

## Burnet R. Maybank III

### MEMBER

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Suite 700  
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### Practices

Nonprofit and Exempt Organizations  
Economic Development  
State and Local Taxation  
Tax Controversy  
Tax Law  
Public Finance

### Industries

Hospitality & Tourism  
Manufacturing  
Public Sector and Government  
Transportation

### Education

→ University of South Carolina, J.D.  
→ Emory University, LL.M. in  
Taxation  
→ University of North Carolina, B.A.

### Admissions

→ South Carolina State and Federal  
Courts

Burnie Maybank is a two-time former Director of the South Carolina Department of Revenue who now represents companies and organizations needing state and local tax (SALT), tax controversy and economic development incentives assistance. Burnie has experience in New Market Tax Credit transactions, Opportunity Zone matters, as well as work related to Abandoned Building and Historic Preservation tax credits. Maybank released many South Carolina Department of Revenue policy documents on the incentives when he served as Director of South Carolina Department of Revenue.

He returned to the firm in 2006 after serving as Director of the South Carolina Department of Revenue under Governor Mark Sanford from 2003 through 2005. He also served in that position under Governor David Beasley from 1995 to 1999.

Burnie's practice includes:

- Economic Development Incentives
- State and Local Tax
- Tax Controversy
- Exempt Organizations and Charitable Giving, including Conservation Easements
- Alcohol Beverage Control

At the request of SC Senate Finance Chairman Hugh Leatherman, Burnie served as Chair of the S.C. Tax Realignment Commission (TRAC). The Commission was charged with submitting a comprehensive tax restructuring plan. That plan was submitted in 2010.

At the request of Senate President *Pro Tempore* Glenn McConnell, Burnie served on the South Carolina Transportation Infrastructure Study Committee, which examined the feasibility and benefits of public/private partnerships to improve the state's roads, highways and bridges.

He has served on the statewide transition teams of S.C. Treasurer Curtis Loftis, former Treasurer Thomas Ravenel and former S.C. Governor Mark Sanford.

Burnie received national press in 2005 regarding the S.C. Department of Revenue's investigation of potentially abusive conservation easement donations, as well as the Department's investigation under IRS Circular 230 of tax professionals who were involved in tax shelters.

He is co-author of a number of books and law review articles including:

- *South Carolina Tax Incentives for Economic Development*;
- *Local, State, and Federal Tax Incentives for Conservation Easements*;
- *and State Tax Crimes*, all published for the Department of Revenue.

He has also co-authored:

- *South Carolina Nonprofit Corporate Practice Manual* (2015), second edition, published by the South Carolina Bar
- *South Carolina Limited Liability Companies & Limited Liability Partnerships* (1st & 3rd Editions);
- *The Law of Automobile Insurance* (1st-5th Editions);
- and *South Carolina Nonprofit Corporate Practice Manual* (2007), published by the South Carolina Bar.

The South Carolina Manufacturers Alliance's presented Burnie with the 2007 *Defender of Manufacturing Award*. He is pictured here at the 2012 awards ceremony, along with other recipients.

## Experience

### The Buzz with Burnie Podcast

Burnie hosts weekly conversations with South Carolina's top business leaders to talk economic development and charting a course forward for the Palmetto state. [Click here to listen.](#)

### Recent Caselaw

*Fairfield Waverly, LLC, v. Dorchester County Assessor*, No. 5769 (S.C. Ct. App. August 26, 2020) (Property tax, late-filed ATI exemption)

*Synovus Bank v. S.C. Dep't of Rev.*, 17-ALJ-17-0418-CC (April 17, 2020) (bank tax and net operating losses)

*McEntire Produce v. S.C. Dep't of Rev.*, 17-ALJ-17-0060-CC (Sept. 6, 2019) (machine, pollution control, and clean room sales tax exemptions)

*Colonial Pipeline Company v. S.C. Dep't of Rev.*, 18-ALJ-17-0443-CC (pollution control property tax exemption)

*Books-a-Million, Inc. v. S.C. Dep't of Rev.*, 2020 WL 2050898 (S.C. Ct. App. Filed April 29, 2020) (sales taxation of membership fees)

*SunBelt Furniture Xpress, Inc., v. S.C. Dep't of Rev.*, 19-ALJ-17-0110-IJ (S.C. Admin. Law Court filed June 11, 2019) (Order to Quash Subpoena).

*C. Dep't of Rev. v. Trader Joes East, Inc., d/b/a Trader Joes 752.*, 18-ALJ-17-0425-CC (S.C. Admin. Law Court Filed April 4, 2019) (alcohol licensing)

*InteliChart, LLC v. C. Dep't of Rev.*, 18-ALJ-17-0457-IJ (S.C. Admin. Law Court Filed February 3, 2019) (procedural issues)

*Dish DBS Corp. v. S.C. Dep't of Rev.*, No. 2016-001642, 2018 WL 573348, (S.C. Ct. App. Oct. 31, 2018) (corporate income tax apportionment)

*Synovus Bank v. S.C. Dep't of Rev.*, 17-ALJ-17-0418-CC (S.C. Admin. Law Court Filed October 22, 2018) (net operating loss carryforwards for banks)

*Aramark Sports & Entertainment Services, LLC v. S.C. Dep't of Rev.*, 18-ALJ-17-0278-CC (S.C. Admin. Law Court filed Aug. 27, 2018) (ABL license dispute).

*Dollar Tree Stores v. S.C. Dep't of Rev.*, 17-ALJ-17-0414-CC (S.C. Admin. Law Court Filed February 16, 2018) (procedural issues)

*Retail Services & Systems, Inc. v. S.C. Dep't of Rev.*, 419 S.C. 469, 799 S.E.2d 665 (2017) (constitutionality of liquor license ownership limitation).

*Books-A-Million v. S.C. Dep't of Rev.*, 16-ALJ-17-0133 (S.C. Admin. Law Court filed June 6, 2017) (whether membership fees are subject to sales tax).

*Fairfield Waverly, LLC v. Dorchester Cnty. Assessor*, 14-ALJ-17-0601-CC (S.C. Admin. Law Court filed Feb. 1, 2017) (ATI exemption).

*Windsor Club, LLC v. Dorchester Cnty. Assessor*, 14-ALJ-17-0602-CC (S.C. Admin. Law Court filed Feb. 1, 2017) (ATI exemption).

*Bright-Meyers NA, LLC v. Aiken Cnty. Assessor*, 16-ALJ-17-0253-CC (S.C. Admin. Law Court filed Jan. 23, 2017) (property valuation dispute).

*Mead v. S.C. Dep't of Rev.*, Opinion No. 5460 (S.C. Ct. App. Dec. 21, 2016) (Homestead Exemption)

*Citigroup, Inc. and Subsidiaries v. S.C. Dep't of Rev.*, 15-ALJ-17-0135-CC (S.C. Admin. Law Court Filed October 20, 2016) (corporate tax allocation and apportionment/forced combination)

*Dish DBS Corp. and Affiliates v. S.C. Dep't of Rev.*, 14-ALJ-17-0285 (S.C. Admin. Law Court filed May 20, 2016) (SC apportionment of service provider based on income producing activity)

*P.F. Chang's China Bistro, Inc. v. S.C. Dep't of Rev.*, 16-ALJ-17-0083 (S.C. Admin law Court filed May 23, 2016) (ABL license dispute)

*Hunter-Gatherer Brewery, LLC v. S.C. Dep't of Rev.*, 16-ALJ-17-0031-CC (S.C. Admin. Law Court filed May 2, 2016) (application for brewery license).

*McInnis v. S.C. Dep't of Rev.*, 13-ALJ-17-04430-CC (S.C. Admin. Law Court filed Aug. 28, 2015) (hobby loss case involving deductions for plane)

*CarMax Auto Superstores West Coast, Inc. v. S.C. Dep't of Revenue*, Opinion No. 27474 (S.C. Dec. 23, 2014) (Amicus Curiae Brief filed on behalf of COST)

*Retail Services & Systems, Inc., dba Total Wine & More v. S.C. Dep't of Rev. and ABC Stores of South Carolina*, Docket No. 2014-CP-02-00259 (constitutionality of South Carolina alcohol licensing statutes)

*Frank R. Mead III v. Beaufort Cnty. Assessor*, 13-ALJ-17-0585-CC (S.C. Admin. Law Court filed Aug. 19, 2014) (Property Taxes, Homestead Exemption)

On June 14, 2010 the South Carolina Supreme Court ruled in favor of Maybank's client, Media General, in a dispute involving more than \$2 million in state income taxes. [Read the opinion here.](#)

*Duke Energy Corporation v. SC Department of Revenue* (2012) (corporate income taxes)

*Greenery Gallery Services v. SC Department of Revenue* (2010) (sales taxes on maintenance services)

*Tronco's Catering, Inc. v. SC Department of Revenue* (2010) (sales taxes on caterers)

*W. Smith, and A. Smith v. SC Department of Revenue* (2010) (individual income taxes, casualty losses)

*Media General Communications, Inc. and Media General Broadcasting of South Carolina Holdings, Inc. v. SC Department of Revenue* (2009) (corporate income taxes, UDITPA Section 18 request by Taxpayer)

*Travelscape, LLC v. SC Department of Revenue* (2009) (sales/accommodations taxes)

*The Columbia Sailing Club v. SC Department of Revenue* (2008) (property tax exemption)

Anonymous Corporation v. SC Department of Revenue (2008) (economic development incentives, Job Development Credits)

The Fellowship Society v. SC Department of Revenue (2008) (property tax exemption)

Anderson Aviation, Inc. v. Anderson County Auditor (2007) (property taxes, aircraft as inventory)

Carolina Walk, LLC and Serrus Carolina Walk, LLC v. Richland County Assessor, 2012 WL 991445 (S.C. Admin. Law. Judge. Div.)

Centex International, Inc. v. SC Department of Revenue, \_\_\_\_\_ S.C. \_\_\_\_\_, 750 S.E.2d 65 (2013) (Income Tax economic development incentive – Infrastructure Tax Credit)

Bodman v. State, 403 S.C. 60, 742 S.E.2d 363 (2013) (sales taxes) (Amicus Curiae Brief for South Carolina Manufacturers Alliance – constitutionality of Sales Taxes)

CarMax Auto Superstores West Coast, Inc. v. SC Department of Revenue, 397 S.C. 604, 725 S.E.2d 711 (2012) (corporate income taxes) (Amicus Curiae Brief for Council on State Taxation – (COST) – (UDITPA § 18 Request by DOR)

Travelscape, LLC v. SC Department of Revenue, 391 S.C. 89, 705 S.E.2d 28 (2011) (sales/accommodation taxes)

Media General Communications, Inc. v. SC Department of Revenue, 388 S.C. 138, 694 S.E.2d 525 (2010) (corporate income taxes – UDITPA § 18 Request by Taxpayer)

Blackbaud, Inc. v. SC Department of Revenue, 386 S.C. 446, 688 S.E.2d 150 (2010) (economic development incentive; Job Development credits)

In re Ellerbe, 384 S.C. 418, 682 S.E.2d 487 (2009) (failure to file)

South Carolina Public Interest Foundation v. Harrell, 378 S.C. 441, 663 S.E.2d 52 (2008) (Amicus Curiae Brief for SC Manufacturer's Alliance and Michelin, N.A., Inc. – constitutionality of Life Sciences Act under One Subject "Logrolling" Constitutional Provision)

Riverwoods, LLC v. County of Charleston, 349 S.C. 378, 563 S.E.2d 651 (2002) (property taxes) (Amicus Curiae Brief for State Chamber of Commerce – constitutionality of local option property tax provision)

Horry County School District v. Horry County, 346 S.C. 621, 552 S.E.2d 737 (2001) (Multi-County Business Park economic development incentive) (Amicus Curiae Brief for South Carolina Chamber of Commerce and South Carolina Manufacturer's Alliance – constitutionality of Multi-County Industrial Parks)

## Recognitions

→ Rated AV Preeminent for Twenty Years by *Martindale-Hubbell*

→ Achieved "Highest Possible Rating in Both Legal Ability & Ethical Standards" by *Martindale-Hubbell* 2017, 2018

- *Columbia Business Monthly's* "Legal Elite of the Midlands", 2015, 2022
- Best Lawyers in the Midlands in Tax Law by *Columbia Metropolitan Magazine* since 2015
- Listed in *Best Lawyers in America* for "Lawyer of the Year" for Tax Law in Columbia, S.C.
- Appointed by Governor Haley to the Agency Head Salary Commission (2014)
- S.C. Treasurer Curtis Loftis transition team (2010-2011)
- South Carolina Economic Developers Association's "2010 Ally of the Year"
- Listed in *Best Lawyers in America* for Tax Law, Since 2009
- Listed in South Carolina Super Lawyers for Tax (2014)
- Chair, S.C. Tax Realignment Commission (TRAC) (2010-2011)
- South Carolina's first Director of the Department of Revenue and Taxation (1995-1999); second term (2003-2005)
- Member of the Coordinating Council for Economic Development and Chair of the Enterprise Zone Subcommittee (1995-1999 and 2003-2005)
- Received Order of the Palmetto from both S.C. Governor Carroll Campbell and S.C. Governor David Beasley
- 2007 Recipient of the South Carolina Manufacturers Alliance *Defender of Manufacturing* Award
- Former General Counsel in the S.C. Secretary of State's Office
- Complete Lawyer Award from USC School of Law (1998)
- L.H. "Sonny" Siau Award of Excellence from the South Carolina Association of Auditors, Treasurers, and Tax Collectors
- Transition Team for former S.C. Governor Mark Sanford
- Legal Counsel to Former S.C. Governor Carroll Campbell
- Former Commissioner on the S.C. Public Service Commission
- Former Member of the Board of South Carolina's Department of Health and Environmental Control (DHEC)
- Former S.C. Deputy Securities Commissioner in S.C. Secretary of State's Office
- Government Efficiency and Accountability Review Committee, former member
- S.C. Transportation Infrastructure Study Committee, former member
- 2006 Palmetto Leadership Award from the S.C. Policy Council
- 2005 Public Servant of the Year Award from Upstate Forever
- Agency Directors Organization (2004-2005)

## Community & Professional

- Board Member, Palmetto Conservation Foundation
- Past Board Member, South Carolina Economic Developers Association (SCEDA)
- Board Member, South Carolina Administrative and Regulatory Law Association (SCAARLA)

- Past President, S.C. Agency Directors Organization
- Board Member, Low Country Open Land Trust
- Board Member, Edisto Island Open Land Trust
- Former Board Member, SC Economics
- Council Member, Local Government Competitiveness Council

Burnie has hosted and spoken at a number of economic development and state and local tax seminars. In the past several years, these include:

- Presenter, State Economic Development and Tax Rankings, November 2022
- Presenter, "Small Business Job Tax Credit"
- Presenter, "Overlooked State Tax Credits"
- Presenter, "2022 Legislative Update and Case Law"
- Presenter, "2022 Legislative Update - Manufacturer's Property Taxes"
- Presenter, "State Tax and Economic Development Incentives Legislative Update" with Andrew Saleeby, June 2022 (view recording)
- Presenter, "Present Law and Background Relating to Tax Incentives for Residential Real Estate"
- Co-Author, Sales Taxation of Bundled Transactions in South Carolina
- Presenter, Swiss Life Science Manufacturers, South Carolina Incentive for Swiss Life Sciences Manufacturer, April 2020
- Presenter, Annual Farm Bureau Convention: Agriculture: Property and Sales Tax Issues for Farmers, February 8, 2020
- Host/Presenter, Webinar: Job Tax Credit in Tier III & IV South Carolina Counties, September 15, 2019
- Presenter, Myrtle Beach Downtown Redevelopment Corporation: Myrtle Beach Opportunity Zones Investor Forum, April 5, 2019
- Host/Presenter, Coastal Carolinas Association of REALTORS Commercial Investment Division – Quarterly Commercial Broker Breakfast: Opportunity Zones and Commercial Real Estate Development, March 2019
- Host/Presenter, CREW Upstate: February Luncheon: Opportunity Zones, February 7, 2019
- Host/Presenter, Opportunity Zones, November 13, 2018 - Georgetown County
- Host/Presenter, Nexsen Pruet Opportunity Zones Update, November 7, 2018
- SCRA Launch & Learn, Presenter: Tax Incentives You Need to Know, March 22, 2018.
- SC BIO South Carolina Life Sciences Boot Camp, Presenter: Economic Incentives for the Life Sciences, March 14, 2018.
- Host/Presenter, Nexsen Pruet NC v. SC and Federal Tax Law Update, Topics: *Withholding Credits: SC JDC; SC vs. NC: Sales Taxes and Income Taxes; Federal Tax Law Update: Impact on Manufacturers and Real Estate Developers*, March 9, 2018

- 2018 SC Bar Convention / Government Law Section – Presenter: Economic Development: Hot Topics and Case Studies, January 19, 2018
- Host/Presenter, Nexsen Pruet Economic Development Seminar: NC vs. SC, Topics: *Cost-Benefit Analysis; Sales Taxes; Income Taxes; Port Cargo Credits/Data Centers*, November 6, 2015
- Co-author, South Carolina Nonprofit Corporate Practice Manual, South Carolina Bar, 2015
- Host/Presenter, Nexsen Pruet SALT Seminar, Topics: *Sourcing Update COP vs. Market Share, SALT Caselaw and Statutory Update*, October 2, 2015
- Presenter, SCMA 2015 CFO Forum (2015) *Legislative Update; And Sometimes Overlooked State Tax Economic Development Incentives for Manufacturers*
- Presenter, Low Country Open Land Trust (Sept. 2015) State and Federal Charitable Giving Rules for Non-cash Charitable Contributions
- Host, Realtors Seminar (2015) Presenter, Realtor's Legislative and Regulatory Update, ATI Alternative Valuation Credit, Abandoned Building Revitalization and Retail Revitalization Acts
- Host, Traps and Pitfalls in Economic Development (2015) Presenter: *Federal Income Tax Consequences of State Tax Incentives*
- Moderator and presenter of the Clean Energy Economic Development Panel at the 2014 South Carolina Clean Energy Summit
- Host, Realtors Seminar (2014) Presenter, *Property Tax Basics; ATI; Abandoned Buildings and Retail Facilities Revitalization Acts*
- Author, article for the South Carolina Lawyer (2014), co-written by Chris Hampton, entitled "Nonprofit Traps and Pitfalls."
- Host, Newbie Seminar (2013) Presenter, *Income Taxes; Sales Taxes; and Utility Tax Credit*.
- Host, SALT Seminar (2013) Presenter, *State Tax Traps and Pitfalls and ALC Update*.
- Host, Hard Dollars Seminar (2013) Presenter, *Utility Tax Credit*.
- Host, Legislative Update Seminar (2013) Presenter, *SC vs. NC Tax Incentives and Legislative Update*.
- Host, Distribution Center Seminar (2013) Presenter, *Taxation of Warehouses vs. Manufacturers; Property Taxation of Warehouses owned by Manufacturers; and State Tax Incentives for Warehouses/Distributors*.
- B. Maybank, Franklin Daniels, Cashida Okeke, *State Tax Traps and Pitfalls*, South Carolina Lawyer, May 2013, at 42.
- State Economic Development Incentives for the Agribusiness Industry (2012) Presenter, *Job Tax Credit/Job Development Credit*, and *Classification of Processors and Manufacturers for Purposes of Property Taxes*.
- Host, Incentives for Real Estate Developers (2012) Presenter, *Infrastructure Tax Credit; Closed Big Box/Textile Mills - Renovation Credits*, and *Brownfields*.
- Host, Selected Issues regarding Spec Industrial Parks and Mega Sites (2012) Presenter, *Legislative Update and Utility Tax Credit and Spec Industrial Parks*.
- Host, Economic Development and Legislative Update Seminar (2011) Presenter, *Legislative Update*, and *Property Tax Issues: When a Manufacturing Facility is sold at a Deep Discount*.



→ Host, Newbie Seminar (2011) Presenter, *Income and Sales Tax Basics and Incentives*, and *FOIA's Application to NonProfit Economic Development Agencies*.

## News

09.16.2022 | Media Mention

Burnie Maybank Provides Insight on Tax Law Change Impacting SC Manufacturers

08.19.2022 | Media Mention

31 Nexsen Pruet Attorneys Listed in 2022 Legal Elite of South Carolina

08.18.2022 | Firm News

**72 Nexsen Pruet Attorneys Named to 2023 Best Lawyers in America® List**

08.17.2021 | News from Nexsen Pruet

39 Nexsen Pruet Attorneys Listed in 2021 Legal Elite of South Carolina

10.12.2020 | Media Mention

George Bullwinkel and Burnie Maybank published in The Post and Courier, "Commentary: Change in SC law means a brighter future for affordable housing"

04.08.2020 | News from Nexsen Pruet

Burnie Maybank Hosts New Economic Development Podcast

## Speaking Engagements

05.29.2020

WEBINAR: 2020 Nexsen Pruet Realtors Seminar

## Insights

08.02.2022 | Article

Economic Development Update - Comprehensive Tax Cut Act of 2022

08.06.2021

"South Carolina State Tax Traps and Pitfalls"

05.12.2020

Back in Session: South Carolina General Assembly

03.20.2018

Federal Income Tax Consequences of State Economic Development Incentives After Passage of Tax Cuts and Jobs Act

07.08.2014

"Nonprofit Traps and Pitfalls"

The Buzz with Burnie