



## FRANK CROCIATA

Shareholder

Gallagher & Kennedy  
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### My Practice

TAX LAW - State & Local Tax Planning, Controversy & Litigation

GOVERNMENT AFFAIRS

NATIVE AMERICAN LAW

## PROFESSIONAL SUMMARY

Frank practices tax law, government affairs law, and Native American law. His practice focuses primarily on state and local tax law, including the constitutional limitations on state taxation, corporate income and business activity taxes, sales taxes, property taxes and other excise taxes, such as state and federal motor fuel taxes. His experience includes litigating tax protests and appeals before administrative agencies and courts in Arizona and New Mexico, as well as before the Internal Revenue Service, and advising clients on the state and local implications of business activities, structures, and transactions. Frank also serves as a lobbyist for clients on state and local issues, including drafting legislation, testifying before legislative committees and developing advocacy strategies for clients and industry groups.

Before joining Gallagher & Kennedy, Frank served as Tax Policy Director for the New Mexico Taxation & Revenue Department (TRD), where he was responsible for overseeing the agency's legislative agenda, bill drafting, private letter rulings, regulations, bulletins, and tax research and statistical analysis and for collaborating with the Governor and the New Mexico Legislature on issues of tax policy, legislation, and tax reform. He was appointed to this position by Governor Martinez less than one year after joining the TRD's Legal Services Bureau.

Prior to joining the legal profession, Frank had a decade-long career doing non-profit, social service work on Indian Reservations throughout the American West. Frank lives in Santa Fe and enjoys cycling, music, and outdoor activities.

## REPRESENTATIVE EXPERIENCE

### Private Sector

- Co-represented a client on an Arizona Department of Revenue corporate income tax assessment that exceeded \$30 million dollars and that involved constitutional claims and sales factor calculation issues. The matter successfully settled.
- Co-represented a large homebuilder before Arizona courts on a corporate income tax assessment that involved sales factor issues.
- Co-represented a natural gas transmission company on Arizona sales tax refund claim litigation and successfully settled the matter.
- Drafted and submitted a private letter ruling request to the Internal Revenue Service regarding motor fuel taxes.
- Assisted in advising a large transportation company on the state sales tax implications of acquiring a target company with mobile assets located throughout the United States at the time the transaction closed.
- Advised a multi-state taxpayer on sales tax nexus issues derived from cross-marketing activities and having affiliated bricks and

mortar stores located in multiple states.

- Represented clients before the Arizona Departments of Insurance and Transportation with respect to premium tax and motor fuel tax assessments.
- Assisted in representing rent-restricted apartment complexes before Arizona state courts with respect to property tax valuations.

## **Government**

- Represented the New Mexico Taxation & Revenue Department on, and successfully settled, corporate income tax assessments that exceeded \$30 million and involved commerce clause issues, business versus non-business income issues, unitary issues, and formulary apportionment issues.
- Successfully represented the New Mexico Taxation & Revenue Department on a \$450,000 gross receipts (sales) tax assessment involving out-of-state vendors, Indian law issues, and several statutory deductions.
- Drafted corporate income and tax administration act legislation that passed the 53<sup>rd</sup> Legislature and were signed by the Governor, including shepherding the bills through committees, testifying before Legislative committees, and serving as an expert witness on the New Mexico House and Senate floors.

## **EDUCATION**

University of Colorado, Boulder  
J.D., 2005  
Associate Editor, Law Review  
Order of the Coif

Duke University  
B.A., 1987

## **BAR & COURT ADMISSIONS**

- Arizona, 2005
- New Mexico, 2015
- U.S. District Court, District of Arizona, 2006

## **HONORS & AWARDS**

- *Best Lawyers in America*®, Tax Law , 2022
- *Southwest Super Lawyers*®, Rising Stars Edition: Tax Law, 2014
- Extern, United States Attorney's Office, District of Colorado, 2003-2004

## **PUBLISHED WORKS**

- Co-author, New Section 199 Domestic Production Deduction and How it Applies to the Construction and Real Estate Development Industry, Real Estate Finance Journal (2007).

## **SPEAKING ENGAGEMENTS**

- Taxation of Nonprofits and the Health Care Industry in New Mexico, before the New Mexico Legislature, Revenue Stabilization & Tax Policy Committee (July 26, 2018).
- New Mexico Taxation & Revenue Department Update, New Mexico Tax Research Institute (Apr. 27, 2017).
- 2016 New Mexico Tax Expenditure Report, before the New Mexico Legislature, House Taxation & Revenue Committee (2017 Regular Session).
- Nontaxable Transaction Certificates (NTTCs): Allowing Evidence Other than an NTTC to Prove that Proceeds from a Transaction are Deductible from Gross Receipts, before the New Mexico Legislature, Revenue Stabilization & Tax Policy Committee (Dec. 15, 2016).
- Panelist, Overview of the [New Mexico] Income Tax Act and the Corporate Income and Franchise Tax Act, before the New Mexico Legislature, Revenue Stabilization & Tax Policy Committee (Nov. 28, 2016).
- State and Local Tax Update, New Mexico State Bar, 2016 Tax Symposium (Sep. 23, 2016).
- Panelist, The Gross Receipts Tax: Overview, Administrative Issues and Suggestions for Improvement, before the New Mexico Legislature, Revenue Stabilization & Tax Policy Committee (Sep. 14, 2016).
- Constitutional Constraints on Tax Policy and What States Are Doing to Tax Internet Sales, before the New Mexico Legislature,

- Revenue Stabilization & Tax Policy Committee (Jul. 21, 2016).
- Panelist, Tax Audits of Attorney Files – What Keeping Client Confidences Could Cost You: Ethical and Practical Issues, American Bar Association, Annual Meeting (May 2016).
  - Panelist, Local Option Gross Receipts Tax Distribution Adjustments – Status After the New Mexico Supreme Court’s Action in *City of Eunice v. New Mexico Taxation & Revenue Department* (Oct. 13, 2015).
  - 2015 New Mexico Tax Expenditure Report, before the New Mexico Legislature, Revenue Stabilization & Tax Policy Committee (Jul. 23, 2015).
  - Constitutional Limits on State Taxation, before the New Mexico Legislature, House Ways & Means Committee (2015 Regular Session).

## REPRESENTATIVE CASES

- *CCI Europe, Inc. v. Ariz. Dep’t of Revenue*, 2013 WL 12244464 (Ariz. Tax) (Apr. 19, 2013) (Co-counsel).
- *Native Environmental LLC v. Ariz. Dep’t of Revenue*, 2011 WL 9374099 (Ariz. Bd. Tax. App.) (May 24, 2011).