

### Eric Hagenswold

Eric is a state and local tax litigator. He represents clients regarding assessments and refund claims involving most of the major state and local taxes. Eric is based in Texas, but he has represented clients regarding state and local tax issues in more than 30 states. He has litigated more than 100 cases in trial courts, appellate courts, and administrative proceedings before taxing authorities. Because of his success as a litigator, Eric is often able to settle or resolve disputes with taxing authorities allowing his clients to achieve favorable outcomes without the costs of litigation.

In addition to his litigation practice, Eric assists clients with tax advice and obtaining private letter rulings. Eric speaks on state and local tax topics at seminars for corporate tax professionals such as the Council on State Taxation, the Institute for Professionals in Taxation, the Texas Society of CPAs, and the Tax Executives Institute.

Eric's specific areas of experience are:

- sales and use tax
- state corporate income tax (including the Texas franchise and margin taxes)
- oil and gas severance tax
- property tax
- motor vehicle tax
- insurance tax
- hotel occupancy tax
- motor fuels tax
- mixed beverage tax
- tax credits and incentives

### Representative Matters

Represented oil well services company in contested hearing against the Texas Comptroller resulting in \$3.5 million



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#### RELATED PRACTICE AREAS:

- Civil Litigation
- State and Local Tax

reduction of sales and use tax assessment.

Represented national furniture retailer before the Texas Comptroller resulting in \$4.5 million reduction of sales and use tax assessment.

Obtained final Comptroller's Decision in contested hearing before the State Office of Administrative Hearings ruling that the sales and use tax did not apply to a structured purchase of corporate aircraft. The proposed decision would have overturned the Comptroller's "economic substance" doctrine and resulted in a 90% reduction of the \$4 million assessment.

Obtained favorable Proposal for Decision in contested hearing before the State Office of Administrative Hearings ruling that hydraulic fracturing units were exempt from the sales and use tax. This is a significant case defining the scope of the motor vehicle exemption to the sales and use tax. A final Comptroller's Decision is pending.

Obtained final Comptroller's Decision after a contested hearing before the State Office of Administrative Hearings ruling that chain flooring vendor and installer was entitled to the lower .5% franchise tax rate for retailers and wholesalers. The Comptroller's Decision dismissed the assessment. This is a significant case establishing factors used to distinguish between retailers and contractors for purposes of assigning the .5% rate.

Obtained final Comptroller's Decision enforcing settlement agreement in favor of major oil and gas producer. Enforcement of agreement resulted in a multi-million dollar sales and use tax refund.

Obtained favorable Proposal for Decision in contested hearing before the Texas State Office of Administrative Hearings ruling that the trade-in exemption to the sales and use tax applied to taxpayer's transactions with its purchasing affiliate. The decision resulted in abatement of \$5.5 million in sales and use tax assessments.

Obtained summary judgment in district court granting 100% of taxpayer's sales and use tax refund claim by defeating State's Plea to the Jurisdiction based on limitations. The Court overruled the Texas Comptroller's policy of applying a separate statute of limitations to refund claims for sales and use tax remitted under a direct payment permit.

Represented large insurance provider in contested hearing against the Texas Comptroller resulting in \$15.7 million in insurance premium and maintenance tax refunds.

Represented international chemical company in district court resulting in \$2 million in Texas franchise tax refunds and assessment reductions. The case involved the issue of whether a parent corporation can write off the decline in value of a subsidiary for purposes of calculating the parent's taxable capital.

Represented major air carrier in contested hearings before the Texas State Office of Administrative Hearings resulting in \$1.2 million in sales and use tax refunds.

Obtained 75% reduction of \$1 million franchise tax assessment against multi-national oil and gas company by proving inter-company loans qualified as deductible debt.

Assisted large automobile leasing company in securing substantial reductions in motor vehicle sales tax and titling fees by structuring corporate merger and reorganization to avoid taxable transfers and preserve fair market value deductions.

Represented large California based computer equipment wholesaler in negotiating voluntary disclosure agreements with taxing authorities across the nation resulting in substantial reduction or elimination of tax liability, penalties, and interest.

## **Bar Admissions & Activities**

Admitted to the State Bar of Texas, U.S. District Court for the Western District of Texas, U.S. Court of Appeals, Fifth Circuit, Texas Court of Appeals, Third Circuit, and U.S. Tax Court.

### **Education**

Austin College, B.A., English and Political Science, 1992  
magna cum laude

University of Texas School of Law, 1997 with honors

### **Articles and Presentations**

Author and Presenter, "Texas State and Local Tax Developments and Recent Case Law," Institute for Professionals in Taxation, Energy SALT Seminar, February 2016.

Co-Author and Co-Presenter, "State Tax Cases, Issues, and Policy Matters," 2015 Council on State Taxation Southwest/West Regional State Tax Seminar, August 2015.

Author and Presenter, "Texas Sales and Use Tax Litigation Update," Tax Executives Institute 25th Annual Tax School, May 2013.

Author and Presenter, "New Developments and Hot Issues in Texas Sales and Use Tax," 2012 Austin CPA Chapter Annual Tax Conference, November 2012.

Co-Author and Co-Presenter, "Latest and Greatest Tax Litigation," Council on State Taxation Pacific Southwest Regional State Tax Meeting, October 2009.

Co-Author, "Sales Tax Top 10: Cases and Legislative Changes," Institute for Professionals in Taxation Annual Conference, July 2009.

Author and Presenter, "Hot Issues in Texas," Twenty-First Annual Tax Executives Institute – Houston Chapter, State

and Local – Current Issues, May 2009.

Co-Author, "What's Happening Everywhere Today: Texas Tax Litigation," New York University School of Continuing and Professional Studies, 27th Institute on State and Local Taxation, December 2008.

Co-Author, "What's Happening Everywhere Today," New York University School of Continuing and Professional Studies, 26th Institute on State and Local Taxation, December 2007.

Co-Author, "Administrative Hearing and Court Case Update: Now What Have They Done?" Texas Society of Certified Public Accountants Texas State Taxation Conference, October 2007.

Co-Author, "Texas Tax Update," Texas Society of Certified Public Accountants 53rd Annual Texas CPA Tax Institute, November 2006.

Co-Author and Co-Presenter, "Hot Topics in the Southwest: Recent Judicial and Administrative Developments," Council on State Taxation Southwest/West Regional State Tax Seminar, June 2006.

Co-Author, "Recent Developments in Texas Tax Law," New York University School of Continuing and Professional Studies, 24th Annual Institute on State and Local Taxation, December 2005.