

Clark R. Calhoun

Partner

404.881.7553

clark.calhoun@alston.com

Atlanta | One Atlantic Center, 1201 West Peachtree Street, Suite 4900 | Atlanta, GA 30309-3424

Los Angeles | 333 South Hope Street, 16th Floor | Los Angeles, CA 90071-3004



When companies face state tax controversy and litigation matters before state taxing authorities, Clark provides practical representation and advice. With more than 15 years of experience, he has secured millions in tax refunds for his clients.

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.

Clark also represents clients on multistate sales/use, income, property, and transfer 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 serves on the *Tax Notes State* advisory board and was the subject of its “State Tax Spotlight.” He is a past chair of the Business Climate Committee of the Georgia Chamber of Commerce and the State Bar of Georgia Taxation Section. He also serves on the Fall Sales Tax Symposium planning committee for the Institute of Professionals in Taxation (IPT). Clark was a significant contributor to a task force responsible for the creation of the Georgia Tax Tribunal and has been recognized by *Super Lawyers*, *Chambers USA*, and *The Best Lawyers in America*®.

Representative Experience

Direct Tax Controversies

- Represented Eisai Inc. in its successful appeal from a multimillion-dollar assessment of Tennessee business tax. *Eisai Inc. v. Gerregano*, No. 19-805-IV (Tenn. Chancery Ct.).
- Represented a national consumer markets company to a favorable resolution in a transfer pricing dispute before the Georgia Tax Tribunal.
- Representing a major billboard operator in a property tax appeal of the value of Times Square billboards.
- Represented several Georgia health care entities in evaluating and applying for property tax exemptions.
- Reached favorable multistate settlements regarding transfer pricing issues related to royalties and other intercompany fees.
- 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.).
- Represented Young Life in securing a property tax exemption in a dispute with Pickens County, GA.
- Advised California property owners on Prop 13 property tax issues and real estate transfer tax issues related to stock and asset transactions.
- Representing Georgia partnerships in resolving Georgia withholding tax disputes.

- Represented a group of leading Georgia charities as amici curiae in advocating for the Georgia Supreme Court to adopt a favorable interpretation of Georgia's property tax exemption for charities. *Nuci Phillips Memorial Foundation v. Athens-Clarke County Board of Tax Assessors*, 288 Ga. 380.
- Assisted a client in securing legislative language to clarify its entitlement to a state tax credit.
- Resolved outstanding state income/franchise and sales and use tax issues in transactions involving cloud computing services providers.
- Defended two Fortune 500 health care entities against multimillion-dollar assessments based on alternative apportionment and in seeking refunds of Mississippi income and franchise taxes.
- Appealed and resolved numerous assessments of local business license taxes in Atlanta, Los Angeles, and other localities.

Compliance and Transactional Advice

- Advised clients on national controlling-interest transfer tax implications in entity sales.
- Advised a national transportation company on federal excise tax issues stemming from a rewards program.
- 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.
- Negotiated a reduction of a client's anticipated real estate transfer taxes by millions of dollars through revisions and review of the relevant laws.
- Assisting clients with sales and purchases of state film tax credits in Georgia, Louisiana, and Connecticut.

Indirect Tax Controversies

- 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.*
- Representing numerous entities in determining application of, and compliance with, marketplace facilitator laws across the country.
- Secured a refund of Pennsylvania transfer taxes paid in an alleged controlling-interest transfer.
- Yielded substantial reductions of proposed assessments of city telecom and business license taxes for clients in California cities, including cancellations of proposed assessments.
- Secured refunds of overpaid county 911 taxes for T-Mobile. *Fulton County v. T-Mobile South LLC*, 305 Ga. App. 466.
- Represented the Institute for Professionals in Taxation in preparing and filing an amicus curiae brief to the U.S. Supreme Court, urging the Court to clarify federal jurisdiction in state tax administration.
- Secured a dismissal of charges against a national manufacturer in a Delaware False Claims and Reporting Act matter involving allegations related to gift cards.
- Secured a multimillion-dollar sales tax refund for a manufacturer stemming from overpaid taxes on fuel.
- Represented Behr, an industry-leading paint manufacturer, in securing a refund of Georgia sales taxes associated with its distribution of color cards to customers.

Publications & Presentations

Publications

- “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.
- “Controlling Interest Transfer Taxes: A (Mostly Critical) Review,” *Journal of Multistate Taxation and Incentives*, Vol. 26, No. 9, January 2017.
- “The More Things Change,” *State Tax Notes*, December 19, 2016.
- “Another *Wynne* for Taxpayers: Unconstitutional Limitations on Credits For Taxes Paid to Other States,” *IPT Insider*, November 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.
- “A New Approach to Defining a ‘Reasonable’ Alternative Apportionment Method,” *IPT Tax Report*, September 4, 2013.
- “Due Process and Commerce Clause Tests Are Never, Ever Getting Back Together,” *State Tax Notes*, July 22, 2013.
- “Has the Due Process Clause Gotten Its Groove Back?,” *State Tax Notes*, Vol. 64, No. 10, June 4, 2012.
- “The Trend Toward Independent State Tax Tribunals: Good for Taxpayers and the States,” *Journal of Multistate Taxation and Incentives*, May 2012.
- “Private Enforcement of State Tax Laws and the Use of Supplemental Authorities to Collect Taxes,” *Weekly State Tax Report*, April 20, 2012.
- “Alternative and Special Industry Apportionment,” in *State Business Income Taxation*, Institute for Professionals in Taxation, 2012.

Presentations

- “Top Controversy Challenges in Today’s SALT World,” New England State and Local Tax Forum, Newton, MA, November 14, 2018.
- “Interplay of Property Values and Characterizations between Income, Sales, and Property Taxes,” Council on State Taxation (COST) 49th Annual Meeting, Phoenix, AZ, October 23-26, 2018.
- “Add-Backs and Transfer Pricing – A Case Study,” 25th Annual Paul J. Hartman State and Local Tax Forum, Nashville, TN, October 17, 2018.
- “Point/Counterpoint – Alternative Apportionment in a Single-Sales Factor World,” Paul J. Hartman State and Local Tax Forum, Nashville, TN, November 7-8, 2017.
- “Interplay of Property Values and Characterizations between Income, Sales and Property Taxes,” COST 48th Annual Meeting, Orlando, FL, October 22-25, 2017.

Education

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

Admitted to Practice

- Georgia
- California

Related Services

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