



Thomas W. Simcoe

Member

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Profile

Recognized by *Best Lawyers in America 2022* and as a previous *Super Lawyers Rising Star*, Tom is an experienced attorney who helps nonprofits navigate the vast array legal and tax issues that they encounter every day.

Representative nonprofit engagements include: providing counsel for the formation of new organizations and obtaining/maintaining tax exempt status from the Internal Revenue Service and the New York State Department of Taxation and Finance; obtaining reinstatement of exempt status for organizations that have had their exempt status revoked; creating multiple entity structures with both tax exempt and taxable constituent entities; and advising on mergers and dissolutions. Tom has represented many organizations before the Charities Bureau of the Attorney General of New York State in connection with the foregoing. He also advises nonprofit clients on compliance matters such as the treatment of unrelated business taxable income, exempt financing requirements, intermediate sanctions, and matters related to private foundation/public charity status.

Examples of organizations represented include charities of all sizes and purposes, higher and lower educational institutions, federal credit unions, archives, medical and scientific research organizations, think tanks, national and regional business leagues, social clubs and government instrumentalities. Tom has represented nonprofit organizations in IRS audits, federal and state voluntary tax disclosure processes, and in obtaining private letter rulings and advisory opinions from the IRS and the New York State Department of Taxation and Finance (DTF).

Tom also provides counsel to business clients on a broad range of federal and state tax matters, including choice of entity, mergers and acquisitions, and liquidations, and on issues associated with cost recovery and tax credit programs. He represents individuals and businesses in contested tax matters against the IRS and New York State DTF, including federal and state income tax audits, New York sales and compensating use tax audits, New York State residency audits, worker classification (employee/independent contractor) audits, and representation of clients in the New York Voluntary Disclosure Program and the federal Offshore Voluntary Disclosure Program.

Additionally, Tom provides counsel regarding public finance transactions, including as bond counsel to municipalities, school districts and public agencies. He represents borrowers in tax-exempt financing transactions and serves as bond underwriters' counsel.

Education

- New York University School of Law (L.L.M. in Taxation 2011)
- Albany Law School (J.D., *magna cum laude*, 2005)
- State University of New York at Albany (B.A., *summa cum laude*, 2001)

Bar/Court Admissions

- New York
- U.S. Tax Court

Practices

- Exempt Organizations
- Trust and Estate
- Tax Law
- Business and Transactions
- Financial Institutions Regulatory
- Higher Education

Honors & Affiliations

- Listed in:
 - *The Best Lawyers in America*®, Trust and Estates, 2019-2023
 - *New York Super Lawyers*®, Upstate New York Rising Star, Estate and Probate, 2015-2016
- American Bar Association
- New York State Bar Association
- Albany County Bar Association

Representative Presentations

- ALA Masters Series: Legal/HR Matters Impacting Associations, Empire State Society of Association Executives, March 12, 2021
- Hot Topics in the Law of Giving: Wayfair and the Brave New World of Online Fundraising, Association of Fundraising Professionals, Central New York Chapter, May 20, 2019
- Associations and the Law: Tips, Tricks, and Hacks, Empire State Society of Association Executives, April 12, 2019
- Economic Incentives for Manufacturers, Bond, Schoeneck & King Webinar, February 21, 2019
- Understanding the Memo of Understanding, SUNY Community College Foundation Chief Advancement Officers Retreat, January 17, 2019
- Interviewed in Changes to Online Retail Sales Tax - Look at Law, Look TV, July 11, 2018
- Protecting Your Tax Exempt Status in Changing Times, LeadingAge NY 2018 Annual Meeting, May 24, 2018
- Don't Let Tax Changes Torpedo Charitable Giving: Learn how at Oishei Bond Seminar, March 14, 2018
- The Law of Giving: Hot Topics in Philanthropy 2018, SUNY Community College Chief Advancement Officer Retreat, January 12, 2018
- Protecting Your Exempt Status in Changing Times and Board Bootcamp, ESSAE 2017 Conference & Trade Show, June 1, 2017
- Bootcamp for Board Members, Adirondack Nonprofit Business Council and the Adirondack Regional Chamber of Commerce, May 16, 2017
- Board Bootcamp: Basic Training for Nonprofit Professionals and Board Members, Tech Valley Nonprofit Business Council, March 21, 2017

Other Activities

- Past Board Member and Chair of Governance and Personnel Committees, Albany Collegiate Inter-Faith Center
- Past Board Member, Assisi in Albany, Inc., Albany, New York
- Past Chair, Provisional Board of the St. John's/St. Ann's Outreach Center, Albany New York