

Lippes Mathias Secures Attorneys' Fee Award from New York Division of Tax Appeals Following Sales Tax Victory



January 20, 2026 | **PRESS RELEASES**

Lippes Mathias is pleased to announce that its client, Greg's Tree Service, a tree removal company local to Buffalo, has had its application for attorneys' fees and costs granted by the New York Division of Tax Appeals following Lippes Mathias tax controversy team members Justin J. Andreozzi and Ethan R. Reger's successful challenge to an asserted sales and use tax deficiency and penalties. In an order issued on January 15, 2026, administrative law Judge Osborne K. Jack awarded Greg's Tree Service over \$54,000 in legal fees and costs. This fee award recognizes that the Division's position was not substantially justified and that Greg's Tree Service substantially prevailed on the most significant issues in the case.

This result comes on the heels of an earlier victory on the merits of the case. On April 10, 2025, the Division of Tax Appeals ruled in Greg's Tree Service's favor, concluding the Division's audit methodology lacked a rational basis and was not reasonably calculated to reflect tax due. That determination canceled the sales-tax assessment generated by the flawed methodology and abated over \$50,000 in recordkeeping penalties for reasonable cause.

Judge Jack granted the fee application under Tax Law § 3030, which authorizes an award of reasonable litigation costs and attorneys' fees to a prevailing party where the government's position was not substantially justified. The

order expressly rejected the Division's contention that a petitioner must prove both that fees were paid and incurred, holding that an itemized statement of the time expended and the rates applied satisfies the statute—an approach consistent with recent DTA guidance. The Tribunal also found the Division failed to identify any evidence establishing what a "reasonable" amount of time would have been to litigate this case, particularly after the Division proceeded with an irrational audit methodology despite early, specific warnings from Lippes Mathias.

Greg's Tree Service's motion was supported by a detailed record, including contemporaneous billing, sworn attorney affirmations, and a client affidavit documenting payments and the financial toll caused by the Division's stance. The Division opposed on multiple grounds, including challenges to payment substantiation, reasonableness of hours, and the availability of an enhanced hourly rate, but those arguments were rejected in material respects by the Tribunal.

"Justin Andreozzi and Ethan Reger were amazing," Gregory Sojka, owner of Greg's Tree Service, said. "They knew every detail and made my case clear at the hearing. I couldn't have asked for a better team in my corner. They eliminated over 99% of the deficiency, including abatement of all penalties, and filed a motion for reimbursement of legal fees that the court granted. Instead of having to pay over \$400,000 to NYS, I'm getting a check for over \$50,000 to help cover litigation costs."

The January 15 order reinforces two important principles: first, that taxpayers who substantially prevail against unjustified positions may recover reasonable fees and costs; and second, that cost-of-living adjustments to the statutory rate are available where justified by the record. Lippes Mathias is proud to have obtained both a full merits victory—canceling the asserted assessment and penalties—and, now, a substantial fee award to help offset the costs of litigation.

About Lippes Mathias' Tax Controversy Practice Team

Lippes Mathias' tax controversy practice team represent clients in a diverse range of corporate, partnership and individual tax matters, including international taxation, employee benefit taxation matters, tax shelter matters, debt-equity issues, intercompany pricing and financial accounting issues.

The team prides itself on having built national reputations based on results. It offers combined experience as lead trial attorneys, and Revenue Agents and Revenue Officers within the IRS and its Office of Chief Counsel, and with the United States Department of Justice Tax Division in a vast array of tax and bankruptcy practice areas. The team is recognized nationally in a wide range of tax and bankruptcy areas, including large case corporate litigation and examinations, international and cross-border issues, tax shelter litigation, collection, and small business and individual tax matters. Whether clients seek tax counsel for litigation, representation before the IRS, an advocate in tax controversies, or thorough tax analysis and objective consulting, the team's attorneys have the experience to obtain lasting solutions.

If you are facing a New York State tax audit or assessment, Lippes Mathias' tax controversy is available to help evaluate your options, protect your rights, and pursue fee recovery where appropriate under Tax Law § 3030.

About Lippes Mathias LLP

Lippes Mathias is a full-service law firm with 230 attorneys serving clients regionally, nationally, and internationally.

With offices in Buffalo, Clarence, Albany, Long Island, New York, Rochester, Syracuse, and Saratoga Springs, N.Y.; Greater Toronto Area; Chicago, Ill.; Jacksonville, Tampa Bay, and West Palm Beach, Fla.; Cleveland, Ohio; San Antonio, Texas; Oklahoma City, Okla.; and Washington, D.C., the firm represents publicly and privately owned companies, private equity and venture capital firms, independent sponsors, family offices, real estate developers, financial institutions, municipalities, governmental entities, and individuals.

Ranked No. 204 on The National Law Journal's NLJ 500 list of the largest law firms in the United States by attorney headcount, Lippes Mathias is proud to be recognized year after year by The Best Lawyers in America®, U.S. News – Best Lawyers®, Super Lawyers, and Chambers USA. For more information, visit www.lippes.com.

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