

# HAYES R. HOLDERNESS

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## ACADEMIC APPOINTMENTS

University of Richmond School of Law, Richmond, VA  
[Assistant Professor of Law, Aug. 2017 – present](#)

University of Illinois College of Law, Champaign, IL  
*Visiting Assistant Professor of Law, Aug. 2015 – Aug. 2017*

## ARTICLES AND WORKS-IN-PROGRESS

- *Navigating 21<sup>st</sup> Century Tax Jurisdiction*, 79 MD. L. REV. \_\_\_ (forthcoming 2019) [[SSRN](#)]
- *Questioning Quill*, 37 VA. TAX REV. 313 (2018) [[SSRN](#)]
- *The Unexpected Role of Tax Salience in State Competition for Businesses*, 84 U. CHI. L. REV. 1091 (2017) [[SSRN](#)]
- *Taking Tax Due Process Seriously: The Give and Take of State Taxation*, 20 FLA. TAX REV. 371 (2017) [[SSRN](#)]
- *Revenue Departments' Cloudy Minds Lead to Wrong Answers* (revised), in RICHARD D. POMP, STATE AND LOCAL TAXATION, originally in NEW YORK UNIVERSITY INSTITUTE ON STATE AND LOCAL TAXATION—2013 (Matthew Bender & Co., Inc., pub.), at 6-1 (2013)
- *Taxing Privacy*, 21 GEO. J. ON POVERTY L. & POL'Y 1 (2013) [[SSRN](#)]
- Note, *Price Includes Tax: Protecting Consumers from Tax-Exclusive Pricing*, 66 N.Y.U. ANN. SURV. AM. L. 783 (2011) [[SSRN](#)]

## ESSAYS AND OTHER PUBLICATIONS

- *Wayfair's Warning for Inappropriate Tax Planning*, \_\_\_ ST. TAX NOTES \_\_\_ (forthcoming May 6, 2019) (with Sherfón Coles-Williams)
- Review of W. Edward Afield, *Social Justice and the Low-Income Taxpayer*, [TaxProf Blog](#) (Apr. 12, 2019)
- Review of Ari Glogower, *A Constitutional Wealth Tax*, [TaxProf Blog](#) (Feb. 22, 2019)
- Review of Rifat Azam & Orly Mazur, *Cloudy with a Chance of Taxation*, [TaxProf Blog](#) (Dec. 28, 2018)
- Contributor, [American Bar Association Tax Section State and Local Tax Committee Report on State and Local Taxes Implications of the Federal Tax Cuts and Jobs Act of 2017](#) (2018)
- Review of Jeffery H. Kahn, *GoTaxMe: Crowdfunding and Gifts*, [TaxProf Blog](#) (Nov. 9, 2018)
- Review of Edward A. Zelinsky, *Dormant Commerce Clause Lessons From Wayfair And Wynne*, [TaxProf Blog](#) (Sept. 28, 2018)
- *The Case for Preempting SALT Cap Workarounds*, [89 ST. TAX NOTES 737](#) (Aug. 20, 2018)
- *Congress Should Sprinkle Some SALT on the Federal Courts*, [89 ST. TAX NOTES 329](#) (July 23, 2018) (with Arthur R. Rosen)
- *South Dakota v. Wayfair - The More Things Change*, [TaxProf Blog](#) (June 22, 2018)

- *The Workability of Pike Balancing for State and Local Tax Collection Obligations*, [The Surly Subgroup](#) (Apr. 4, 2018), excerpted in RICHARD D. POMP, STATE AND LOCAL TAXATION
- *In Defense of the Physical Presence Rule, but Not for Use Tax*, [87 ST. TAX NOTES 981](#) (Mar. 12, 2018)
- *The Next Tax Reform: Internet Sales Tax*, [The Hill](#) (Jan. 17, 2018)
- *Did South Dakota Neglect Transactional Nexus in Its Bill to Kill Quill?*, [BLOOMBERG BNA TAX MANAGEMENT WEEKLY STATE TAX REPORT](#) (Dec. 6, 2017) (with Matthew C. Boch)
- *The Reality of the Transfer Tax Trap*, [85 ST. TAX NOTES 1231](#) (Sept. 25, 2017) (with Maria P. Eberle)
- *Cloud Computing: 1.5 Steps Forward, 2 Steps Back*, [84 ST. TAX NOTES 1257](#) (June 26, 2017) (with Arthur R. Rosen)
- *A Prime Example of Bungled Bundled Transactions*, [83 ST. TAX NOTES 821](#) (Mar. 6, 2017) (with Stephen P. Kranz)
- *Is Consumer Behavior Shaping the Evolution of Tax Incentives?*, [BLOOMBERG BNA TAX MANAGEMENT WEEKLY STATE TAX REPORT](#) (Feb. 3, 2017)
- *A Carrier in the Coal Mine: Anticipating a New Age for State and Local Economic Development Incentives*, [U. Ill. L. Rev. Blog](#) (Dec. 19, 2016)
- *South Carolina Department of Revenue Wishing for Rain?*, [BLOOMBERG BNA TAX MANAGEMENT WEEKLY STATE TAX REPORT](#) (May 27, 2016) (with Arthur R. Rosen)
- *Cloud Computing: An Update*, [77 ST. TAX NOTES 355](#) (July 27, 2015) (with Arthur R. Rosen)
- *Tax on Tax Credits: U.S. Tax Court Addresses Federal Taxation of Refundable State Credits in Maines*, 25 J. MULTISTATE TAXATION & INCENTIVES 38 (July 2015) (with Alysse McLoughlin and Matthew C. Boch)
- *Can Deemed Asset Sales Trigger Real Transfer Tax?*, [70 ST. TAX NOTES 361](#) (Nov. 11, 2013)
- *The Transfer Tax Trap—It's Real*, [69 ST. TAX NOTES 605](#) (Sept. 3, 2013) (with Maria P. Eberle)
- *New Mexico's Approach to Attributional Nexus—Halfway There*, [68 ST. TAX NOTES 207](#) (July 22, 2013)
- *Aloha Attributional Nexus*, [66 ST. TAX NOTES 891](#) (Dec. 17, 2012) (with Arthur R. Rosen)

## BRIEFS

- Brief of Tax Law Professors as Amici Curiae in Support of the Department of Revenue of the State of Colorado in *Department of Revenue of the State of Colorado v. Oracle Corporation & Subsidiaries* (Colo. Supreme Court, filed Aug. 13, 2018) (with Darien Shanske and David Gamage) [[SSRN](#)]
- Brief of Tax Law Professors as Amici Curiae in Support of the Department of Revenue of the State of Colorado in *Department of Revenue of the State of Colorado v. Agilent Technologies, Inc.* (Colo. Supreme Court, filed Aug. 13, 2018) (with Darien Shanske and David Gamage) [[SSRN](#)]
- Brief of Amici Curiae Tax Law Professors and Economists in Support of Petitioner in *South Dakota v. Wayfair, Inc.* (U.S. Supreme Court, filed Mar. 5, 2018) (with Daniel Jacob Hemel et al.) [[SSRN](#)]

- Brief of Tax Law Professors as Amici Curiae in Support of Petitioner in *Loudoun County, Virginia v. Dulles Duty Free, LLC* (U.S. Supreme Court, filed Jan. 25, 2018) (with Daniel Jacob Hemel *et al.*) [[SSRN](#)]
- Brief of Amici Curiae Tax Law Professors and Economists in Support of Petitioner in *South Dakota v. Wayfair, Inc.* (U.S. Supreme Court, filed Nov. 2, 2017) (with Daniel Jacob Hemel *et al.*) [[SSRN](#)]
- Brief of Interested Law Professors as Amici Curiae Supporting Petitioner in *Brohl v. Direct Marketing Ass'n* (U.S. Supreme Court, filed Nov. 4, 2016) (with Richard D. Pomp *et al.*) [[SSRN](#)]
- Brief for Amici Curiae The Institute for Professionals in Taxation, *Equifax, Inc. & Equifax Credit Information Services, Inc. v. Mississippi Dep't of Revenue f/k/a Mississippi State Tax Comm'n*, Dkt. No. 13-1006 (U.S. Supreme Court, filed Mar. 14, 2014) (with Mary Kay Martire, Arthur R. Rosen, Cass D. Vickers, and Keith G. Landry)

## ACADEMIC PRESENTATIONS AND COMMENTARY

Presenter, *Navigating 21<sup>st</sup> Century Tax Jurisdiction*

Faculty Colloquium, Temple University Beasley School of Law, Philadelphia, PA (March 14, 2019)

Junior Tax Scholars Workshop, University of Colorado Law School, Boulder, CO (June 15, 2018) (as *Whither Transactional Nexus?*)

Mid-Atlantic Junior Faculty Forum, University of Richmond School of Law, Richmond, VA (May 17, 2018) (as *Whither Transactional Nexus?*)

Commentator, Ariel Kleiman's *Tax Limits and Public Control*

Loyola Law School, Los Angeles Tax Policy Colloquium, Los Angeles, CA (Nov. 5, 2018)

Commentator, Lily Batchelder's *Optimal Tax Theory as a Theory of Distributive Justice*

University of Richmond School of Law Colloquy Series, Richmond, VA (Sept. 21, 2018)

Presenter, *Questioning Quill*

Summer Workshop Series, The Ohio State University Moritz College of Law, Columbus, OH (Aug. 2, 2017)

Mid-Atlantic Junior Faculty Forum, University of Richmond School of Law, Richmond, VA (May 11, 2017)

Presenter, *The Unexpected Role of Tax Salience in State Competition for Businesses*

Faculty Workshop, Washington University School of Law, St. Louis, MO (Jan. 18, 2017)

Big Ten Junior Scholars Conference, Indiana University Maurer School of Law, Bloomington, IN (Aug. 5, 2016) (as *The Customer's Almost Right: Economic Development through Consumer Biases*)

Presenter, *Taking Tax Due Process Seriously: The Give and Take of State Taxation*

New York University Scholarship Clinic, New York University School of Law, New York, NY (Apr. 8, 2016)

## SELECTED ADDITIONAL PRESENTATIONS

Presenter, *The State of State Tax Planning (anticipated)*

ABA Tax Section May Meeting, Washington, DC (May 10, 2019) (with Shirley K. Sicilian and John A. Beik)

Presenter, *SCOTUS on SALT: A Look at the Supreme Court's Recent State and Local Tax Cases*

University of Richmond School of Law, Richmond, VA (March 20, 2019) (with Kyle Wingfield)

Panelist, *South Dakota v. Wayfair: Its Immediate Meaning and Its Future Implications*

National Association of State Bar Tax Sections 39<sup>th</sup> Annual Meeting, San Francisco, CA (October 26, 2018) (with Arthur Rosen and Scott Peterson)

Moderator, *Deciphering the New Tax Law: A Panel Discussion*

University of Richmond School of Law, Richmond, VA (April 9, 2018) (with Bobby Johnson, M.R. Litman, David Sams, Kristeen Witt, and Danny Schaffa)

Presenter, *"Other" Constitutional Issues*

New York University Summer Institute in Taxation State and Local Tax Program, New York, NY (July 18, 2017) (with Shirley K. Sicilian)

Presenter, *Corporate Income & Business Activity Taxes: Part II*

New York University Summer Institute in Taxation State and Local Tax Program, New York, NY (July 19, 2016) (with Arthur R. Rosen and Mary Benton)

Presenter, *CPA's Guide to Sales Tax Nexus Standards*

CPAacademy.org Webinar (Nov. 17, 2014) (with Mark W. Yopp)

## CLASSES TAUGHT

- Federal Income Taxation
- State and Local Taxation
- Taxation of Partnerships and LLCs
- Legislation and Regulation

## EDUCATION

New York University School of Law, New York, NY

LL.M., Taxation, Sept. 2012

J.D., *cum laude*, May 2011

Honors: *Annual Survey of American Law*, Article Editor

University of North Carolina, Chapel Hill, NC

B.A., Political Science, May 2006

## **EXPERIENCE**

McDermott Will & Emery LLP, New York, NY

*Tax Associate*, Jan. 2012 – May 2015

Joint Committee on Taxation, United States Congress, Washington, DC

*Tax Policy Fellow*, Aug. 2011 – Dec. 2011

Admitted to the New York Bar (2012)