



# Client Alert

May 2, 2011

## SALE OF STATE TAX CREDITS

The Internal Revenue Service has, for at least eight years, taken the position that a person who receives transferrable state tax credits and sells them, rather than using them, has ordinary income. The United States Tax Court recently ruled against the government on the issue. The court held that taxpayers who received transferrable state tax credits and sold them realized a capital gain, not ordinary income.

It is likely that the Internal Revenue Service will appeal the decision to one of the federal Circuit Courts of Appeal, determined by the taxpayer's residence. Nevertheless, the United States Tax Court will continue to follow its decision in future cases until it is reversed by a Circuit Court of Appeals.

### *IRS Circular 230 Notice*

Internal Revenue Service regulations state that only a formal opinion that meets specific requirements can be used to avoid tax penalties. Any tax advice in this communication is not intended or written to be used, and cannot be used by a taxpayer, for the purpose of avoiding penalties that may be imposed on the taxpayer, because it does not meet the requirements of a formal opinion.

---

**For more information, please contact an attorney in the Armstrong Teasdale Tax Department:**

**Robert L. Jackson** / 314.342.8076  
rjackson@armstrongteasdale.com

**John E. Dooling, Jr.** / 314.259.4743  
jdooling@armstrongteasdale.com

**Daniel J. Cooper** / 314.259.4715  
dcooper@armstrongteasdale.com

**Joseph D. Demko** / 314.342.4143  
jdemko@armstrongteasdale.com

**Guy Schmitz** / 314.259.4738  
gschmitz@armstrongteasdale.com

**Christopher J. Anderson** / 816.472.3117  
canderson@armstrongteasdale.com

**Scott E. Hunt** / 314.342.4145  
shunt@armstrongteasdale.com

**Jonathan W. Igoe** / 314.342.8019  
jigoe@armstrongteasdale.com

**Larry M. Sewell** / 314.342.8020  
lsewell@armstrongteasdale.com

**Jill M. Palmquist** / 314.552.6635  
jpalmquist@armstrongteasdale.com

---

This alert is offered as a service to clients and friends of Armstrong Teasdale LLP and is intended as an informal summary of certain recent legislation, cases, rulings and other developments. This alert does not constitute legal advice or a legal opinion and is not an adequate substitute for the advice of counsel.

**ADVERTISING MATERIAL: COMMERCIAL SOLICITATIONS ARE PERMITTED BY THE MISSOURI RULES OF PROFESSIONAL CONDUCT BUT ARE NEITHER SUBMITTED TO NOR APPROVED BY THE MISSOURI BAR OR THE SUPREME COURT OF MISSOURI.**

**Unsubscribe** from our mailing list

Don't miss Armstrong Teasdale's news and updates — please add [armstrongteasdale@armstrongteasdale.com](mailto:armstrongteasdale@armstrongteasdale.com) to your contact list or address book.