



Morgan Lewis

TAX OPPORTUNITIES AND EV CREDITS

February 23, 2022

Justin D. Cupples
Cosimo A. Zavaglia

Morgan Lewis Automotive Hour Webinar Series

Series of automotive industry focused webinars led by members of the Morgan Lewis global automotive team. The 8-part 2022 program is designed to provide a comprehensive overview on a variety of topics related to clients in the automotive industry. Upcoming sessions:

MARCH 23 | China's New Privacy Law and Other Regulatory Developments Affecting the Automotive Industry

MAY 18 | Part I: All Things Autonomous—Regulatory and Commercial Considerations for AVs

JUNE 15 | Automotive Finance and Consumer Protection Developments

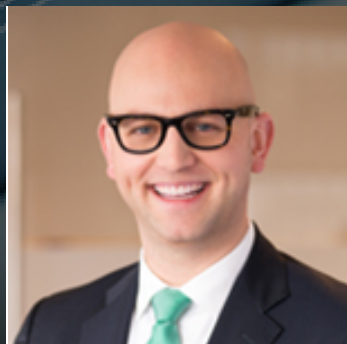
JULY 13 | Part II: All Things Autonomous—Regulatory and Commercial Considerations for Delivery Robots (On and off campus), Scooters, and Drones

SEPTEMBER 14 | Part I: All Things EV—Regulatory and Commercial Considerations

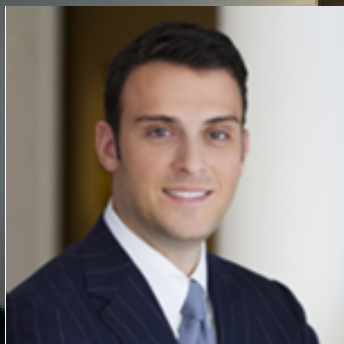
SEPTEMBER 28 | Part II: All Things EV—Finance and Transactional Considerations

NOVEMBER 9 | European Antitrust and Other Regulatory Updates for the Automotive Industry

Presenters



Justin Cupples
Philadelphia
Tel. +1.215.963.4911
justin.cupples@morganlewis.com



Cosimo Zavaglia
New York
Tel. +1.212.309.6646
cosimo.zavaglia@morganlewis.com

Morgan Lewis

Introduction

State and local taxing authorities continue to be aggressive in pursuit of driving state revenue.



On the one hand, states and localities are perpetually behind the times, and known for applying old laws to new ways of doing business.



On the other hand, they are taking measures to encourage investments in technology and renewable energy—especially in the EV space.

Agenda

Income &
Franchise Taxes

Sales & Use
Taxes

Legislation

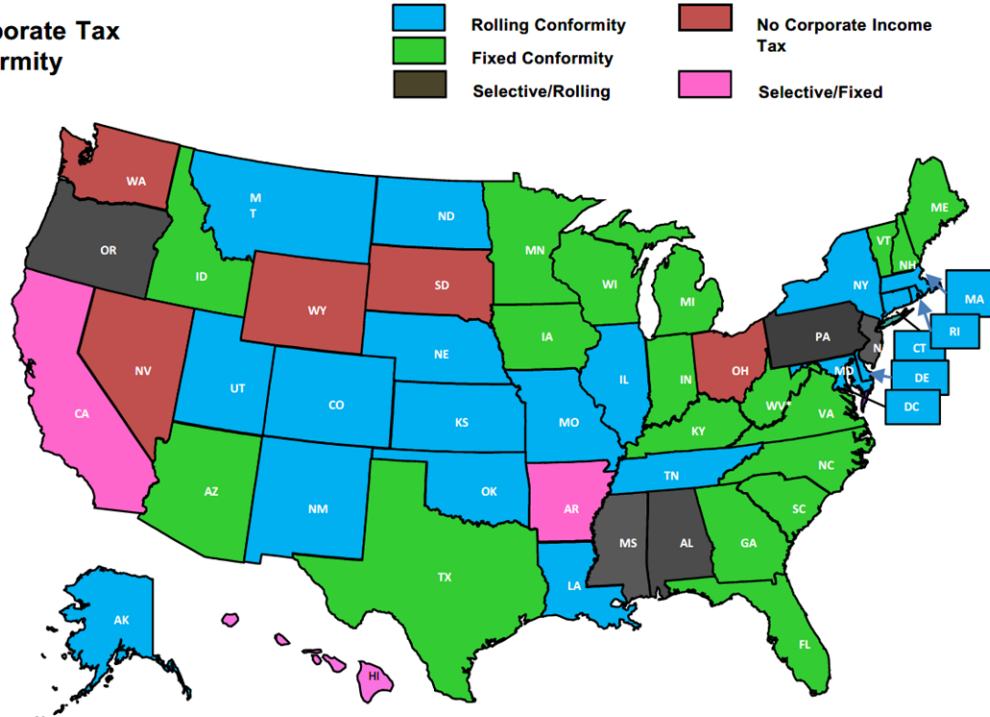
Income & Franchise Taxes

Tax Base and Apportionment

- Sale of environmental credits/nonbusiness income.
- Cost of performance sales sourcing for finance companies.
- Supply chain planning to increase sales factor denominator.
- Capital expenditure planning utilizing tax saving opportunities.

Federal Tax Conformity

State Corporate Tax
IRC Conformity
Map



Credits and Incentives

- The structure of credits and incentives.
- Credits and incentives for electric vehicles.
- Credits and incentives for building infrastructure like charging stations.
- Investments in renewable energy.

Sales & Use Taxes

Exemptions and Exclusions

- Electric vehicle and charging station exemptions.
- Electricity exemptions.
- Manufacturing exemptions.
- Telematics.

State and Local Tax Impact on Vehicle Telematics



Vehicle Telematics and Communications Tax

- Automotive Telematics
 - Business expected to continue to expand and grow – market opens the door to all kinds of advanced offerings — from vehicle security and roadside assistance to concierge luxury services.
 - Combination of *communications* and *information services*. Allows manufacturers to use in-vehicle equipment such as event data recorders, communication systems, navigation devices, and GPS to provide a wide range of information and services.
- Complexity of Telematics Taxation
 - Business growth far outpacing state tax guidance – there are many areas where a company could inadvertently open itself up to a complicated web of communications taxes and regulatory fees.
 - While sales tax can typically fall within the realm of 6–7 percent, communications tax can reach as high as 18 percent.

Vehicle Telematics and Communications Tax (cont'd)

- To stay ahead of state tax issues that arise in this business, there are a few critical steps every provider should do:
 - Do not bundle services – Always keep telematics services, which are largely viewed as information services, separate from communications services, which are subject to communications taxation.
 - Carefully market your services – From web content and brochures to email marketing and advertising, the language used by your marketing team can play a big role in whether or not a service will be deemed liable for communications taxes.
 - Stay up to date – Continually monitor state-by-state activities. With the fast pace of constant innovations, tax law changes and rulings can occur at any time. Hire dedicated personnel or a vendor to keep track of the latest updates.

Legislation

Infrastructure Bills

- Infrastructure Investment and Jobs Act
- Impact on EVs and EV charging technology
- Allocation among the states

Questions?

Justin Cupples | Partner, Philadelphia | justin.cupples@morganlewis.com

Cosimo Zavaglia | Partner, New York | cosimo.zavaglia@morganlewis.com

Coronavirus COVID-19 Resources

We have formed a multidisciplinary **Coronavirus/COVID-19 Task Force** to help guide clients through the broad scope of legal issues brought on by this public health challenge.

Morgan Lewis

To help keep you on top of developments as they unfold, we also have launched a resource page on our website at www.morganlewis.com/topics/coronavirus-covid-19

If you would like to receive a daily digest of all new updates to the page, please visit the resource page to [subscribe](#) using the purple “Stay Up to Date” button.

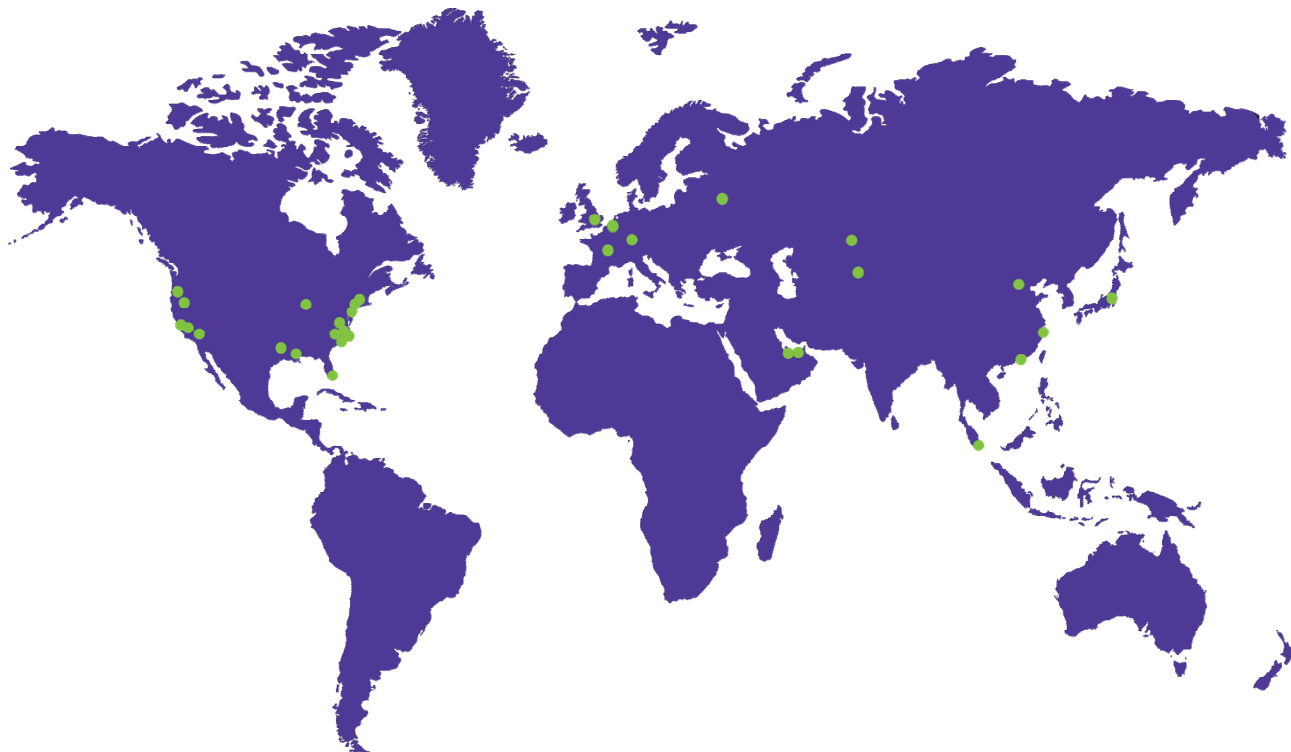


Our Global Reach

Africa
Asia Pacific
Europe
Latin America
Middle East
North America

Our Locations

Abu Dhabi
Almaty
Beijing*
Boston
Brussels
Century City
Chicago
Dallas
Dubai
Frankfurt
Hartford
Hong Kong*
Houston
London
Los Angeles
Miami
Moscow
New York
Nur-Sultan
Orange County
Paris
Philadelphia
Pittsburgh
Princeton
San Francisco
Shanghai*
Silicon Valley
Singapore*
Tokyo
Washington, DC
Wilmington



Morgan Lewis

Our Beijing and Shanghai offices operate as representative offices of Morgan, Lewis & Bockius LLP. In Hong Kong, Morgan, Lewis & Bockius is a separate Hong Kong general partnership registered with The Law Society of Hong Kong. Morgan Lewis Stamford LLC is a Singapore law corporation affiliated with Morgan, Lewis & Bockius LLP.

THANK YOU

© 2022 Morgan, Lewis & Bockius LLP
© 2022 Morgan Lewis Stamford LLC
© 2022 Morgan, Lewis & Bockius UK LLP

Morgan, Lewis & Bockius UK LLP is a limited liability partnership registered in England and Wales under number OC378797 and is a law firm authorised and regulated by the Solicitors Regulation Authority. The SRA authorisation number is 615176.

Our Beijing and Shanghai offices operate as representative offices of Morgan, Lewis & Bockius LLP. In Hong Kong, Morgan, Lewis & Bockius is a separate Hong Kong general partnership registered with The Law Society of Hong Kong. Morgan Lewis Stamford LLC is a Singapore law corporation affiliated with Morgan, Lewis & Bockius LLP.

This material is provided for your convenience and does not constitute legal advice or create an attorney-client relationship. Prior results do not guarantee similar outcomes. Attorney Advertising.