



SpencerFane®

## Frank Crociata

Of Counsel

### Contact

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## Overview

**Frank Crociata helps clients navigate the intricacies of state and local tax laws associated with business operations, structuring, and personal financial transactions.**

He both defends clients in tax controversies with state and local tax agencies, and helps clients structure business operations in a manner to minimize, defer, or eliminate taxes to benefit the bottom line. He has specific experience with 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.

In addition, 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.

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. Former New Mexico Governor Susana Martinez appointed him to this position less than one year after he joined the TRD's Legal Services Bureau.

Prior to entering private practice, Frank spent a decade working in the nonprofit sector, doing social service work on Indian reservations throughout the American West.

## Education

- University of Colorado Law School, 2005 (J.D.)
- Duke University, 1987 (B.A.)

## Bar Admissions

- Arizona, 2005
- New Mexico, 2015
- Not admitted in Colorado

## Court Admissions

- U.S. District Court for the District of Arizona
- U.S. District Court for the District of New Mexico

## Distinctions

- *Best Lawyers in America*
  - Tax Law, 2022–2025
  - Litigation and Controversy – Tax, 2025
- *Southwest Super Lawyers*, Rising Star, Tax Law, 2014
- U.S. Attorney's Office, District of Colorado, Extern, 2003–2004

## Presentations and Publications

- "Taxation of Nonprofits and the Health Care Industry in New Mexico," New Mexico Legislature, Revenue Stabilization & Tax Policy Committee, July 26, 2018
- "New Mexico Taxation & Revenue Department Update," New Mexico Tax Research Institute, April 27, 2017
- "2016 New Mexico Tax Expenditure Report," 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," New Mexico Legislature, Revenue Stabilization & Tax Policy Committee, December 15, 2016
- "Overview of the New Mexico Income Tax Act and the Corporate Income and Franchise Tax Act," New Mexico Legislature, Revenue Stabilization & Tax Policy Committee, November 28, 2016
- "State and Local Tax Update," New Mexico State Bar, 2016 Tax Symposium, September 23, 2016
- "The Gross Receipts Tax: Overview, Administrative Issues and Suggestions for Improvement," New Mexico Legislature, Revenue Stabilization & Tax Policy Committee, September 4, 2016
- "Constitutional Constraints on Tax Policy and What States Are Doing to Tax Internet Sales," New Mexico Legislature, Revenue Stabilization & Tax Policy Committee, July 21, 2016
- "Tax Audits of Attorney Files – What Keeping Client Confidences Could Cost You: Ethical and Practical Issues," American Bar Association, Annual Meeting, May 2016
- "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*," October 13, 2015
- "2015 New Mexico Tax Expenditure Report," New Mexico Legislature, Revenue Stabilization & Tax Policy Committee, July 23, 2015
- "Constitutional Limits on State Taxation," New Mexico Legislature, House Ways & Means Committee, 2015 Regular Session
- "New Section 199 Domestic Production Deduction and How it Applies to the Construction and Real Estate Development Industry," *Real Estate Finance Journal*, 2007

## Related Experience

- Successfully co-represented a client on an Arizona Department of Revenue corporate income tax assessment that exceeded \$30 million and that involved constitutional claims and sales factor calculation issues.
- 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 multistate 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 Department of Insurance, the New Mexico Office of Superintendent of Insurance, the New Mexico Taxation & Revenue Department, and New Mexico courts with respect to premium tax assessments.
- Assisted in representing rent-restricted apartment complexes before Arizona state courts with respect to property tax valuations.
- Successfully represented both tribal and non-tribal businesses in large New Mexico sales tax controversies involving federal Indian law issues.
- Successfully represented an aerospace company on a large New Mexico sales tax assessment.
- Drafted corporate income and tax administration act legislation that passed the 53<sup>rd</sup> Legislature and was 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.