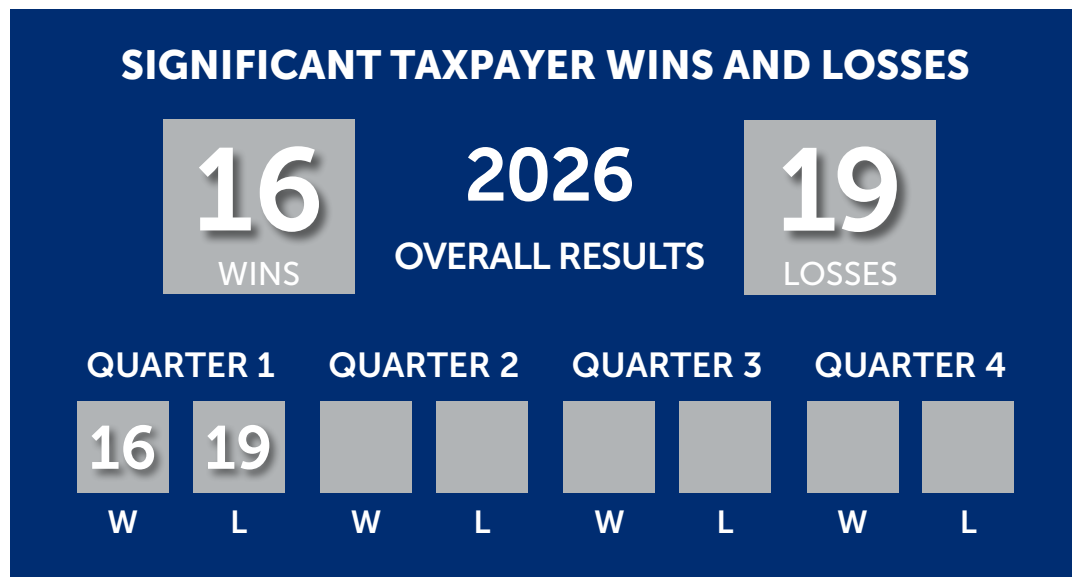


This is the first edition of the Eversheds Sutherland SALT Scoreboard for 2026. For more than a decade, we have tallied the results of what we deem to be the significant taxpayer wins and losses and analyzed those results. Our entire SALT team hopes that you have found the SALT Scoreboard's content useful. This edition includes discussion of Public Law 86-272 and intercompany transfers, as well as a spotlight on Texas cases.

1st quarter 2026

In the first quarter of 2026, taxpayers prevailed in 45.7% (16 out of 35) of the significant cases.* In comparison, taxpayers have won 40.2% (49 out of 122) of the significant cases for 2025.



*Some items may have been decided in a prior quarter but included in the quarter in which we summarized them.

Year-to-date

Taxpayers prevailed in **4** out of **10** significant corporate income and franchise tax cases across the country.

Taxpayers prevailed in **8** out of **15** significant sales and use tax cases across the country.

SIGNIFICANT MULTISTATE DEVELOPMENTS

Public Law 86-272

CASE: *State Tax Assessor v. Fifth Generation, Inc.*, Dkt. No. Ken-24-490 (Me. Apr. 2, 2026).

SUMMARY: The Supreme Judicial Court of Maine ruled that a liquor supplier was subject to Maine withholding tax because it had nexus with the state and P.L. 86-272 did not otherwise bar income taxation. The court found that the taxpayer had nexus because Maine law required the supplier to ship liquor to a bailment warehouse in Maine and retain title to the liquor in the state until removed from the warehouse. The court rejected the taxpayer's P.L. 86-272 argument for the same reason, finding that the bailment arrangement and compelled delay in transfer of title exceeded the activities protected by P.L. 86-272. View more [here](#).

Indirect Audits

CASE: *Sav-Time, Inc. v. Michigan Department of Treasury*, No. 370459 (Mich. Ct. App. Mar. 10, 2026).

SUMMARY: The Michigan Court of Appeals held that the Michigan Department of Treasury was permitted to engage in an indirect audit of a taxpayer because of its insufficient recordkeeping. The taxpayer claimed sales tax exemptions for labor charges associated with its automotive services. On audit, the Department disallowed the taxpayer's exemptions on the basis that it had not itemized its non-taxable labor charges on its invoices. While the taxpayer submitted post-audit invoices with separate lines for "Taxable Parts" and "Non-Taxable Labor," the court concluded that the Department was not obligated to review them. The court also found an indirect audit to be appropriate because the first set of invoices submitted to the Department "revealed problems with accuracy and completeness." View more [here](#).

Vehicle Leases

CASE: *In re Gelco Corporation v. State of New York Tax Appeals Tribunal*, 251 N.Y.S.3d 793 (N.Y. App. Div. Feb. 5, 2026).

SUMMARY: The New York Supreme Court, Appellate Division, held that a fleet management company's post-rental cost reductions entitled the taxpayer to sales tax credits. Under the company's vehicle fleet leases, the lessee paid estimated monthly rent, plus sales tax, based on the projected residual book value of the vehicle at lease termination. But at lease end, the estimated rent was retrospectively adjusted to determine the actual rent owed. If the actual rent was lower than estimated, the taxpayer refunded the excess rent and sales tax and then claimed credits on its sales tax returns. On audit, the Department denied the taxpayers' credits. The court held in favor of the taxpayer, concluding that in these leases, the initial payments were provisional estimates and the final consideration was not determined until the leases concluded. View more [here](#).

Intercompany Transfers

CASE: *North Carolina Department of Revenue v. Asphalt Emulsion Industries, LLC*, Dkt. No. 24CV040734-910 (Wake Cnty., N.C. Super. Ct. Jan. 21, 2026).

SUMMARY: A North Carolina Superior Court held that intercompany transfers of products between affiliated entities do not constitute "sales" subject to sales tax when those transfers are not supported by bargained-for consideration. For internal bookkeeping of intercompany transfers, the taxpayers used "due to/due from" entries in the centralized accounting system based on a hypothetical markup, rather than the actual cost of production. The Department contended that the taxes should have been remitted based on that hypothetical markup price. The court agreed with the taxpayer, holding that the transfers were not made for consideration and thus were not "sales." View more [here](#).

Marketplace Collection

CASE: *StubHub, Inc. v. Wisconsin Department of Revenue*, 33 N.W.3d 144 (Wis. Ct. App. 2026).

SUMMARY: The Wisconsin Court of Appeals upheld a sales tax assessment against a ticket marketplace for the sale of tickets made through its platform. The marketplace earned revenue from listing fees and commissions on ticket sales. The court determined that the marketplace was a "seller" subject to sales tax because it "effected the actual transfer" of the tickets sold on its website in exchange for payment. The court also rejected the marketplace's argument that a 2019 amendment to Wisconsin's sales tax statute to specifically subject "marketplace providers" and "marketplace sellers" to the tax meant it was not subject to tax under the prior law. The court found the amendment merely clarified the law to end ongoing controversy and noncompliance. View more [here](#).

CASE: *Matter of Beeline.com, Inc. v. New York Tax Appeals Tribunal*, 250 N.Y.S.3d 666 (N.Y. App. Div. 2026).

SUMMARY: The New York Supreme Court, Appellate Division, held that a company's charges for its proprietary technological platform constituted licenses to use prewritten computer software subject to sales tax. The company matched clients with suppliers of contingent and temporary labor and provided associated services. To provide the services, the company used the platform, access to which was controlled by agreements with each client and each labor supplier. The court rejected the company's argument that it provided nontaxable services rather than software licenses, finding that various client agreements demonstrated that the company provided its customers the "right to use" software and, accordingly, a taxable license to use software. View more [here](#).

Spotlight on Texas Cases



CASE: *Hancock v. ChampionX, LLC*, No. 15-24-00111-CV (Tex. Ct. App. Mar. 12, 2026).

SUMMARY: The Texas Court of Appeals held that a chemical manufacturer's purchases of returnable containers were exempt from sales and use tax under the state's manufacturing exemption. The taxpayer manufactured chemicals for use in water treatment applications and for customers in the oil and gas industries. It placed its products into returnable porta-feed containers that preserved chemical composition, prevented reactions during transport, and met applicable governmental regulations and standards. The containers were exempt as property used or consumed during actual manufacturing that was necessary and essential to pollution control, quality control, and public health laws. View more [here](#).

CASE: *San Patricio County Appraisal District v. Gunvor USA, LLC et al*, No. 13-24-00590-CV (Tex. Ct. App. Jan. 8, 2026).

SUMMARY: The Texas Court of Appeals held that crude oil stored in tank farms solely for export to foreign buyers was constitutionally immune from county ad valorem taxation under the U.S. Constitution's Import-Export Clause. The court concluded the oil constituted property in the stream of export overseas and therefore could not be taxed by the county. The court relied on precedent recognizing bright line constitutional immunity for property in the stream of export. The court emphasized that the oil's foreign destination was fixed and irrevocable, the taxpayers' sales contracts were exclusively with foreign buyers, and the oil was transported to San Patricio County solely to facilitate export. Because the record established that the oil was committed to foreign export and never entered, or was capable of entering, the domestic market, the court held that San Patricio County was constitutionally prohibited from imposing ad valorem tax on the oil. View more [here](#).

Meet your SALT team



[Todd Betor](#)



[Michele Borens](#)



[Elizabeth Cha](#)



[Jonathan Feldman](#)



[Jeffrey Friedman](#)



[Ted Friedman](#)



[Jeremy Gove](#)



[Tim Gustafson](#)



[Charles Kearns](#)



[Chelsea Marmor](#)



[Daniel Schlueter](#)



[Maria Todorova](#)



[Eric Tresh](#)



[Scott Wright](#)



[Eric Coffill](#)



[Cyavash Ahmadi](#)



[Diane Beleckas](#)



[Charles Capouet](#)



[Greg Matson](#)



[Laurin McDonald](#)



[Daniel Hopper](#)



[Madison Ball](#)



[Olivia Dibb](#)



[Periklis Fokaidis](#)



[Sebastian Iagrossi](#)



[Christos Kapsalis](#)



[Stephanie Terinoni](#)



[Mark Saporsky](#)



[Emma Shokeir](#)

[**eversheds-sutherland.com**](https://eversheds-sutherland.com)

© Eversheds Sutherland Ltd. 2026. All rights are reserved to their respective owners.
Eversheds Sutherland (International) LLP and Eversheds Sutherland (US) LLP are part of a global legal practice, operating through various separate and distinct legal entities, under Eversheds Sutherland. For a full description of the structure and a list of offices, visit eversheds-sutherland.com. US53499_050726