



## Kay Linn Miller Hobart

Partner

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t 919.835.4597



Kay Miller Hobart has more than 20 years of experience in state tax controversy matters and tax litigation at all levels of state and federal court. As the former lead tax counsel for the State of North Carolina, she has litigated numerous high profile, complex multimillion-dollar cases before the North Carolina Business Court, Court of Appeals and Supreme Court, including the landmark decisions in *A&F Trademark v. Tolson* and *Wal-Mart Stores East v. Hinton*.

Kay has served as North Carolina correspondent for *State Tax Notes* since 2000 and is currently a regular columnist for the publication. She has been asked to serve on various commissions to modernize and reform North Carolina's tax system, including the Governor's Commission to Modernize State Finances and former Governor Jim Hunt's Institute for Emerging Issues Financing the Future task force. She is a frequent speaker at national seminars on state and local taxation, including Georgetown University Law Center's Advanced State and Local Tax Institute and Vanderbilt University Law School's Paul J. Hartman State and Local Tax Forum.

Prior to joining Parker Poe, she served as special deputy attorney general for the North Carolina Department of Justice, leading the team of attorneys representing the state's Department of Revenue. In that role, she gained extensive experience with all major tax schedules and the operations and practices of the North Carolina Department of Revenue. She has participated in the development and drafting of the state's tax legislation and advised the Revenue Secretary and high-level state officials on matters of tax law and policy. She is admitted to practice in the United States Supreme Court.

### REPRESENTATIVE EXPERIENCE

- Served as lead counsel in *A&F Trademark, Inc. v. Tolson*, a landmark decision that established the standards governing nexus in North Carolina and enabled the state to collect approximately \$300 million in previously unpaid corporate taxes. At the conclusion of this case, the *Raleigh News & Observer* honored her work by naming her its "Tar Heel of the Week."
- Served as lead counsel in *Wal-Mart Stores East v. Hinton and Delhaize America, Inc. v. Lay*, which determined the parameters of the Revenue



### RALEIGH OFFICE



### PRACTICE AREAS

- Tax
- State & Local Tax
- Business Law
- Government & Public Policy
- Economic Development
- Tax Credits & Incentives
- Tax Controversy & Litigation
- Fintech
- Opportunity Zones



### EDUCATION

- University of Florida  
LLM, Taxation, 1990
- University of North Carolina  
at Chapel Hill  
JD, 1989
- Pennsylvania State  
University  
BA, 1984



### ADMISSIONS

- North Carolina, 1989



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Secretary's ability to equitably adjust a taxpayer's filing methodology to require combination.

- Served as sole counsel in the series of cases beginning with *Polaroid Corp. v. Offerman* that established the definition of business income for North Carolina corporate income tax purposes.
- *Coley v. State* – Successfully defended against a \$62 million potential class action challenging a mid-year individual income tax increase as an unconstitutional retrospective tax under the North Carolina Constitution.
- *Deadwood, Inc. v. N.C. Dep't of Revenue* – Successfully defended the differential classification of entertainment for privilege tax purposes against claim that it violated the uniformity provisions of the North Carolina Constitution.
- *DirecTV, Inc. v. State* – Successfully defended a \$72 million sales tax case against a challenge that the legislative system for taxing cable and satellite television violated the Commerce Clause of the United States Constitution.
- *Philip Morris USA v. Tolson* – Successfully represented the state in a \$30 million corporate income tax case involving an alternative apportionment formula.
- *Navistar Financial Corp. v. Tolson* – Successfully defended the interpretation and application of the privilege tax against claims it violated the Due Process and Commerce Clauses of the United States Constitution.
- *Central Telephone I and II* – Successfully defended a \$9 million corporate income tax case against claims that dismissal of taxpayer's petitions for review violated the Due Process Clause.
- *Morton Buildings, Inc. v. Tolson* – Successfully defended the interpretation of the use tax as applying to building materials purchased outside the state and used in North Carolina.
- *Proposed Assessments of Additional Sales and Use Tax v. Jefferson-Pilot Insurance Co.* – Successfully defended against claim that insurance companies who paid gross premiums tax were exempt from local use tax.



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- *American Woodland Industries, Inc. v. Tolson* – Successfully defended against a potential class action challenging the excise tax on timber deeds.
- *BellSouth Telecommunications, Inc. v. N.C. Dep't of Revenue* – Successfully defended case involving a corporation's ability to carryover net economic losses following a merger.

### CLIENT ALERTS

- "S.C. Avoids Accounting Nightmare for 2018 Tax Returns and Expands Tax Credits for Economic Development," October 2018
- "U.S. Supreme Court Issues Landmark Opinion in Sales Tax Case That Eliminates Physical Presence Rule," June 2018
- "North Carolina Supreme Court Rules Tax on Trust Unconstitutional," June 2018
- "Supreme Court Hears Case that May Fundamentally Change the Rules – Are You Ready for Potential Sales Tax Turmoil?", April 2018
- "Maryland Tax Court Rules Limit on Deduction of Federal Bond Interest Unconstitutional," September 2016
- "Business Incentive Changes in Recent North Carolina Legislation," October 2015
- "Critical Deadline Approaches for Safe Harbor Application, Questions Remain," September 2015
- "Corporate Tax Changes in North Carolina Budget Bill," September 2015
- "North Carolina Business Court Rules Tax on Trust Unconstitutional," May 2015
- "\$400 Million Surplus Could Trigger Corporate Tax Rate Reduction," May 2015
- "Court Hears Arguments in Litigation Challenging the Constitutionality of North Carolina's Taxation of Trusts," March 2015
- "Parker Poe's SALT Team Analyzes Multistate Tax Compact Litigation in State Tax Notes," February 2015



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- "State Tax Implications of Fourth Circuit Court of Appeals Decision Rejecting Virginia's Same-Sex Marriage Ban," July 2014

### PUBLICATIONS

- "North Carolina Audits of Tax Credits Cause Broad Concern," Bloomberg Tax, April 2019
- "Life After Wayfair: What Now?", North Carolina Association of CPAs, March 2019
- "Uncertainty Looms Over South Carolina Bank Tax," Bloomberg Tax, January 2019
- "Kay Hobart Pens Article "Note to Self" in State Tax Notes," November 2015
- "Comity and Quill: Has the Day of Reckoning Arrived?", May 2015
- "The Broader Implications of Gillette: Razor or Bludgeon," February 2015
- "Does Maryland Have Another Kraft Problem?", September 2014

### SPEAKING ENGAGEMENTS

- "Understanding Sales and Use Tax," National Business Institute, December 2018
- "Implications of Wayfair: Sales Taxes and Beyond," Parker Poe Tax Forum, September 2018
- "Deep Dive Into Federal Tax Reform," Parker Poe Tax Forum, February 2018
- "North Carolina's Voluntary Compliance Program," Annual Meeting of the Southeastern Association of Tax Administrators, January 2005
- "A Non-Confrontational Colloquy between Taxpayers and Select State Tax General Counsel
- "Life Beyond Delaware Holding Companies: Other Income Tax Issues



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- "North Carolina Tax Litigation Update: A View from the Inside"
- "North Carolina Tax Update: The New Tax Appeal Procedures"
- "Settlement Alternatives: The North Carolina Experience"
- "State Taxation of Franchise Royalties: Recent Litigation – The Inside Story"
- "Tax Planning: A State's Perspective"
- "What's New in the State Corporate Tax World?", What's New in the State Corporate Tax World?"

### HONORS

- Woodward/White's *The Best Lawyers in America* in Tax Law, 2019
- Raleigh News & Observer's Tar Heel of the Week, 2005
- Governor's Award for Excellence and Outstanding State Government Service, 2005

### MEMBERSHIPS

- Governor's Commission to Modernize State Finances
- Institute for Emerging Issues: Financing the Future Task Force