



Carl E. Hartley

Shareholder

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Carl E. Hartley concentrates his practice in state and local taxation and federal taxation, as well as represents clients in corporate law and real estate law matters, and additionally represents clients seeking economic incentives from state and local governments.

Mr. Hartley was head of Baker Donelson's Tax Department for ten years culminating in March 2013. In these practice areas he represents a broad spectrum of clients, both individuals and businesses, including in particular manufacturers, distributors, wholesalers, retailers and service providers.

Mr. Hartley's state and local tax practice includes representing clients in a wide variety of tax controversies, both administratively and in court, opposing the Tennessee Department of Revenue as well as local counties and cities in this State. Such controversies have focused upon the Tennessee excise and franchise taxes, sales and use taxes, real and personal (both tangible and intangible) property taxes, liquor-by-the-drink taxes, hotel-motel taxes, mineral severance taxes, real estate transfer taxes, private chapter taxes, among others. Mr. Hartley also represents clients opposing insurance related taxes before the Tennessee Department of Commerce and Insurance.

Mr. Hartley's state and local tax representation of clients includes not only controversies arising from audits and litigation, but also advice involving successor liability circumstances, penalty waiver requests, offers in compromise, applications for tax exemptions, benefits and incentives, and voluntary disclosure agreements. He regularly assists clients in Tennessee and several other states, including Georgia, in connection with state and local tax planning considerations, such as choice and formation of business entities and tax planning regarding various business opportunities and transactions; as well as advice as to nexus inquiries and many other multistate circumstances and planning considerations.

Mr. Hartley is also regularly involved in assisting clients in efforts to enact or oppose tax related legislation in the Tennessee Legislature. He testifies before various legislative committees and works closely with the Firm's Tennessee Public Policy Group to assist clients in their legislative endeavors. He has significant experience in drafting and, where necessary, opposing proposed tax laws and regulations during the legislative enactment or the administrative promulgation process.

Mr. Hartley also represents clients in a wide range of matters before the Tennessee Department of Economic & Community Development, including negotiations with that Department for purposes of seeking various types of financial assistance related to anticipated new or expanded locations within this State. He also assists clients with respect to completing and filing with that Department the appropriate applications and supporting data in order to receive training and/or infrastructure assistance from or through said Department.

Mr. Hartley's federal tax practice includes choice and formation of business entities; capital formation; acquisitions and divestitures; mergers, reorganizations and restructuring of business entities; business tax planning; and tax considerations in regard to real estate and other tax audits, both during the IRS audit process as well as at the IRS appeals office; and represents clients in those administrative efforts seeking refund of taxes or abatement of penalties and interest. He has also represented clients before the U.S. Tax Court in contesting federal tax liabilities.

Mr. Hartley attended Auburn University from 1966 to 1968 and was on the university's varsity track team.



Representative Matters

State and Local Taxes

- Consultation regarding a wide range of state and local tax matters such as planning opportunities, nexus standards, exemption requirements, and election options, among others, with domestic and foreign-owned/controlled manufacturers, distributors, and service providers, as well as with various other taxpayers involved with unique circumstances, including businesses concerned with such matters that are owned by or affiliated with parent entities located in foreign countries such as Germany, France, Italy, Switzerland, Sweden, Japan, South Korea, Canada, and Mexico.
- Consultation with manufacturers, distributors, service providers, and a wide variety of other taxpayers regarding the impact of *South Dakota v. Wayfair*, decided by the United States Supreme Court in June 2018, with respect to sales/use tax and other tax issues in Tennessee and other states relative to nexus thresholds, recordkeeping requirements, and exempt transaction considerations, among others.
- Defended manufacturers in Tennessee sales/use tax audits involving issues such as application of the industrial machinery exemption and recordkeeping requirements for wholesale and otherwise exempt sales.
- Defended equipment sales businesses in Tennessee excise and franchise tax audits involving issues such as proper apportionment formula and tax base issues.
- Defended restaurant establishments in Tennessee liquor-by-the-drink tax audits involving issues such as substantiating client's records and challenging calculative formula used by the Department of Revenue to create presumed taxable sales.
- Defended taxpayer in Tennessee business tax audit as to application of manufacturing exemption.
- Defended out-of-state shipper from nexus challenges for Tennessee business tax purposes.
- Defended soft drink bottler in Tennessee gross receipts bottling tax audit.
- Defended quarry company in Tennessee severance tax audit.
- Represented various categories of businesses in tangible personal property tax audits by local Tennessee assessors and by Tennessee Office of State Assessed properties.
- Defended franchisee in Tennessee sales/use tax audit involving Department of Revenue's Special Investigation Division relative to substantiation of out-of-state sales.
- Defended retailer of titled vehicles in Tennessee sales/use tax audit involving issues such as bad debt deductions and out-of-state deliveries.
- Defended businesses in Tennessee sales/use tax audits involving third-party payments alleged by Department of Revenue to be included in taxable sales price.
- Defended individuals and businesses in connection with potential Tennessee successor/transferee liability for sales/use tax purposes.
- Represented wide variety of businesses under a variety of circumstances seeking admission to and protection under Tennessee's voluntary disclosure program for sales/use taxes, franchise and excise taxes, and business taxes.
- Represented a wide variety of businesses before the Administrative Hearing Office with respect to a variety of taxes administered and enforced by the Tennessee Department of Revenue.
- Represented a wide variety of businesses seeking refunds from the Tennessee Department of Revenue including documentation of such refund claims.
- Represented businesses seeking waiver of penalties imposed by Tennessee Department of Revenue, including submission of waiver requests and related documentation.
- Consultation with manufacturers regarding structuring of business operations with the object of enhancing protection from taxes imposed by other states.
- Assisted taxpayers in applying for Tennessee sales/use tax exemptions such as for industrial machinery, solar equipment, material handling and racking systems, interstate commerce usage of certain motor vehicles, among others, as well as applying for tax credits such as the job tax credit.

- Represented taxpayers seeking installment payment arrangements with the Tennessee Department of Revenue's Tax Enforcement Division.
- Assisted various taxpayers in drafting legislative text for bills introduced in the Tennessee General Assembly regarding sales/use taxes and franchise and excise taxes.

State Economic Development Grants

- Represented businesses in connection with negotiating training and economic development grants from the Tennessee Department of Economic and Community Development, including substantiation of information justifying said grants, review and interaction with Department representatives pertaining to contract and related terms for said grants, as well as assistance provided to businesses with respect to post-grant funding compliance with contract terms.
- Defended businesses before the Department with respect to enforcement activities pertaining to grant contract terms.

Internal Revenue Service

- Consulted with wide variety of taxpayers as to income tax planning objectives and opportunities.
- Defended a wide variety of taxpayers as to various issues during IRS audit and appeals process.
- Defended distributor in income tax audit involving substantiation of expenses and calculation of taxable income.
- Represented individuals assessed as "responsible persons" for employment tax purposes.
- Represented taxpayers in collection due process hearings so as to contest IRS enforcement actions.
- Represented taxpayers in seeking installment payment agreements with IRS.
- Represented taxpayers seeking waiver of penalties imposed by IRS.



Professional Honors & Activities

- Department Chair, Baker Donelson's Tax Department (2003 – 2013)
- AV® Preeminent™ Peer Review Rated by Martindale-Hubbell (1991 to date)
- Listed in *The Best Lawyers in America*® for Tax Law (since 2005), Corporate Law (since 2008), Non-Profit/Charities Law (since 2011), Tax Litigation & Controversy (since 2011), Economic Development Law (since 2019)
- Named the Best Lawyers® 2024, 2022, 2020 and 2015 Tax Law "Lawyer of the Year" in Chattanooga
- Named the Best Lawyers® 2021 Nonprofit/Charities Law "Lawyer of the Year" in Chattanooga
- Named the Best Lawyers® 2016 Corporate Law "Lawyer of the Year" in Chattanooga
- Listed in *Mid-South Super Lawyers* in Tax Law (2007 – 2012)
- Chairman, Tax Section, Tennessee Bar Association (1981 – 1982)
- Chairman, Tax Committee and Director (1986 – 2002, 2009 – 2010, 2012 to date) and Executive Committee Member (2009 – 2010, 2012 to date), Tennessee Chamber of Commerce & Industry
- Chairman, Tax Committee, Chattanooga Manufacturers Association (2004 to date)
- Special Committee on State Taxation, Tennessee Bar Association (1999)
- Tennessee Bar Foundation (1994 to date)
- Chattanooga Bar Foundation (2011 to date)
- Tennessee Federal Tax Institute, Past Trustee (1981)
- Regional Liaison Committee, Internal Revenue Service (1980 – 1982)
- Member – Tennessee Bar Association; State Bar of Georgia; American Bar Association
- Chattanooga Golf & Country Club – President (1993); Member of Capital Funds Committee (1998 to date)
- Chair – Baker Donelson's Audit Letter Response Committee
- Member – Baker Donelson's Conflicts Committee
- Member – First Centenary United Methodist Church
- Chair – Constitution and Bylaws Committee, Rotary Chattanooga (2007 – 2010)
- Member – WTCI Public TV Board of Directors (1992 – 1998)
- President – American Lung Association of Tennessee, Southeast Chapter (1987)



Representative Cases

- *High Country Adventures, Inc., et al v. Polk County, Tennessee*, WL 4853105 (Tenn. Ct. App. 2008), application for permission to appeal denied by Tenn. Sup. Ct. May 4, 2009.
- *Eastman Chemical Co. v. Johnson, Tennessee Commissioner of Revenue*, 151 S.W.3d 503 (Tenn. Sup. Ct. 2004), representing *amicus curiae*, Tennessee Chamber of Commerce & Industry
- *Combustion Engineering, Inc. v. Jackson, Tennessee Commissioner of Revenue*, 705 S.W.2d 655 (Tenn. Sup. Ct. 1986)
- *Robertson & Associates (Alabama), Inc. v. Boswell, Alabama Commissioner of Revenue*, 361 So.2d 1070 (Ala. Sup. Ct., 1978)



Publications

- "Final Regulations on Tax Credits for Electric Vehicles: No Time to Relax" (May 2024)
- "Tax Refund Process and Related Points Resulting from Constitutional Issue with Franchise Tax" (May 2024)
- "S.A.L.T. Select Developments: Tennessee" (April 2024)
- "S.A.L.T. Select Developments: North Carolina" (April 2024)
- "S.A.L.T. Select Developments: South Carolina" (April 2024)
- "S.A.L.T. Select Developments: Tennessee" (March 2024)
- "S.A.L.T. Select Developments: North Carolina" (March 2024)
- "S.A.L.T. Select Developments: South Carolina" (March 2024)
- "Potential Tax Refunds Resulting from Constitutional Issue with Franchise Tax" (March 2024)
- "Summaries Released of Select Informal Conference Decisions" (February 2024)
- "S.A.L.T. Select Developments: Tennessee" (February 2024)
- "S.A.L.T. Select Developments: North Carolina" (February 2024)
- "S.A.L.T. Select Developments: South Carolina" (February 2024)
- "Legislation Filed Addressing Potential Constitutional Issue with Franchise Tax" (January 2024)
- "Legislation To Be Filed Addressing Potential Constitutional Issue with Franchise Tax" (January 2024)
- "S.A.L.T. Select Developments: Tennessee" (January 2024)
- "S.A.L.T. Select Developments: North Carolina" (January 2024)
- "S.A.L.T. Select Developments: South Carolina" (January 2024)
- "S.A.L.T. Select Developments: Tennessee" (November 2023)
- "S.A.L.T. Select Developments: North Carolina" (November 2023)
- "S.A.L.T. Select Developments: South Carolina" (November 2023)
- "S.A.L.T. Select Developments: Tennessee" (October 2023)
- "S.A.L.T. Select Developments: North Carolina" (October 2023)
- "S.A.L.T. Select Developments: South Carolina" (October 2023)
- "S.A.L.T. Select Developments: Tennessee" (September 2023)
- "S.A.L.T. Select Developments: North Carolina" (September 2023)
- "S.A.L.T. Select Developments: South Carolina" (September 2023)
- "ACA Affordability Test Will Be More Difficult to Pass in 2024," republished October 3, 2023, in *Westlaw Today* (September 2023)
- "IRS Issues Catch-Up Contribution Transition Relief" (September 2023)
- "S.A.L.T. Select Developments: Tennessee" (August 2023)
- "S.A.L.T. Select Developments: North Carolina" (August 2023)
- "S.A.L.T. Select Developments: South Carolina" (August 2023)
- "S.A.L.T. Select Developments: Tennessee" (July 2023)
- "S.A.L.T. Select Developments: North Carolina" (July 2023)
- "S.A.L.T. Select Developments: South Carolina" (July 2023)

- "Low-Income Community and Energy Community Bonus Tax Credits for Clean Energy Projects," republished August 1, 2023, in *Corporate Compliance Insights* (July 2023)
- "S.A.L.T. Select Developments: Tennessee" (June 2023)
- "S.A.L.T. Select Developments: North Carolina" (June 2023)
- "Treasury Provides Key Guidance for Monetizing Clean Energy Tax Credits" (June 2023)
- "S.A.L.T. Select Developments: South Carolina" (June 2023)
- "S.A.L.T. Select Developments: Tennessee" (May 2023)
- "S.A.L.T. Select Developments: North Carolina" (May 2023)
- "S.A.L.T. Select Developments: South Carolina" (May 2023)
- "Tennessee Works Tax Act: Senate Bill No. 275/House Bill No. 323" (May 2023)
- "S.A.L.T. Select Developments: Tennessee" (April 2023)
- "S.A.L.T. Select Developments: North Carolina" (April 2023)
- "S.A.L.T. Select Developments: South Carolina" (April 2023)
- "Spotlight on Tennessee: Summaries Released of Select Informal Conference Decisions" (April 2023)
- "Spotlight on Alabama: Recent Tax Tribunal Decision Should Be of Interest to Employers Using Remote Workers" (March 2023)
- "S.A.L.T. Select Developments: Tennessee" (March 2023)
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- "S.A.L.T. Select Developments: South Carolina" (January 2022)
- "S.A.L.T. Select Developments: North Carolina" (January 2022)
- "Personal Tax Planning Just As Important As Ever" (November 2021)
- "S.A.L.T. Select Developments: Tennessee" (October 2021)
- "S.A.L.T. Select Developments: North Carolina" (October 2021)
- "S.A.L.T. Select Developments: South Carolina" (October 2021)
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- "S.A.L.T. Select Developments: Tennessee" (June 2021)
- "S.A.L.T. Select Developments: South Carolina" (June 2021)
- "S.A.L.T. Select Developments: Tennessee" (May 2021)
- "S.A.L.T. Select Developments: South Carolina" (May 2021)
- "Creative Approaches to the Employee Retention Credit" (May 2021)
- "S.A.L.T. Select Developments: Tennessee" (April 2021)
- "S.A.L.T. Select Developments: South Carolina" (April 2021)
- "PPP Recipients May Qualify For Expanded Employee Retention Credit" (March 25, 2021)
- "S.A.L.T. Select Developments: Maryland" (March 2021)
- "S.A.L.T. Select Developments: Tennessee" (March 2021)
- "S.A.L.T. Select Developments: Tennessee" (February 2021)
- "S.A.L.T. Select Developments: South Carolina" (February 2021)
- "S.A.L.T. Select Developments: Tennessee" (January 2021)
- "S.A.L.T. Select Developments: South Carolina" (January 2021)
- "Chambers of Commerce and Trade Associations Become Eligible for PPP Loans, With Certain Conditions" (January 2021)
- "S.A.L.T. Select Developments: Tennessee" (December 2020)
- "S.A.L.T. Select Developments: South Carolina" (December 2020)
- "S.A.L.T. Select Developments: Tennessee" (November 2020)
- "S.A.L.T. Select Developments: South Carolina" (November 2020)
- "S.A.L.T. Select Developments: Federal" (November 2020)
- "S.A.L.T. Select Developments: Tennessee" (October 2020)
- "S.A.L.T. Select Developments: South Carolina" (October 2020)
- "S.A.L.T. Select Developments – Tax Payment and Return Filing Responsibilities: Tennessee (Supplement #10)" (September 2020)
- "S.A.L.T. Select Developments – Tax Payment and Return Filing Responsibilities: South Carolina (Supplement #10)" (September 2020)
- "Executive Order "Deferring" Taxes: Notice 2020-65 Postures Guidance," republished October 8, 2020, in *Corporate Compliance Insights* (September 2020)
- "S.A.L.T. Select Developments – Tax Payment and Return Filing Responsibilities: Tennessee (Supplement #9)" (August 2020)
- "S.A.L.T. Select Developments – Tax Payment and Return Filing Responsibilities: South Carolina (Supplement #9)" (August 2020)
- "Executive Order "Deferring" Taxes: What Are The Employer's Options?" (August 2020)
- "S.A.L.T. Select Developments – Tax Payment and Return Filing Responsibilities: Tennessee (Supplement #8)" (July 2020)
- "S.A.L.T. Select Developments – Tax Payment and Return Filing Responsibilities: South Carolina (Supplement #8)" (July 2020)

- "INSIGHT: Navigating Covid-19 Relief Loans, Employer Tax Deferral, and Tax Credits," *Bloomberg Law: Tax* (July 9, 2020)
- "S.A.L.T. Select Developments – Tax Payment and Return Filing Responsibilities: Tennessee (Supplement #7)" (June 2020)
- "S.A.L.T. Select Developments – Tax Payment and Return Filing Responsibilities: South Carolina (Supplement #7)" (June 2020)
- "Navigating PPP, Employer Tax Deferral, and Tax Credits Under the FFCRA and CARES Act" (June 17, 2020)
- "S.A.L.T. Select Developments – Tax Payment and Return Filing Responsibilities: Tennessee (Supplement #6)" (June 2020)
- "Spotlight on Tennessee: Governor Announces Relief Payments to Small Business" (June 3, 2020)
- "S.A.L.T. Select Developments – Tax Payment and Return Filing Responsibilities: South Carolina (Supplement #6)" (June 2020)
- "S.A.L.T. Select Developments – Tax Payment and Return Filing Responsibilities: Tennessee (Supplement #5)" (May 2020)
- "Spotlight on Tennessee: Governor Signs Marketplace Facilitators Sales Tax Law, Effective October 1, 2020" (April 2020)
- "S.A.L.T. Select Developments – Tax Payment and Return Filing Responsibilities: Tennessee (Supplement #4)" (April 2020)
- "S.A.L.T. Select Developments – Tax Payment and Return Filing Responsibilities: South Carolina (Supplement #4)" (April 2020)
- "S.A.L.T. Select Developments – Tax Payment and Return Filing Responsibilities: Tennessee (Supplement #3)" (April 2020)
- "S.A.L.T. Select Developments – Tax Payment and Return Filing Responsibilities: Tennessee (Supplement #2)" (March 2020)
- "S.A.L.T. Select Developments – Tax Payment and Return Filing Responsibilities: Tennessee (Supplement #1)" (March 2020)
- "S.A.L.T. Select Developments – Tax Payment and Return Filing Responsibilities: South Carolina (Supplement #1)" (March 2020)
- "S.A.L.T. Select Developments – Tax Payment and Return Filing Responsibilities: Tennessee" (March 2020)
- "S.A.L.T. Select Developments – Tax Payment and Return Filing Responsibilities: South Carolina" (March 2020)
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- "S.A.L.T. Select Developments: Tennessee" (September 2019)
- "S.A.L.T. Select Developments: South Carolina" (September 2019)
- "2019 Tax Legislation and Related Developments," *Tennessee Chamber of Commerce & Industry Business Insider* (Summer/Fall 2019)
- "S.A.L.T. Select Developments: Tennessee" (August 2019)
- "S.A.L.T. Select Developments: Tennessee" (July 2019)
- "S.A.L.T. Select Developments: Tennessee" (June 2019)
- "S.A.L.T. Select Developments: South Carolina" (June 2019)

- "2018 Tax Legislation and Related Developments," *Tennessee Chamber of Commerce & Industry Business Insider* (August 2018)
- "Business Tax Update: IMPROVE Act Signed by Governor," *Tennessee Chamber of Commerce & Industry Business Insider* (Summer 2017)
- "2016 Tax and Related Legislation," *Tennessee Chamber of Commerce & Industry Business Insider* (Summer, 2016)
- "2015 Tax and Related Legislation," *Tennessee Chamber of Commerce & Industry Business Insider* (Summer 2015)
- "2014 Tax and Related Legislation," *Tennessee Chamber of Commerce & Industry Business Insider* (Summer 2014)
- "2013 Tax and Related Legislation," *Tennessee Chamber of Commerce & Industry Business Insider* (Summer 2013)



Speaking Engagements

- "Tennessee Chamber of Commerce Business Tax Workshop" (September 2023)
- "Tennessee Chamber of Commerce Business Tax Workshop" (September 2022)
- "Tax Incentives for Manufacturers," 2021 Tennessee Manufacturing Road Show, Tennessee Manufacturers Association (October 5, 2021)
- "Tennessee Chamber's Tennessee Tax Conference" (2021)
- "Tennessee Chamber Business Tax Workshop" (September 2019)
- "State/Local Tax Update - Wayfair," Second Annual Manufacturers Forum (May 2019)
- "Tennessee Chamber Business Tax Workshop" (September 2018)
- "Appeals Procedures Update," Council on State Taxation (COST) Southeast Regional State Tax Seminar, Memphis, Tennessee (November 2017)
- Moderator – "State Tax Policy Update – Including State Tax Implications of Federal Tax Reform," Council on State Taxation (COST) Southeast Regional State Tax Seminar, Memphis, Tennessee (November 2017)
- Annual Moderator – Tennessee Chamber of Commerce & Industry State Tax Annual Conference, Nashville, Tennessee (1995 – 2017)
- "Tennessee's New Single Sales Factor for Manufacturers," Tennessee Manufacturers Association Roadshow, Chattanooga, Tennessee (August 2017)
- "Tennessee Chamber Business Tax Workshop" (August 2016)
- "Discussion of State Tax Appeals Procedures," Council On State Taxation (COST), Southeast Regional Meeting (March 2015)



Webinars

- COVID-19 Legislation, Regulation, and Remote Workers – The Rapidly Evolving State Tax and Human Resource Requirements for a Business (March 2021)



Legislative Testimony

Presentations and/or testimony before committees of the Tennessee Legislature regarding various tax issues, including:

- Testimony in 2019 on Tennessee business related taxes before the Senate Business Tax Study Working Group.
- Testimony in 2018 regarding need to decouple from certain Federal Tax Reform provisions, which assisted in the enactment of legislation decoupling from both limited interest deductions and unfavorable treatment of economic development type grants.

- Successful presentations to legislative leadership assisting in the ultimate 2017 enactment of single sales factor apportionment formula for manufacturers.
- Successful presentations to legislative leadership assisting in the ultimate enactment effective in 2016 of triple weighting of the receipts factor for apportionment purposes.
- Successful presentations to legislative leadership and administration representatives so as to prevent enactment of a bill in 2014 that would have eliminated a useful sales/use tax credit for businesses.
- Testimony regarding numerous sales and use tax issues involving various industries.
- Testimony regarding procedures for contesting taxes administered and collected by the Tennessee Department of Revenue.
- Testimony regarding various property (real, tangible and intangible) tax issues.



Education

- University of Tennessee College of Law, J.D., 1973
- University of Tennessee, B.S., 1970



Admissions

- Tennessee, 1973
- Georgia, 1979
- U.S. Tax Court, 1976
- U.S. District Court, Eastern District of Tennessee, 1974
- U.S. Court of Appeals for the Sixth Circuit, 1987
- U.S. Supreme Court, 1984