



## Lynn A. Gandhi

PARTNER

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Practicing for more than three decades, Lynn A. Gandhi has acquired a wealth of experience as a sophisticated tax attorney, including 14 years as corporate in-house counsel, providing her extensive knowledge of the challenges facing businesses in their tax reporting obligations, risk management, and planning. Lynn is a partner in the firm's Detroit office member of the Tax, Employee Benefits & Executive Compensation, and Estate Planning Practices.

Lynn advises her clients on sophisticated multistate tax planning opportunities, manages complex audits, provides transactional support on the multistate tax implications of merger and acquisition transactions, and assists with unclaimed property audits and voluntary disclosures.

She is a successful litigation attorney in tax matters at the administrative, trial, and appellate levels and has handled matters across the United States. Lynn is also a registered lobbyist and represents clients in legislative and policy initiatives across multiple industry platforms. Her clients include foreign-based companies with U.S. operations, Fortune 500 companies, private equity, as well as trade associations. She is sought out for her practical approach to resolve controversy matters, and when settlement is not possible, her strategic approach to litigation avoids unnecessary "scorched earth" litigation.

Lynn is well-known for her enthusiasm and engagement with tax policy initiatives and is a frequent subject matter speaker in her professional community. She has led legislative and administrative changes large and small to benefit business entities and their owners. Lynn is particularly well-versed in Michigan taxes, including unemployment taxes, gaming excise taxes, cannabis and liquor excise taxes, insurance company taxes, officer liability exposure, and unclaimed property laws.

Lynn has written extensively, and frequently speaks on state tax matters, having published more than 60 articles and spoken or presented at over 100 events. She currently writes a State Tax Notes column entitled "Smitten with the Mitten." Lynn is also an adjunct professor at Wayne State University Law School, her alma mater.

In addition to being an accomplished state tax attorney, Lynn is a licensed Certified Public Accountant (CPA).

### REPRESENTATIVE EXPERIENCE

- Successfully defended the imposition of use tax on advertising materials delivered in-state as well as on testers used by national retailer.
- Successfully defended a South Carolina transfer pricing case resulting in the withdrawal of a mid-six figure assessment.

- Obtained the first decision concluding that the commencement of an unclaimed property audit does not toll the statute of limitations for the state to file an action to demand amounts be escheated.
- Successfully resolved seven-figure sales/use tax refund claim denials.
- Obtained the first published Michigan Court of Appeals decision finding a taxpayer was entitled to the use of alternative apportionment.
- Successfully defended the imposition of nexus by the City of Detroit on a holding company.
- Obtained the first decision exempting cloud-based software-as-a-service (SaaS) transactions from sales tax in Michigan.
- Overturned audit findings for digital merchandiser by challenging the statistical sampling methodology.
- Obtained a Michigan Supreme Court decision on the application of the industrial processing exemption for utility companies resulting in refunds in excess of US\$100m.
- Successfully litigated multimillion-dollar assessments in complex multi-year unitary cases in California and Illinois.
- Converted nexus assessment for technology client into a multistate refund claim in excess of US\$500,000.
- Represented several companies in economic incentive requests resulting in the award of over US\$1bn for projects in battery production, alternative energy, silicon chip manufacturing, and advanced manufacturing.
- Forged strong relationships with state and local officials to sustain continued support for recipients of incentives.
- Contested several significant unclaimed property assessments resulting in favorable holder settlements.
- Led successful legislative initiatives to remove Michigan's pay-to-play judicial requirement, unlimited statute of limitations waiver, passage of affiliate group election for unitary reporting, as well as exemptions from use tax.

\*Certain of these matters were handled prior to joining Foley.

## PUBLICATIONS

A selection of Lynn's recent articles as the "Smitten with the Mitten" columnist in *State Tax Notes* includes the following:

- Author, "Board Briefs – "New Normal" Front and Center, *TaxNotes State, Vol. 102*, (December 2021)
- Author, "Zelinsky – Round 2 of the Convenience of the Employer Test", *TaxNotes State, Vol 101, No 12*, (September 20, 2021)
- Author, "Commonly Used Rules of Statutory Interpretation in State Taxes," *TaxNotes State, Vol 100, No. 12* (June 21, 2021)
- Author, "A Primer on Qualifying to Do Business: It's Not About Nexus", *TaxNotes State, Vol. 99, No. 1*, (January 4, 2021)
- Author, "Board Briefs - Goodbye 2020," *TaxNotes State, Vol. 96, No. 12* (December 21, 2020)
- Author, "Annual Survey of Michigan Law, Taxation," *Wayne Law Review, Vol 65, No 3* (Spring 2020)
- Author, "Annual Survey of Michigan Law May 31, 2018 - June 1, 2019 - Taxation," *Wayne Law Review Vol. 65, No. 3* (Spring 2020)
- Author, "The Broad Reach of Michigan's Industrial Processing Exemption," *TaxNotes State, Vol 97, No. 6* (August 10, 2020)

- Author, “Board Briefs - The Lack of Certainty is the Only Certainty We Have,” *TaxNotes State, Vol 96, No. 12* (June 22, 2020)
- Author, “The Forgotten Factor, Part II - The Property Factor,” *TaxNotes State, Vol 96, No. 3* (April 20, 2020)
- Author, “An Interview With Michigan Treasurer Rachael Eubanks” (February 2020)
- Author, “Looking Ahead to 2020, Time to Reconsider Payroll Taxes” (January 13, 2020)
- Author, “Reflections on ‘Top 10 Cases to Watch’” (October 28, 2019)
- Author, “Substantiating a Refund Claim” (July 2019)
- Author, “Rev Your Engines – The Detroit Formula, Time for a Revival?” (February 11, 2019)
- Author, “It’s for the Birds: SALT and New Mobility Models” (January 14, 2019)
- Author, “Not Good Enough – Challenges in Proving Refund Claims” (September 17, 2018)
- Author, “Buyer Beware – Successor Liability is Not Fake News” (April 9, 2018)
- Author, “Stop the Ride, I Want to Get Off” (January 1, 2018)

\*Publications prior to 2018 are not listed for brevity.

## PRESENTATIONS

- Presenter, Federal, State and Local Incentives to Build EV Supply Chain Resiliency, Society of Automotive Analysts Program, March 21, 2023
- Co-presenter, COST Sales Tax Conference,
- Co-presenter, The 2023 National Multistate Tax Symposium, “Ethics: Today and tomorrow for state tax executives,” February 9, 2023
- Co-presenter, New York University State Tax Symposium, “Evaluating Formulary Apportionment of State Corporate Income Tax,” December 12, 2022
- Co-presenter, Paul J. Hartman State Tax Symposium, “Top Ten Income Tax Cases,” Nashville (October 2022)
- Co-presenter, COST Annual Meeting, “Taxation of Foreign Income” (October 2022)
- Co-presenter, IPT 2022 Sales Tax Symposium, Indirect Taxes and the Alternative Energy Industry, October 3, 2022
- Co-presenter, IPT Annual Meeting,
- Co-presenter, IPT Annual Meeting, “Protecting Confidential Taxpayer Information in Audits and Controversies,” June 29, 2022
- Co-presenter, COST Income Tax Conference, “Best Practices When Dealing With Alternative Apportionment”, April 2022
- Co-presenter, IPT Annual Meeting, The Ever-Changing Energy Industry, June 27, 2022
- Presenter, National Credit Reporting Agency, “Sales Taxation of Consumer Reports – What you Need to Know, March 7, 2022
- Co-presenter, The 2022 National Multistate Tax Symposium, “Ethics for state tax industry executives: Dilemmas in our “new next”, February 10, 2022
- MICPA Michigan Tax Update, November 2022

- Michigan Women's Tax Association 2021 Ethics Conference, "Of Course Ethics Matter! Challenges to Understanding and Complying with Ethical Rules of Multistate Practice and Remote Work, May 2021
- Co-presenter, COST 2021 Annual Meeting, "Handling Tax Controversies to Win", October 2021
- Co-presenter, Paul J. Hartman State Tax Symposium, Top Ten Income Tax Cases, Nashville (October 2021)
- Co-presenter, COST Advanced Income Tax School, Advanced Issues in Apportionment (December 2021) and April 2022
- Co-presenter, COST Income Tax Conference, Qualifying to do Business in a State – How Does that Impact an Entity's Tax Status?, April 2021
- Co-Presenter, ABA/IPT 2021 Virtual Advance Tax Seminars, Responses to Above-the-Line Audit Adjustments, Advanced State Income Tax Seminar, March 18, 2021
- Co-presenter, "All About the Base: Apportionment and Sourcing," ABA Virtual 2021 Midyear Tax Meeting (January 26, 2021)
- Moderator, "Regional Tax...Priceless Insights into Taxation Developments in Michigan, Pennsylvania, Indiana and Kentucky," 30th Annual Ohio Business Tax Conference (January 21, 2021)
- Co-presenter, "Apportionment Issues: Recent Developments, 30th Institute on State and Local Taxation (December 2-4, 2020)
- Co-presenter, "Top 10 Sales Tax Issues," 2020 New England State and Local Tax Forum (November 19, 2020)
- Co-presenter, "In Focus: Matters of Apportionment," MICPA Michigan Tax Conference (November 5, 2020)
- Co-presenter, "Uniformity in Sourcing Services," Council on State Taxation 51st Annual Meeting (October 21, 2020)
- Co-presenter, "Top Ten Income Tax Cases," 27th Annual Paul J. Hartman State and Local Tax Forum (October 27, 2020)
- Co-presenter, "The World is Flat! International Trends That May, or Already Have, Come to Impact US State Tax Policy," 2020 IPT Sales Tax Symposium (October 7, 2020)
- Co-presenter, "Improvements to Real Property - Taxation of the Construction Industry and Associated Parties (Vendors, Manufacturers and End Users)," COST 2020 Sales Tax Conference (February 25-28, 2020)
- Co-presenter, "International Companies with U.S. Activities - Multistate Considerations for Inbound Companies," 2020 Ohio Tax Conference (January 28, 2020)

#### **ADMISSIONS**

- All state courts in Illinois and Michigan
- United States Tax Court
- United States Supreme Court

#### **PROFESSIONAL AFFILIATIONS**

- Graduate of the Detroit Regional Chamber's Leadership Detroit program
- Board member, Michigan Chamber of Commerce
- State tax advisory board, Bloomberg BNA (2015-present)

- Advisory board member, Hartman State and Local Tax Forum at Vanderbilt University Law School (2005-present)
- State and local tax executive committee, American Bar Association, Section of Taxation
- Chair ex officio, State Bar of Michigan, Taxation Section
- Board member, Council on State Taxation (1986-2006)
- Co-chair, board of directors, Museum of Contemporary Art Detroit

#### PEER RECOGNITION AND AWARDS

- Member, American College of Tax Counsel
- Paul Frankel Excellence in State Taxation, Committee on State Taxation, 2022
- MICPA Thomas M. Hoatlin Award for Excellence (2021)
- State Bar of Michigan, Taxation Section, L. Hart Wright Service Award for Exemplary Service to the Taxation Section (2019)
- MICPA Outstanding Task Force Award (2020)
- Special Tax
- Listed in the *Best of the Best USA* for State Tax (2018)
- Selected by her peers for inclusion in *The Best Lawyers in America*® in the fields of:
  - Litigation and Controversy - Tax (2011 - 2024)
  - Tax Law (2010 - 2024)
  - Corporate Law (2010 - 2024)
- Selected for inclusion to the Michigan Super Lawyers list (2011-2021)
- *Leading Lawyers Magazine Michigan* (2017)
- Tax Law: Business
- She has been named to *DBusiness Magazine's* list of Top Lawyers (2013-2017, 2019, 2021-2022)
- Lynn was selected by *Michigan Lawyers Weekly* as one of its 30 Women in the Law in 2016

#### EDUCATION

- New York University School of Law (LL.M.)
- Taxation
- Wayne State University Law School (J.D.)
- Kalamazoo College (B.A.)

#### ADMISSIONS

- Illinois
- Michigan
- U.S. Supreme Court
- U.S. Tax Court

- U.S. District Court for the Eastern District of Michigan
- U.S. District Court for the Northern District of Illinois