MOFO
NEW YORK TAX INSIGHTS
Volume 8, Issue 5, May 2017

IN THIS ISSUE

EDITORS

Hollis L. Hyans
hhyans@mofo.com

Irwin M. Slomka
islomka@mofo.com

NEW YORK STATE + LOCAL TAX GROUP

Craig B. Fields
cfields@mofo.com

Hollis L. Hyans
hhyans@mofo.com

Mitchell A. Newmark
mnewmark@mofo.com

Irwin M. Slomka
islomka@mofo.com

Michael A. Pearl
mpearl@mofo.com

Rebecca M. Balinskas
rbalinskas@mofo.com

Matthew F. Cammarata
mcammarata@mofo.com

Eugene J. Gibilaro
egibilaro@mofo.com

Michael J. Hilkin
mhilkin@mofo.com

Nicole L. Johnson
njohnson@mofo.com

Kara M. Kraman
kkraman@mofo.com

Eva Y. Niedbala
eniedbala@mofo.com

Michael P. Penza
mpenza@mofo.com

MORRISON FOERSTER

Final 2017-18 New York State Budget Bill Enacted

By Irwin M. Slomka

The New York State Budget Bill was enacted by the New York State Legislature and signed into law by Governor Andrew M. Cuomo. S. 2009-C, A. 3009-C. Among the Governor's proposals from his Executive Budget that were enacted, in whole or in part, are the following:

- ***Extends top personal income tax rates.*** Extends the top tax bracket under the personal income tax (the so-called "Millionaires Tax"), which is imposed at a rate of 8.82%, for an additional two years through 2019. The Governor had proposed extending the top rate for three years. (Part R.)
- ***Restricts purchase for resale treatment for certain related party transactions.*** The legislation expands the definition of a "retail sale" for sales tax purposes to include sales of tangible personal property to (i) a single member LLC ("SMLLC") or a subsidiary for resale to a member or owner where the SMLLC or a subsidiary is disregarded for federal income tax purposes; (ii) a partnership for resale to one or more partners; or (iii) a trustee of a trust for resale to one or more trust beneficiaries. The purpose for this enactment was to preclude those types of entities from buying tangible personal property as nontaxable purchases for resale and then leasing the property to a related entity. Also enacted was the elimination of a use tax exemption for property or services purchased outside New York State and brought into the State by a nonresident (other than an individual) unless the nonresident has been doing business outside the State for at least six months prior to the date the property or services are brought into the State. (Part CC.)
- ***Disregarded entity treatment to be followed for tax credit purposes.*** In an enactment to reverse the effects of a New York State Tax Appeals Tribunal decision in favor of the taxpayer that two disregarded SMLLCs owned by the same individual should be treated as separate entities in determining entitlement to an Empire Zone tax credit (*Matter of Lisa A. Weber*, DTA No. 825857 (N.Y.S. Tax App. Trib., Aug. 25, 2016)), a SMLLC disregarded for federal income tax purposes will be disregarded in determining its owner's eligibility for State tax credits, such as Empire Zone credits. As a result, under the new legislation any tax credit requirements and the tax credit computations are made based on treating the taxpayer and the disregarded entity as a single entity. (Part Q.)

continued on page 2

- ***Expands New York source income treatment for certain co-op sales.*** For personal income tax purposes, the sale by a nonresident individual of shares in a co-op housing corporation generates New York source income subject to tax, but the sale by a nonresident of an ownership interest in an entity whose assets consist solely of co-op stock does not. The definition of "real property located in this state" was amended to limit this by including an interest in a partnership, LLC, S corporation, or non-publicly traded C corporation with 100 or fewer shareholders that owns New York real property or shares in a co-op where the fair market value of such real property and co-op shares equals or exceeds 50% of the value of all of the entity's assets. (Part Z.)
- ***Limitations on NY investment tax credit.*** Under the new legislation, the New York investment tax credit will not apply to property used in the production or distribution of electricity, natural gas, steam or water delivered through pipes and mains. The intent of the legislation is to provide that utilities are ineligible for ITC for property principally used to furnish electricity and other utility-type services. On the other hand, a proposed limitation on ITC for property principally used in the creation, production, or reproduction of a film, visual or audio recording, or commercial for costs incurred outside New York State was not enacted. (Part P.)
- ***QFI treatment allowed for financial instruments held by RICs and REITs.*** Although not part of the Governor's original proposals, the final legislation provides beneficial "qualified financial instrument" treatment to various types of financial instruments held by a regulated investment company ("RIC") or a real estate investment trust ("REIT"), other than a captive RIC or REIT, even if the instrument is not marked to market under IRC §§ 475 or 1256. The legislation also limits the fixed dollar minimum tax that RICs and REITs pay, based on their New York receipts for the year, to no more than $500 annually. (Part VV.)

Several of the Governor's proposals were not enacted, however including the following:

- ***No requirement that marketplace providers collect sales tax.*** The final bill did not include perhaps the most ambitious of the Governor's proposals, the requirement that "marketplace providers" (such as EBay) collect New York sales tax from customers on sales of tangible personal property that they facilitate, unless the provider facilitates less than $100 million in sales each year. This marks the second time that a marketplace provider sales tax proposal was considered but not enacted.
- ***No expansion of real estate transfer tax.*** A proposal to broaden the scope of the real estate transfer tax to tax the transfer of a minority interest in a partnership, limited liability corporation, S corporation, or non-publicly traded C corporation with less than 100 shareholders if the entity in question owns New York real property having a fair market value that equals or exceeds 50% of the value of all of the entity's assets on the date of transfer of an interest in that entity was not enacted. Also omitted from the final bill was a proposal to give the Commissioner the authority to impose the so-called "Mansion Tax," applicable to sales of residential real property for consideration of at least $1 million, to any conveyance of real property structured to avoid or evade the tax.
- ***No automatic conformity of New York State S corporation treatment to federal.*** A proposal to conform the New York State S corporation treatment to the federal S corporation treatment in all cases was not enacted. As a result, federal S corporations retain the option of electing to be taxed as New York State S corporations or instead be taxed as C corporations under Article 9-A.
- ***No creation of central administrative hearings division.*** The Governor's proposal to create a new division of central administrative hearings headed by a Chief Administrative Law Judge, which could have resulted in the consolidation of the New York State Tax Appeals Tribunal into a centralized administrative hearings division not solely devoted to taxation, was not enacted.

Tribunal Upholds Civil Fraud Penalties Based on Criminal Tax Fraud Restitution Order

By Michael J. Hilkin

The New York State Tax Appeals Tribunal has upheld the validity of a notice of deficiency imposing civil fraud penalties that was issued after an individual taxpayer was found guilty of criminal tax fraud and was required to pay restitution in an amount equal to the tax improperly unreported on her New York State and City personal income tax returns. *Matter of Vilma Bautista, LLC*, DTA Nos. 827182 (N.Y.S. Tax App. Trib., Mar. 13, 2017).

Facts. Petitioner Vilma Bautista was at one time an assistant to Imelda Marcos, the former First Lady of the Philippines. Ms. Bautista worked for Mrs. Marcos in New York City. In 1995, Ms. Bautista acquired several high-value paintings "that had mysteriously disappeared

continued on page 3

earlier that year from the walls" of a Manhattan townhouse owned by the Philippine government that was used by Mrs. Marcos when she was in New York City. Ms. Bautista secretly stored the paintings at her own Manhattan apartment for several years and, in 2010, sold one of the missing paintings–painted by Claude Monet–for over $32 million to a private purchaser.

Ms. Bautista filed a 2010 New York State resident personal income tax return on which she: (a) filed as a New York City nonresident and claimed that she did not maintain living quarters in the City during 2010, even though she maintained her Manhattan apartment throughout 2010; and (b) failed to report any income from the sale of the Monet painting.

In November 2013, Ms. Bautista was found guilty of crimes including filing a false instrument and criminal tax fraud. The convictions were premised on the finding that, with deceitful intent, Ms. Bautista filed a fraudulent 2010 tax return because she did not report her receipt of the proceeds and resultant income from the sale of the Monet painting and did not pay personal income taxes due to the State and City of New York.

As a result of her conviction, on January 13, 2014, Ms. Bautista was ordered to pay restitution for the unpaid New York State and City taxes of over $3.5 million, and on March 19, 2014, a warrant to collect such taxes was issued against Ms. Bautista. The tax owed and restitution due was calculated consistent with testimony of an auditor in the Department's Criminal Investigations Division, who had calculated Ms. Bautista's personal income tax deficiency based on the assumption (consistent with the factual conclusions ultimately reached at trial) that Ms. Bautista had come to possess the Monet painting in 1995 either illegally or on behalf of its true owner and subsequently retained the sale proceeds in 2010.

Separately, on January 23, 2014, the Department issued Ms. Bautista a notice of deficiency imposing New York State and City civil fraud penalties of over $7.5 million (representing double the amount of tax unreported on her original 2010 tax return) and interest (the "Civil Penalties Notice"). However, the Civil Penalties Notice did not assert any tax liability, presumably because the actual tax liability was already addressed in the criminal restitution order and subsequent warrant.

Ms. Bautista subsequently protested the Civil Penalties Notice, claiming that it was invalid because the Department did not independently issue a deficiency notice identifying any tax due and instead relied on the tax assessment related to the restitution order to support the penalties identified in the Civil Penalties Notice.

ALJ Decision. At the hearing before an Administrative Law Judge, Ms. Bautista further maintained that the criminal convictions against her did not preclude her from challenging the amount of tax underpaid on her original returns as identified in the Civil Penalties Notice. The ALJ upheld the Civil Penalties Notice, concluding, among other things, that Ms. Bautista was collaterally estopped from disputing the amount of tax referenced in the Civil Penalties Notice. Ms. Bautista subsequently appealed to the Tribunal.

[P]enalties may be assessed when a tax deficiency exists, whether or not the tax deficiency is independently assessed . . . .

Tribunal Decision. The Tribunal upheld the decision of the ALJ and sustained the validity of the Civil Penalties Notice. First, the Tribunal concluded that the Civil Penalties Notice asserted fraud penalties based on the facts outlined by a Department auditor during Ms. Bautista's criminal tax proceedings and rejected a series of technical arguments by Ms. Bautista that the Department needed to separately confirm that a tax deficiency was present in order to issue the Civil Penalties Notice. Among other things, the Tribunal rejected Ms. Bautista's claim that the fraud penalties were based on a "theoretical deficiency."

Further, the Tribunal concluded that there was no statutory support to impose a requirement that the Civil Penalties Notice must either include an income tax assessment or be based on a prior income tax assessment by the Department. Based on a close reading of the statutes, the Tribunal concluded that penalties may be assessed when a tax deficiency exists, whether or not the tax deficiency is independently assessed, as the statutory language distinguishing between a "deficiency" and a "notice of deficiency" provides the Department with some flexibility in situations like those present, i.e., when an amount equal to the tax liability has already been included within a restitution order and warrant. Tax Law §§ 681(b), (g) & 685(m).

Finally, the Tribunal swiftly dismissed Ms. Bautista's collateral estoppel claim. The Tribunal stated that Ms. Bautista only argued at the Tribunal that she was not collaterally estopped from challenging the validity of the Civil Penalties Notice. The Tribunal pointed out that the ALJ decision did not find that Ms. Bautista was collaterally estopped from making such a challenge, and, in any case, the Tribunal stated that it fully considered the validity of the Civil Penalties Notice in reaching its determination.

continued on page 4

Additional Insights

From a practical standpoint, it seems sensible that the Tribunal did not require the Department in this case to issue a separate notice asserting a deficiency of tax in order to assert a deficiency of penalties against Ms. Bautista. While the Tribunal states that Ms. Bautista portrayed the fraud penalties as having been based on a "theoretical deficiency," it seems clear that the Department asserted penalties based on an actual tax amount calculated for purposes of Ms. Bautista's criminal trial by one of the Department's auditors.

ALJ Sustains Retroactive Application of Statute to Deny QEZE Credits

By Hollis L. Hyans

A New York State Administrative Law Judge has upheld the denial by the Department of Taxation and Finance of a Qualified Empire Zone Enterprise ("QEZE") tax reduction credit, finding that application of statutory amendments to the tax year in which the amendments were enacted was not impermissible retroactivity. *Matter of NRG Energy, Inc.*, DTA No. 826921 (N.Y.S. Div. of Tax App., Mar. 30, 2017). The ALJ rejected the taxpayer's argument that the decision of the New York Court of Appeals in *James Square Associates LP, et al. v. Mullen*, 21 N.Y.3d 233 (2013), which found unconstitutional the retroactive application of statutory amendments enacted in 2009 to the year beginning January 1, 2008, had any application to the 2009 tax year.

Facts. NRG Energy, Inc. ("NRG") owns and operates power plants that generate power from various fuel sources, including coal, natural gas, solar, and wind. It is the sole owner and member of Oswego Harbor Power LLC, which owns and operates the Oswego Generating Station in Oswego County, New York (the "Plant"). NRG and Oswego Harbor Power LLC originally were certified as eligible under the New York State Empire Zones Act for the Plant effective in 2002. As an eligible participant in the Empire Zones Program, NRG was entitled to apply for QEZE credits against its New York State corporate franchise taxes, including a refundable credit for real property taxes.

On April 7, 2009, the Empire Zones Act was amended to impose new criteria for continued certification under the Empire Zones Program. In 2010, the statute was further amended to explicitly provide that the 2009 changes were retroactive to years beginning on or after January 1, 2008. On or about June 29, 2009, the Department of Economic Development ("DED"), which administers the Empire Zones Program, notified NRG and Oswego Harbor Power LLP that their certifications were being revoked, effective January 1, 2008, for failure to meet the new criteria.

Litigation brought by other taxpayers then challenged the retroactive application of the 2009 amendments. In 2013, the New York Court of Appeals held in *James Square* that retroactive application of the 2009 amendments to the year beginning January 1, 2008, violated the Due Process Clause and was unconstitutional. Applying a three-factor test, the Court of Appeals found that the taxpayers had not been forewarned of the legislative change, but were instead being "punished . . . more harshly for behavior that had already occurred and that they could not alter"; that the period of retroactivity was excessive; and that the retroactive application did not serve an important public purpose, since "raising money for the state budget is not a particularly compelling justification." *Id.* at 250.

In August 2013, after the decision in *James Square*, the Department of Taxation and Finance issued a refund to NRG for the 2008 QEZE tax credits.

NRG's original 2009 tax return claimed QEZE credits with regard to different facilities, located in the Town of Tonawanda Empire Zone and the Sheridan Empire Zone, and NRG received those refunds of approximately $24 million. In August 2013, NRG filed an amended 2009 return claiming an additional credit of approximately $5.8 million for the Plant in the Oswego County Empire Zone. The Department denied the credit because the certificate of eligibility for the Plant had been revoked in reliance on the 2009 amendments to the statute. NRG challenged the denial, arguing that the retroactive application of the 2009 amendments was impermissible under *James Square* and that the Department's "selective enforcement" of the statute violates its rights to equal protection.

Decision. The ALJ rejected NRG's arguments. First, she found that application of amendments enacted in 2009 to the 2009 tax year was not retroactive application of the law, noting that the DED had notified NRG in June 2009 that it did not meet the new criteria well before the end of the tax year. According to the ALJ, since the statute provided that a business enterprise would cease to be qualified on the first day of the taxable

continued on page 5

year during which the revocation occurs, decertification to January 1, 2009, was not due to a retroactive application of the 2009 amendments.

> [A]pplication of amendments enacted in 2009 to the 2009 tax year was not retroactive application of the law . . . .

The ALJ also rejected NRG's argument that the Department had violated NRG's equal protection rights, finding that NRG had failed to demonstrate any "selectivity of enforcement" arising from "'an intentional invidious plan of discrimination'" on the part of the Department as required by previous Tribunal decisions, such as *Matter of Goetz Energy Corp.*, DTA No. 815558 (N.Y.S. Tax App. Trib., Nov. 18, 1999), particularly since the statute requires decertification as of the beginning of the tax year in which certification was revoked.

Additional Insights

Retroactive application of statutory amendments is a growing and contentious issue in the state tax area. In *James Square*, New York's highest court did find the retroactive application unconstitutional, but in *Burton v. New York State Department of Taxation & Finance. et al.*, 25 N.Y.3d 732 (2015), and *Caprio v. New York State Department of Taxation & Finance et al.*, 25 N.Y.3d 744 (2015), the Court of Appeals rejected challenges to the validity of a 2010 statutory amendment that changed the treatment of gains recognized by a nonresident on the sale of S corporation stock. Petitions for *certiorari* are pending at the U.S. Supreme Court in cases challenging retroactive application of tax statutes in Washington state and in Michigan. *See Dot Foods, Inc. v. Dep't of Revenue of the State of Washington*, No. 16-308 (filed Sept. 9, 2016); *Gillette Commercial Operations N. Am. and Subsidiaries v. Michigan Dep't of Treasury*, No. 16-697 (filed Nov. 21, 2016).

However, the facts of NRG—where the statute was changed just over three months into the year in which it was being applied—present a particularly difficult argument for the proposition that a taxpayer's rights have been unconstitutionally abrogated. While there is very little Supreme Court precedent, the case most commonly cited, *United States v. Carlton*, 512 U.S. 26 (1994), allowed retroactive application of a statute when there was a "modest period of retroactivity" of slightly greater than a year.

Mobile Telecommunications Service Provider's Separate Charges for Sales of Cellphones Subject to § 186-e Tax

By Kara M. Kraman

The New York State Department of Taxation and Finance has issued a Guidance finding that a mobile telecommunications service provider's separate charges for sales of cellphones were subject to the telecommunications excise tax under Tax Law § 186-e. *Guidance*, "Application of Telecommunication Excise Tax to the Separate Charge for a Cell Phone Sold by a Mobile Telecommunications Service Provider," NYT-G-17(1)C (N.Y.S. Dep't of Taxation & Fin., Apr. 17, 2017).

Facts. The mobile telecommunications service provider ("Provider") is in the business of providing wireless telecommunications service in New York State. Under a typical plan offered by Provider, a customer entering into a two-year service contract with Provider would receive a cellphone at no charge or at a discounted price. The customer would pay for the wireless service on a monthly basis, and Provider would recoup the cost of the cellphone through the monthly service charge. Provider also offered wireless service on a month-to-month basis rather than on a long-term basis; however, in such a case, the customer did not receive a free or reduced price cellphone but instead paid full price for the cellphone. Finally, Provider also allowed customers to purchase cellphones on an installment basis with no interest or financing charges if the customer entered into a wireless service contract with Provider for the term of the installment contract. In that case, the customer would sign an agreement with an affiliate of Provider that acted as an agent for Provider. However, as a matter of administrative convenience, Provider included the installment charges for the cellphone on its invoice for cellular service.

Any cellphone purchased by a customer from Provider, regardless of the type of plan, is initially "locked," meaning that it may be used only for service on Provider's network. The "lock" remains on the cellphone for up to 40 days, or even longer in cases where the customer is not in good standing, or the cellphone was purchased pursuant to an installment plan that is not yet paid in full. In addition, even if unlocked, Provider's

continued on page 6

cellphones use technology that either does not function on many other carriers' networks or does not have full functionality on those other networks.

Issue. Whether Provider's separate charges for cellphones were includible in its gross receipts subject to the telecommunications excise tax under Tax Law § 186-e.

[T]he Department determined that the cellphones sold by Provider were "ancillary" to Provider's mobile telecommunications service [and] . . . were subject to the § 186-e tax.

Law. The § 186-e tax is imposed on a telecommunications provider's gross receipts from the sale of mobile telecommunications in New York State. Tax Law § 186-e(2)(a). Charges for mobile telecommunications services are defined by reference to Tax Law § 1111(l)(1), which provides that such charges shall include:

> any charge by a home service provider to its mobile telecommunications customer for (A) commercial mobile radio service, *and shall include property and services that are ancillary to the provision of commercial mobile radio service* (such as dial tone, voice service, directory information, call forwarding, caller-identification and call-waiting), and (B) *any service and property provided therewith*.

(emphasis added). By its terms, this provision distinguishes between property that is "ancillary" to mobile telecommunications services, and other property "provided therewith." If the property is "ancillary to the provision" of the service, then it is treated as a taxable charge for mobile telecommunications services. On the other hand, pursuant to Tax Law § 186-e(2)(b)(4), if the property in question is not ancillary to mobile telecommunication services but is instead classified as "property provided therewith," it may not be subject to § 186-e tax if the charges are separately stated or may otherwise reasonably be separately accounted for and quantified.

Department's Analysis. The Department found that it was "apparent" that Provider's customers purchased the cellphones to use on Provider's network, as, among other things, the customers purchased the cellphones in a "locked" state, and the cellphones only had, at best, a limited ability to function on other networks even when unlocked. Therefore, the Department determined that the cellphones sold by Provider were "ancillary" to Provider's mobile telecommunications service. Accordingly, it concluded that the separate charges for those cellphones were subject to the § 186-e tax.

Additional Insights

The Guidance reflects the Department's position that charges for property that is integral, or "ancillary," to the telecommunications service being provided are subject to § 186-e tax. However, the Guidance does not address the question of whether there are any circumstances under which a cellphone purchased from a mobile telecommunications provider would not be treated as integral to the provision of that service, such as where the phone is not "locked" and is fully functional on other carriers' networks.

A Guidance or (NYT-G) is an informational statement of the Department's policies and its interpretation of the law and regulations that is usually based on a particular taxpayer's facts or circumstances. Guidances are usually issued when a taxpayer withdraws its petition for an Advisory Opinion, but the Department decides to publish a redacted version of the Advisory Opinion because it considers the subject matter to be of broad interest. As a result they are issued fairly infrequently; only one other Guidance has been issued since 2009. While they have no precedential value, they are a useful source of information and guidance regarding Department policy.

INSIGHTS IN BRIEF

NYS Explains Reasons for Notice and Demand Statements for 2015 Article 9-A Returns

A newly-issued Corporate Tax Reform *Frequently Asked Question ("FAQ")* on the New York State Tax Department's website explains why some corporations have received Notice and Demand Statements for Article 9-A tax for the 2015 tax year, the first year under corporate tax reform. According to the FAQ, where the Department receives a return that reports zero receipts, or the taxpayer writes "NONE" or leaves the "Everywhere" receipts reported on line 54 of the Article 9-A return blank, the Department will often recompute the apportionment factor as 100% and adjust the tax due accordingly. For taxpayers that receive such Notices and Demand but that disagree with the Department's recomputations, the Department advises that the taxpayers amend their Article 9-A returns and properly complete the apportionment factor schedule.

continued on page 7

No Sales Tax Due on Free Software Application for Smartphone Users Allowing Bathroom Access to Participating Locations for a Fee

In a recent Advisory Opinion, the New York State Tax Department has concluded that the provision of a free software application to smartphone users that would allow the users access to bathrooms at participating locations for a fee would not be subject to sales tax. *Advisory Opinion*, TSB-A-17(3)S (N.Y.S. Dep't of Taxation & Fin., Feb. 28, 2017) (released Apr. 25, 2017). Once downloaded, the application would allow users to purchase a ticket, for a $1.00 or $2.00 fee, to use a bathroom at a participating restaurant, café, or bar. The provider of the software will collect the fee from patrons and pay a portion over to the participating location after the ticket is used. The Department concluded that while the software is considered tangible personal property, since it is being provided free of charge, there is no consideration being paid for it and no tax due. In addition, the Department ruled that the service provided through the use of the smartphone application—purchasing the use of bathrooms—is not a taxable service.

ALJ Upholds Denial of Certificate of Authority to Collect Tax Based on Outstanding Liabilities of Owner

A New York State ALJ has upheld the denial by the Department of Taxation and Finance of a sales tax Certificate of Authority sought by Olek, Inc., an S corporation, because of unpaid liabilities determined to be due from its owner and president, Peter Triestman. *Matter of Olek, Inc.*, DTA No. 827819 (N.Y.S. Div. of Tax App., Mar. 16, 2017). Mr. Triestman, who owned 100% of Olek's stock, was also president, 100% owner, and a responsible party of another business, Triestman & Sons, Inc., which had outstanding amounts due for sales, corporation, and withholding tax that were finally determined to be owed. The ALJ found that Tax Law § 1134(a)(4)(B) allows the commissioner to deny a Certificate of Authority when a shareholder owning more than 50% of the applicant's shares has unpaid tax that has been determined to be due, and the fact that the parties were attempting to arrive at a mutually acceptable payment agreement for the unpaid liabilities did not provide any basis for an order compelling the issuance of a Certificate of Authority.

continued on page 8

U.S. NEWS – BEST LAWYERS® BEST LAW FIRMS 2017

- National: Litigation – Tax (Tier 1)
- National: Tax Law (Tier 1)
- New York: Litigation – Tax (Tier 1)
- New York: Tax Law (Tier 1)
- San Francisco: Tax Law (Tier 1)
- Washington, D.C.: Tax Law (Tier 1)

U.S. NEWS – BEST LAWYERS® BEST LAW FIRMS 2016

- Law Firm of the Year: Litigation – Tax

CHAMBERS USA 2016

- California: Tax
- Nationwide: Tax Controversy
- New York: Tax

LEGAL 500 US 2016

- U.S. Taxes: Contentious
- U.S. Taxes: Non-Contentious

CHAMBERS USA 2016

"VERY GOOD HANDLING, I VIEW THEM AS THE TOP STATE AND LOCAL TAX FIRM IN THE USA."

"THEY HAD THE EXPERTISE I NEEDED AND I RECEIVED EXCELLENT CLIENT SERVICE."

LEGAL 500 US 2016

"VAST KNOWLEDGE OF THE TAX ISSUES AND EXPERIENCE WITH OPPOSING ATTORNEYS."

"VERY HIGH COMFORT LEVEL ON THE BIG-DOLLAR, HIGH-RISK ISSUES."

"PUT THEIR CLIENTS FIRST AND ARE ALWAYS AVAILABLE WHEN NEEDED."

CHAMBERS USA 2015

"THEY DO A TERRIFIC JOB, THEY'RE VERY INFORMED AND REALISTIC."

CHAMBERS USA 2014

"THEY BRING A SUPERIOR DEGREE OF FLEXIBILITY AND EFFICIENCY."

STATE + LOCAL TAX

WHAT SEPARATES US FROM THE REST?

OUR EXPERIENCE. We've been doing it longer, have more experience and published decisions, and have obtained a greater number of favorable settlements for our clients than the rest.

OUR TRACK RECORD OF PROVEN SUCCESS. We've successfully litigated matters in nearly every state, and have resolved the vast majority of matters without the necessity of trial.

OUR NATIONAL PERSPECTIVE. We approach state and local tax issues from a nationwide perspective, taking into account the similarities and differences of SALT systems throughout the United States.

OUR DEPTH. Our team is comprised of a unique blend of public and private backgrounds with experience spanning various industries. We're nationally recognized as a leading practice for tax law and tax controversy by *Chambers*, *Legal 500* and *Law360*. In fact, we've been referred to as "one of the best national firms in the area of state income taxation" by *Legal 500 US* and were rated Law Firm of the Year for Litigation – Tax by the 2016 "Best Law Firms" Edition of *U.S. News & World Report – Best Lawyers*.

For more information about Morrison & Foerster's State + Local Tax Group, visit www.mofo.com/salt or contact Craig B. Fields at (212) 468-8193 or cfields@mofo.com.