

Joel A. Nitikman

Partner



Partner

Vancouver

D +1 604 443 7115

joel.nitikman@dentons.com

Overview

Joel Nitikman is a partner in the Tax group at Dentons. For more than three decades, Joel's practice has focused on resolving tax disputes between taxpayers and federal and provincial tax authorities. He has extensive experience in federal and provincial income/commodity tax litigation. Joel has acted as counsel in numerous tax cases at all levels of court, both provincially and federally. He has also settled many cases out of court at the pre-assessment or Objection stage.

Joel's skills include organizing a complex set of data, analyzing and structuring the data to determine the relevant tax issues, preparing witnesses for court, drafting legal pleadings and substantive arguments, excellent oral advocacy skills, excellent legal research, the ability to persuade and reason in a complex environment and the ability to assimilate a large number of facts quickly. He is known for his creativeness and the ability to think "outside the box" in creating new structures to achieve maximum tax efficiency.

Based in Vancouver, Joel is listed as one of Canada's leading tax litigation lawyers by *Lexpert*. Joel also practises corporate and individual business tax, focusing on offshore tax planning, corporate reorganizations and other business-related tax matters. He advises on GST and provincial commodity taxes. He is listed as one of Canada's leading corporate tax lawyers by *Lexpert*. Joel has been involved in extensive provincial, federal and international income and commodity tax planning, including cross-border tax planning for the entertainment industry, offshore trusts, Canada-US corporate reorganizations, Canadian investment in the US, US investment in Canada, and cross-border estate planning. He has obtained numerous Advance Rulings from the Canada Revenue Agency and provincial tax authorities.

Joel has advised on non-profit and other tax exempt entities, including Crown corporations and trusts. He has had extensive involvement with structuring and opening on public offerings of tax-related securities. He has acted as an expert tax witness in civil litigation for plaintiffs and defendants. In doing so, Joel has developed the ability to simplify and explain complex technical tax issues.

Joel has been involved extensively in writing and presenting tax-related articles on international, federal and provincial income tax, GST and retail sales tax issues. The Canadian Tax Foundation awarded him the Douglas J. Sherbaniuk Distinguished Writing Award in 2006, and again in 2018, for the best paper written in each year in Canada on tax. Joel is a former Governor of the Canadian Tax Foundation and is currently a member of a number of different tax committees, including a joint CRA/CBA committee in the Pacific Region of the CRA, the CBA/CICA

Experience

- **Confidential client:** Advising a British Columbia based retail company in its cross-border sale to a US private equity firm for a total transaction value of more than US\$200 million.
- **Confidential client:** Advising one of North America's fastest growing providers of mobile workforce technology, and an investment advisory firm in an investment by a US private equity firm.
- **Confidential client:** Advising a leading provider of cloud-based subscription software in its TSX IPO.
- **Confidential client:** Acting as Canadian counsel to this leading provider of contract development and manufacturing services to the global pharmaceutical industry in connection with its going private transaction by way of plan of arrangement, and business combination with a pharmaceutical products business.
- **Athabasca Potash Inc. (API):** Advising in connection with its CA\$341 million acquisition by BHP Billiton by way of plan of arrangement.
- **KERN Partners:** Assisting with the formation of KERN Fund I, II and III, Canada/US cross-border private equity funds focused on the Canadian energy sector.
- **Heritage Partners:** Acting as counsel on the CA\$24.9 million equity investment in Centra Industries Inc.

Recognition

First recognized in 2005, Joel has been commended for his extensive knowledge and experience in a variety of respected publications, including:

- *The Best Lawyers in Canada: Tax Law*
- *The Canadian Legal Lexpert Directory: Corporate Tax; Litigation: Corporate Tax*
- *The Lexpert/American Lawyer Guide to the Leading 500 Lawyers in Canada: Corporate Tax*
- *The Lexpert Guide to US/Canada Cross-Border Lawyers in Canada: Tax*
- *Lexpert Special Edition – Canada's Leading Lawyers: Litigation*
- *The Legal 500 Canada: Tax*
- *Who's Who Legal: Corporate Tax: Controversy*
- *Who's Who Legal Canada: Corporate Tax*
- *International Tax Review Tax Controversy Leaders (Canada)*
- *Expert Guides: Tax*

Honors and Awards

- Recipient of the *Canadian Tax Foundation's Douglas J. Sherbaniuk Distinguished Writing Award* in 2006 and 2018

Insights

- "Who Can Waive Common Interest Privilege?", *Tax Topics*, Report No. 2466
- "Henson Trusts: A Sham in Sheep's Clothing? A Comment on *S.A. v. Metro Vancouver Corp.*", 38 *Estates*,

- “Everything You Wanted to Know About Requirements for Information, But Were Scared to Ask”, *2018 Conference Report*
- “If the Minister is too busy, can the FCA help out? A comment on *Bonnybrook Park v. MNR*”, *Tax Topics*, Report No. 422
- “Treaty Shopping? It all Depends on How you Look at It”, *International Tax Planning*, Volume XXII, No. 2 (Federated Press)
- “The Trustee’s Right to Indemnity and Section 159 of the *Income Tax Act*: Lining the Wrong Way?”, *The Tax Advocate Newsletter*, TADV10 (Taxnetpro)
- Nitikman, Man and Kwasniewski, “South Australian Employers’ *Chamber of Commerce & Industry Inc. v. Commissioner of State Taxation*: Everything You Always Wanted to Know about Charity Law, but were Scared to Ask”, *Tax Dispute & Resolution Newsletter* (Taxnetpro)
- “Escrow and the Relation Back Rule: Is There Anybody There?”, *Tax Dispute & Resolution Newsletter* (Taxnetpro)
- “More on 104(24): When Are Amounts Payable to a Beneficiary”, *37 Estates, Trusts and Pensions Journal 237*
- “Life Is Change: Using Powers of Amendment in a NonCharitable Trust – Rules and Tax Implications” (2017), 65 CTJ 559 (Awarded Sherbaniuk Award)
- “Policy Forum: Tax Evasion—Does Anyone Know What It Means? Does Anyone Really Care?” (2017), 65 CTJ 681
- “Employee or Contractor: When are Sagaz & Wiebe Door Irrelevant?”, *The Tax Advocate* (Taxnetpro)
- Joel Nitikman, “*Irish Bank Resolution Corporation v. Revenue and Customs*—Deemed If You Do and Deemed If You Don’t”, *International Tax Planning*, Volume XXI, No. 3 (Federated Press)
- “Is an LLLP a corporation for Canadian tax purposes? A reply to the CRA”, *Tax Topics*, Report No. 2313
- “REOP After Standard Life”, *Tax Topics*, Report No. 2302
- “A Sham by Any Other Name?”, *Tax & Estate Planning Centre* (Taxnetpro)
- “Sham, illusion and all that jazz: a case comment on *Clayton v Clayton*”, *35 Estates, Trusts and Pensions Journal 146*

Activities and Affiliations

- Board of Governors, Canadian Tax Foundation
- Member, Canadian Tax Foundation
- Member, International Fiscal Association
- Past Chair of the Tax Section, B.C. Branch, Canadian Bar Association
- Member, Editorial Board of *International Tax Planning* (Federated Press)
- Member, Senior Tax Practitioners’ Institute, Insight
- Founding member, “Irritants Committee”, a joint CRA/CBA Committee in the Pacific Region which attempts to resolve ongoing structural issues in dealing with the CRA
- Appointed in 2012 to the Federal Court Bench and Bar Committee, composed of judges from the Federal

Court and Federal Court of Appeal and lawyers, to determine rules of practice for the Federal Court and Federal Court of Appeal

- Adjunct professor, Tax Litigation and International Tax, UBC Faculty of Law
- Annual presenter at the CBA Business Law Subsection (“Top Ten Tax Tips for Solicitors”), 2003-present

Areas of focus

Practices

- Tax
- Trusts, Estates and Wealth Preservation

Issues and opportunities

- Global tax guide to doing business in...

Education

- New York University, School of Law, 1994, LL.M., Tax
- University of Manitoba, 1985, LLB, Gold Medal
- University of British Columbia, 1982, BSc

Admissions and qualifications

- British Columbia, 1986

Languages

- English