

# State and Local Tax Bulletin

October 1, 2010  
Alabama Edition



## Tax Representatives Beware of Offering Estimates of Value During Property Tax Hearings

By Christopher R. Grissom & William T. Thistle

### Upcoming Seminars Involving Members Of Our SALT Practice Group

#### October 20 – 22, 2010

The Council On State Taxation (COST) is holding its 41st Annual Meeting, in Phoenix, Arizona. Bruce Ely will be co-speaking on the topic of *Combined Federal/State Attacks on Companies' Alleged Misclassification of Workers as Independent Contractors versus Employees*. For more information, visit COST's website: [www.cost.org](http://www.cost.org).

#### November 5, 2010

Lorman Education Services is hosting its annual Alabama Sales and Use Tax seminar in Birmingham, at the Sheraton Birmingham Hotel downtown. The moderator of the seminar will be Bruce Ely, with other members of the SALT Practice Group, Chris Grissom, Jimmy Long and Will Thistle, speaking as well. John Paradise of the Alabama Department of Revenue will be the luncheon speaker. Visit [www.lorman.com](http://www.lorman.com) for more information.

#### November 9-11, 2010

The 17th annual Paul J. Hartman SALT Forum will be held at the Loews Vanderbilt Hotel in Nashville, Tennessee. Hartman Advisory Board member Chris Grissom will be co-speaking on *Expense Add-backs and Exceptions*. Bruce Ely will be co-speaking on *the Use of State Administrative Procedure Acts to Challenge Faulty Assessments* as well as presenting the Alabama recent developments portion of the always popular Southeast Roundtable. Visit [www.hartmansaltforum.org](http://www.hartmansaltforum.org) to learn more about the Forum.

A recent Opinion of the Alabama Attorney General has brought much attention to a common practice – tax representatives offering estimates of value during Board of Equalization hearings on property tax assessments. The opinion concludes that tax representatives, who are not licensed by the Alabama Real Estate Appraisers Board, should be aware that providing an estimate of the value of property at an ad valorem tax assessment hearing may cause them to face *criminal* charges. See Opinion of the Alabama Attorney General No. 2010-094 (Aug. 18, 2010).

Under Alabama law, a taxpayer who disagrees with the assessed value of his property may protest the value set by the county tax assessor by filing a written objection with the county Board of Equalization. Although hearing procedures vary by county, hearings on these protests generally provide taxpayers with an opportunity to present evidence to the Board on the contested value.

Alabama law expressly permits a taxpayer to appear by “agent or attorney.” Ala. Code § 40-3-19. Many taxpayers, particularly those owning commercial property, often do not appear personally but rather engage the services of a CPA, lawyer, or consultant to protest the assessed value on their behalf. While some of these taxpayer representatives are licensed Alabama appraisers, many are not.

Although tax representatives may appear on a taxpayer's behalf, Alabama law prohibits giving an appraisal without being licensed by the Alabama Real Estate Appraisers Board. Violation of this section is a Class A misdemeanor. An appraisal is loosely defined as an “opinion of value.” In 1999, the Alabama Real Estate Appraisers Board ruled that “it is unlawful for an individual that is not a licensed real estate appraiser in the State of Alabama to serve as a tax representative if their duties in the ad valorem tax hearing include giving a value estimate of the property in question.” That ruling received little attention, however, and representatives have continued to represent taxpayers in hearings before county Boards of Equalization, often providing opinions as to the subject property's fair market value.

This new Attorney General Opinion has garnered widespread attention. Indeed, the authors are aware of at least one instance where a representative was threatened with sanctions when he appeared on a taxpayer's behalf at a preliminary meeting. The authors believe that attorneys, CPAs, and other representatives, who are not licensed by the Alabama Real Estate Appraisers Board, may continue to represent taxpayers contesting a proposed assessment. But if they are not licensed, they should be careful to simply present evidence (e.g., certified appraisals and comparable sales) contradicting the assessed value, rather than opining as to a certain value. For that reason, it may be advisable to enlist an appraiser to testify at the hearing as an “expert” witness and to respond to any evidence presented by the tax assessor.

Bradley Arant's tax litigation practice team handles ad valorem tax protests throughout the state for clients, involving a wide variety of real and personal property. If you would like further information on the appeals process for commercial properties, please call Wendell Allen (205-521-8282), Chris Grissom (205-521-8514), or Will Thistle (205-521-8985).

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## Recent SALT Practice Group Honors

Hyundai Heavy Industries recently broke ground on its new \$90 million commercial transformer manufacturing facility in Montgomery, Alabama. The project is expected to create 500 high-paying jobs and we believe it will become a strong economic driver for both the region and the state.

This is Hyundai Heavy Industries' first U.S. manufacturing facility. The company chose Alabama after a 10-month competition. During this time, members of our SALT team and Economic Development Practice Team, led by Chris Grissom and Dottie Pak, were privileged to represent the company in its negotiations regarding tax incentives, as well as issues involving real estate, construction, labor and employment, state and local taxes and general corporate matters.

## U.S. News & World Report Ranking

Bradley Arant Boulton Cummings LLP has received the fourth highest number of top-tier rankings in the country in the inaugural U.S. News & World Report – Best Lawyers list of top U.S. law firms. As it has done for many years for hospitals and colleges, this year U.S. News, working with the attorney ranking company Best Lawyers in America, ranked U.S. law firms based on a number of criteria, including client satisfaction. We are pleased to note that each member of our SALT Practice Group who is a partner in the firm was also included in Best Lawyers in America this year, and in many cases has been included for many years prior as well.



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