-based sales-factor sourcing rules (instead, use cost of performance)
- For the financial services industry, avoiding the Pennsylvania Department of Revenue's illegal "market based" sourcing efforts
- Avoiding interest addback in New Jersey
- Reducing gains reported on form 4797 in California, New Jersey, and Pennsylvania

On the transaction tax side, Kyle is active with the Institute for Professionals in Taxation. He is a Certified Member of the Institute (CMI) for sales tax. He is working with his clients on issues such as:

- Avoiding the characterization of non-taxable services as taxable telecommunications in Pennsylvania and elsewhere
- Aggressively pursuing the resale exemption for purchases of goods and services in Pennsylvania, New Jersey and elsewhere
- Recovering refunds of tax paid on software in Pennsylvania—despite the Dechert decision

Education

Villanova University School of Law, 1996, J.D., cum laude

Temple University, 1993, B.A., magna cum laude

Court Admissions

U.S. Supreme Court

Professional Admissions

New Jersey

Pennsylvania

- Getting actual refunds of tax paid on software under Nortel in California
- Challenging bad sampling methodologies used by Pennsylvania and New Jersey sales tax audits

To make sure Reed Smith's clients get the best results and understand the policies and practices of the agencies, Kyle and his colleagues have successfully obtained thousands of unpublished policy documents through state-law FOIA claims in Delaware, Pennsylvania, New Jersey, and California. Access to Reed Smith's "library" of documents through a Reed Smith lawyer is an essential advantage of being a Reed Smith client.

Kyle usually gets results for his clients through the administrative process. But when litigation is necessary, he fights for his clients in court. He has brought scores of cases in courts in New Jersey, Pennsylvania, Delaware, and California. His published cases include *Verisign, Inc. v. Director of Revenue,* Del. Super. No. N19C-08-093*, General Motors Corp. v. Commonwealth,* 222 A.3d 454 (Pa. Commw. 2019), *Ford Motor Credit Company v. Director*, Division of Taxation; Docket No. 015751-2009, *Nextel Communications of the Mid-Atlantic, Inc. v. Commonwealth, Pa.*, No. 6 EAP 2016, M*ission Funding Alpha v. Commonwealth*, 129 A.3d 614 (2015), *Toyota Motor Credit Corp. v. Director*, N.J. Tax Court No. 002021-2010 (2014), *McNeil-PPC, Inc. v. Commonwealth of Pennsylvania*, 834 A.2d 515; *First Union National Bank v. Commonwealth*, 867 A.2d 711 affirmed, 901 A.2d 981; and *Dial Corp. v. Delaware Director of Revenue*, C.A. No. 06C-05-014 (Del. Super. 2008).

Honors and Awards

- Honored with the 2017 Distinguished Service Award by the Institute for Tax Professionals (IPT)
- Recommended by *Legal 500 USA* for Tax - US tax - contentious, 2017. The *Legal 500* is issued by Legalease Ltd. A description of the selection methodology can be found at legal500.com. No aspect of the above advertisements have been approved by the Supreme Court of New Jersey.
- Selected through peer review for inclusion in *The Best Lawyers in America*© for Tax Law, 2008-2022. The Best Lawyers in America is issued by *Best Lawyers*. A description of the selection methodology can be found at bestlawyers.com. No aspect of this advertisement has been approved by the Supreme Court of New Jersey.
- Ranked as a "top ten" tax lawyer by *State Tax Notes* in 2011. The *State Tax Top Ten* list is issued by *Tax Notes*. A description of the selection methodology can be found at taxnotes.com. No aspect of the above advertisements have been approved by the Supreme Court of New Jersey.

Publications

- 13 May 2022 "Nevada Commerce Tax: Its future is uncertain; preserve your rights by July 31", Reed Smith Client Alerts, Co-Authors: Kenneth R. Levine, Georgios I. Tsoflias
- 26 April 2022 "Pennsylvania's 2018 Refund Deadline is May 16—Don't Miss These Three Important Issues", Reed Smith Client Alerts, Co-Authors: Kenneth R. Levine, Sebastian C. Watt
- 24 February 2022 "California Governor removes net operating loss suspension and business credit cap, while FTB attempts to weaken P.L. 86-272 protections", Reed Smith Client Alerts, Co-Authors: Shail P. Shah, Yoni Fix, Campbell McLaren
- 14 February 2022 "Philadelphia BIRT refund opportunity: use three-factor apportionment", Reed Smith Client Alerts, Co-Authors: Kenneth R. Levine, Stephen J. Blazick, Jacqueline Noyes
- 9 February 2022 "California net operating loss opportunities", Reed Smith In-depth, Co-Authors: Shail P. Shah, Yoni Fix, Campbell McLaren
- 10 January 2022 "Three-factor apportionment may still be an option for some CA taxpayers", Reed Smith In-depth, Co-Authors: Shail P. Shah, Yoni Fix, Campbell McLaren
- 7 December 2021 "Delaware Supreme Court strikes Delaware Division of Revenue's NOL limitation, creating opportunity for taxpayers", Reed Smith Client Alerts, Co-Authors: Frank J. Gallo, Sebastian C. Watt, Georgios I. Tsoflias
- 22 November 2021 "Refund opportunity for out-of-state manufacturers paying TN business tax", Reed Smith Client Alerts, Co-Authors: Christine M. Maddison, Rich Moore
- 18 October 2021 "Nevada's aggressive Commerce Tax policy: Imposition of higher tax rate on out-of-state manufacturers than in-state manufacturers", Reed Smith Client Alerts, Co-Authors: Kenneth R. Levine, Georgios I. Tsoflias

- 4 May 2020 "Due Process and State Taxation of Stock Options", Tax Notes State, Co-Authors: Michael I. Lurie, Paul E. Melniczak
- 19 March 2019 "California net operating loss opportunities", Reed Smith Client Alerts, Co-Authors: Mike Shaikh, Yoni Fix
- 12 March 2019 "California Tax Takes: Net Operating Loss Opportunities", Law360, Co-Authors: Mike Shaikh, Yoni Fix
- 25 January 2019 "Pennsylvania Gets GILTI Inclusion Right, GILTI and FDII Deductions Wrong", Reed Smith Client Alerts, Co-Authors: Michael A. Jacobs, Sebastian C. Watt
- 2 July 2018 "NJ adopts combined reporting, market sourcing, and new amnesty program", Reed Smith Client Alerts, Co-Authors: David J. Gutowski, Matthew L. Setzer
- 29 June 2018 "Pennsylvania “fixes” 100% bonus depreciation decoupling computation", Reed Smith Client Alerts, Co-Authors: Michael A. Jacobs, Kenneth R. Levine, Christine M. Maddison
- 19 June 2018 "NJ Court: Consolidated rules apply to separate-company return", Reed Smith Client Alerts, Co-Authors: David J. Gutowski, Matthew L. Setzer
- 6 June 2018 "Taxpayer challenges Pennsylvania Board of Appeals’ “remand-for-audit” program for sales tax refund claims", Reed Smith Client Alerts, Co-Authors: Frank J. Gallo, Robert E. Weyman, Christine M. Maddison, Ashley R. Rivera
- 24 May 2018 "*Nextel* update: Pennsylvania DOR will not assess pre-2017 tax years", Reed Smith Client Alerts, Co-Authors: Paul E. Melniczak, Michael I. Lurie
- 21 May 2018 "Philadelphia follows Pennsylvania’s lead in disallowing depreciation on 100% bonus property", Reed Smith Client Alerts, Co-Authors: Stephen J. Blazick, Jonathan E. Maddison
- 17 May 2018 "Calif. Taxpayers Shouldn't Be Penalized For Gillette Elections", Law360, Co-Authors: Shail P. Shah, Mike Shaikh, Yoni Fix
- 15 May 2018 "California taxpayers should fight imposition of the LCUP and other penalties in the wake of *Gillette*", Reed Smith Client Alerts, Co-Authors: Shail P. Shah, Mike Shaikh, Yoni Fix
- 12 February 2018 "Pennsylvania Tax Code Bill: Surprising For What It Does Not Contain", State Tax Notes, Co-Authors: Christine M. Maddison, Autumn D. Homza, Robert E. Weyman
- 1 February 2018 "Who’s blowing up Pennsylvania’s “marketplace seller” law and the Nextel NOL fix?", Reed Smith Client Alerts, Co-Author: Kenneth R. Levine
- 3 January 2018 "State Tax Impacts of Federal Tax Reform—Pennsylvania Asserts That No Pennsylvania Depreciation", Reed Smith Client Alerts, Co-Authors: Michael A. Jacobs, Kenneth R. Levine, Robert E. Weyman, Christine M. Maddison
- 6 November 2017 "Potential Traps for the Unwary in the California Office of Tax Appeals Draft Regulations", Reed Smith Client Alerts, Co-Authors: Mike Shaikh, Yoni Fix
- 30 October 2017 "Pennsylvania Enacts Tax Bill", Reed Smith Client Alerts, Co-Authors: Robert E. Weyman, Christine M. Maddison, Jonathan E. Maddison, Ashley R. Rivera
- 23 October 2017 "New Jersey Update: Reed Smith Wins Toyota Credit Case at Appellate Division", Reed Smith Client Alerts, Co-Authors: Matthew L. Setzer, David J. Gutowski, Kenneth R. Levine
- 5 October 2017 "Pennsylvania Board of Appeals Sends Sales Tax Refund Claims to Audit: What Do You Do?", Reed Smith Client Alerts, Co-Authors: Robert E. Weyman, Christine M. Maddison, Brent K. Beissel

Speaking Engagements

- 20-23 March 2022 Tax Executives Institute (TEI) 72nd Midyear Conference, Washington, D.C., D.C., "*Speed Round: Everything You Need to Know About the Top State and Local Tax Issues*"
- 19 January 2022 Three factor is back!
- 15 December 2021 The Reed Smith SALT Room: A look back at 2021 and forward to 2022
- 24 - 27 October 2021 Tax Executives Institute (TEI) 76th Annual Conference, Orlando, Florida, "*State Tax Nexus and Apportionment: Where Are We Now, and Where Are We Headed?*"
- 17-20 October 2021 Council on State Taxation (COST) 52nd Annual Conference, "*Net Operating Losses in the Post Pandemic Era*"

- 10 August 2021 STARTUP Virtual Session, "*Wholesale Electricity Sales – Nexus and Sourcing*"
- 27 May 2021 “Federal Transition Tax Unconstitutional,” Argues Taxpayer in Ninth Circuit
- 21 April 2021 Reed Smith TEI Region IV Virtual Seminar
- 22-25 March 2021 TEI 71st Midyear Conference, virtual, "*Accounting for state Income Taxes: Change is the New Normal*"
- 26 - 28 October 2020 TEI (Tax Executives Institute) Virtual 75th Annual Conference, "*Navigating the Transition to Combined Reporting and Market Sourcing*"
- 20 August 2020 COST (Council on State Taxation) Super 7 Regional Meeting Webinar Series Mid-West Regional State Tax Webinar, United States, "*Single Sales Factor Wars*"
- 7 July 2020 The Supreme Court’s *Altera* cert denial has state tax consequences
- 28 – 30 October 2019 TEI Tax Executives Institute 74th Annual Conference, New Orleans, Louisiana, "*Survivor’s Tips for Tax Reform in the States*"
- 22-25 October 2019 COST Council on State Taxation 50th Annual Meeting, Washington, D.C, United States, "*Are You Prepared? MTC and States to Finally Begin Transfer Pricing Effort*"
- 28 August 2019 COST Council on State Taxation 2019 Mid Atlantic Regional State Tax Seminar, McLean, Virginia, "*New Jersey Combination and Market Sourcing*"
- 1 May 2019 Tax Executives Institute (TEI), Pittsburgh, Pennsylvania, "*Multistate Update: Important Issues and Opportunities*"
- 23-26 October 2018 COST (Council on State Taxation) 49th Annual Meeting, Phoenix, Arizona, "*Are You Prepared? MTC and States Ramp Up Transfer Pricing Efforts*"
- 30 September - 3 October 2018 Institute for Professionals in Taxation IPT Sales Tax Symposium, Indian Wells, California, "*Bundled Transactions*"
- 9 May 2018 TEI (Tax Executives Institute, Inc.) – 2018 Current Issues in State and Local Taxation Conference, Malvern, Pennsylvania
- 2-3 May 2018 COST (Council on State Taxation) Forum on U.S. State and Local Taxes for European Companies, London, United Kingdom
- 20 March 2018 Pennsylvania market sourcing opportunities - Should you file a refund claim by April 15?
- 28 February 2018 COST 2018 Sales Tax Conference and Audit Session, New Orleans, Louisiana, "*Looking Beyond the U.S. Constitution to 50 State Constitutional Challenges*"
- 22 February 2018 Tax Executives Institute (TEI) St. Louis Chapter Event, St. Louis, Missouri
- 13 February 2018 Unleashing Trapped California NOLs, Video Webinar
- 23-24 January 2018 27th Annual Ohio Tax Conference, Columbus, Ohio, "*Leveraging Technology & Data to Improve Tax Compliance, Audit*"
- 14 November 2017 Get Half Your Philadelphia "BIRT" Back?, Webinar
- 10 November 2017 Fall 2017 STARTUP Conference: State Tax Impact of Tax Credits for Energy Companies, North Canton, Ohio
- 8 November 2017 Next Steps for Pennsylvania Taxpayers Following Nextel, Webinar
- 18 August 2017 Council on State Taxation (COST) Midwest Regional State Tax, Dearborn, Michigan, "*Creative Approaches to Alternative Apportionment*"

- 26 April 2017 State Tax Webinar: New Jersey's Long-Awaited Audit Manual
- 24-25 January 2017 26th Annual Ohio Tax Conference, Columbus, Ohio, "*Dealing with Complex Accounting Standards - FIN 48 (aka ASC 740-10) and FAS 5*"
- 7-8 November 2016 STARTUP State Tax Roundtable for Utilities & Power, Charlotte, North Car

Notable Quotes

- 22 June 2022 “Pa. Panel Weighs Retroactive Tax Refund For Alcatel-Lucent” *Law 360*
- 13 June 2022 “Washington State Bank Tax Stands After Justices Pass on Case (1)” *Bloomberg Tax*
- 5 April 2022 “Supreme Court won’t Hear New Jersey Partnership Fee Case” *Tax Notes*
- 4 April 2022 “Justices Pass On Challenge To NJ Partnership Filing Fee” *Law 360*
- 21 January 2022 “Advisers Encourage Challenges to Single-Factor Apportionment” *Tax Notes*
- 6 January 2022 “SCOTUS Signals Interest in New Jersey Partnership Fee Case” *Tax Notes*
- 24 July 2020 “3 State Tax Takeaways From The Altera Transfer Pricing Case” *Law 360*
- 2 January 2020 “An Unanticipated Repatriation Issue in New Jersey” *Tax Notes*
- 12 March 2015 "Settlement in New Jersey Nexus Case Leaves Unanswered Questions" *Tax Analysts*
- 4 March 2015 "Pennsylvania Governor Proposes Corporate Tax Cuts and Combined Reporting" *Tax Analysts*
- 19 November 2008 "New Jersey's 'Throwout Rule' Faces Repeal as Governor, Legislature Ramp Up Efforts to Stimulate State's Economy" *BNA Daily Tax Report*
- 15 July 2008 "N.J. Tax Court Rules on Apportionment Issues" *CCH State Income Tax Alert*, Vol. XVII, No. 12
- 24 June 2008 "Pennsylvania Court Case Could Change the tax rules for Bank M&A" *American Banker*
- 23 May 2008 "U.S. Supreme Court Upholds Kentucky Tax Law Giving Interest Exemption to In-State Bonds" *BNA Daily Tax Report*
- 20 May 2008 "U.S. Supreme Court Upholds Kentucky Municipal Bond Tax Exemption" *State Tax Notes*
- 20 May 2008 "Supreme Court Upholds State Municipal Bond Exemption" *Law.com*
- 16 May 2008 "New Jersey's Throwout Rule: The Division of Taxation Singles Out General Engines for Full Summary Judgment" *BNA Daily Tax Report*
- 2 April 2008 "New Jersey Tax Court Oral Arguments in Throwout Case" *State Tax Notes*
- 1 April 2008 "Oral Argument Held in New Jersey Throwout Litigation" *CCH State Income Tax Alert*, Vol. XVII, No. 6
- May 2006 "Supreme Court Rebuffs Ohio Tax Break Challenge" *The Wall Street Journal*
- June 2006 "PA Business Privilege Tax Penalizes Manufacturers" *The Philadelphia Inquirer*
- "Federally Chartered Banks Protected by Commerce Clause" *CCH State Income Tax Alert*, Vol. XVI, No. 20
- 1 September 2007 "New Jersey Tax Court Finds IRC § 338(h)(10) Transaction Creates Non-Operational Income" *CCH State Income Tax Alert*, Vol. XVI, No. 15
- 1 June 2007 "New Jersey Throwout Cases Progress" *CCH State Income Tax Alert*, Vol. XVI, No. 10
- 1 April 2007 "Lanco and MBNA File Petitions for Certiorari With U.S. Supreme Court" *CCH State Income Tax Alert*, Vol. XVI No. 6

- 1 April 2007 "Deadline for New Jersey Refund Claims Nears" *CCH State Income Tax Alert*, Vol. XVI No. 6
- 13 February 2007 "New Jersey Plaintiffs Attempt to Throw Out Throwout" *State Tax Notes*

Professional and Community Affiliations

- Certified member of the Institute for Professionals in Taxation, serving as Vice-Chair of its Legal Committee - Sales Tax
    - Chair of the institute's 2006 Sales & Use Tax Symposium Committee
    - Member of the editorial board of RIA's Journal of MultiState Taxation and Incentives Focuses on editing articles for that publication related to New Jersey developments