

**Drexel University Kline School of Law American Inn of Court**

**Group 4, February 26, 2019**

**Philadelphia's Soda Tax: Is the Sweet Deal for the City**

**Leaving Local Businesses Feeling Parched**

**AGENDA**

- Introduction of group 4 and topic (including a PowerPoint overview of the soda tax that touches on origin, public health issues, city council vote, litigation at the lower and appellate court levels, effects of the tax, reaction of local business owners and school district) (15 minutes, Stephen)
- Moot court argument (25 minutes, Nicole, Monica, John, Kelsey, Ilana, Elaine)
- Policy questions and break-out groups to discuss (20 minutes total, Stephen to show remaining videos, Elaine to organize small groups and assign a question to each):
  1. Does your view of this tax change based on whether it has health benefits for the city and why?
  2. Does your view of this tax depend on what the tax is used for (schools, general funds, infrastructure)?
  3. Some clergy in Philadelphia have argued that the tax overburdens specific communities; should that differential impact matter?
  4. Given that the PA Supreme Court found the tax legal, should it be extended to other items with health consequences (caffeinated or sugar-free beverages, for example) and, if no, why not?
  5. Should it matter if people are avoiding Philadelphia businesses to buy their sugared beverages outside of the city (in the suburbs or New Jersey, for example)?
- Reconvene to share discussions, summary, and conclusion (5 minutes, Elaine to coordinate, and all members of Group 4 to participate)

## PARTICIPANT BIOS

**John Campbell** is a third-year law student at Drexel University Thomas R. Kline School of Law.

**Nicole E. Crossey** is a third-year law student at Drexel University Thomas R. Kline School of Law. She is the Treasurer for the Moot Court Board, a member of the *Drexel Law Review*, a teaching assistant for Professor Kraybill's class on mediation & arbitration, and a student representative of the Career Strategies Committee.

**Ilana Eisenstein** is a partner and Co-Chair of Appellate Litigation at DLA Piper. Before joining DLA Piper, she was an Assistant to the Solicitor General in the US Department of Justice, where she represented the US government at 5 oral arguments and in dozens of briefs before the US Supreme Court. Eisenstein also served as an Assistant US Attorney in the District of Delaware for eight years, where she served as the district's Co-Appellate Chief and lead attorney for the Organized Crime Drug Enforcement Task Force. Earlier in her career, Eisenstein clerked for Judge Edward R. Becker of the US Court of Appeals for the Third Circuit and was awarded a Bristow Fellowship in the US Solicitor General's Office. She received her J.D. from University of Pennsylvania Law School, *summa cum laude*, and her B.A. from Harvard University, *magna cum laude*.

**Stephen Gontkosky** is an associate at Brad Cooper & Associates, LLC where he practices in the area of personal injury. Mr. Gontkosky received his Bachelor's Degree in Political Science from King's College in 2003, earned his Master's Degree in Public Administration from Widener University in 2005, and earned his Juris Doctorate from Kline School of Law at Drexel University in 2013. Prior to joining Brad Cooper & Associates, LLC, Mr. Gontkosky was a Judicial Fellow for the Honorable Mark I. Bernstein of the Philadelphia Court of Common Pleas and worked in many areas of the law including the defense of general and professional liability matters.

**Deborah S. Gordon** is an Associate Professor of Law at the Drexel University Thomas R. Kline School of Law. She teaches Legal Methods to first-year students and Trusts & Estates and Law & Literature to upper-level students. Professor Gordon's scholarship focuses on the intersection of language, emotion, and gender in inheritance law. She is a co-author of the casebook "Experiencing Trusts & Estates" and is a co-editor of "Feminist Judgments: Rewritten Trusts & Estates Opinions." Professor Gordon received her J.D. from New York University School of Law, *magna cum laude*, where she was elected to the *Order of the Coif* and served as the Editor-in-Chief of *The New York University Law Review*.

**Kelsey Knish** is an Attorney at Stewart Smith in Conshohocken, where she focuses her practice on complex insurance coverage issues involving toxic tort, environmental, commercial automobile, and construction defect matters. She is involved in first- and third-party coverage cases across the country and engages in various state and federal court practice for declaratory judgment action litigation on behalf of insurers. A portion of her practice involves commercial litigation and casualty defense litigation. Kelsey is a 2016 graduate of Kline School of Law.

**Monica Clarke Platt** is a litigation associate at Klehr Harrison Harvey Branzburg LLP, and focuses her practice on complex business disputes, financial-services litigation, class actions, and First Amendment claims. In addition to business litigation, Monica frequently represents petitioners seeking conservatorship of abandoned and blighted properties under the Pennsylvania Abandoned and Blighted Property Conservatorship Act, and has successfully litigated numerous contested conservatorship cases. Monica is a 2011 graduate, *summa cum laude*, of Drexel University's Kline School of Law, where she was editor-in-chief of the *Drexel Law Review*.

**Elaine T. Yandrisevits** is an associate attorney with Antheil Maslow & MacMinn, LLP, in Doylestown, Pennsylvania, where she focuses her practice on estate planning for high net worth clients and their families, estate administration, special needs trusts, and guardianships, and Orphans' Court matters. Elaine is a member of the Bucks County Bar Association, Pennsylvania Bar Association, Bucks County Estate Planning Council, Lehigh Valley Estate Planning Council, Philadelphia Estate Planning Council, and the Drexel University Thomas R. Kline School of Law chapter of the American Inns of Court. Elaine earned her undergraduate degree, *cum laude*, from the University of Delaware, her Juris Doctor from Drexel University Thomas R. Kline School of Law, and her LL.M. in Taxation and Estate Planning Certificate from the Villanova University Charles Widger School of Law Graduate Tax Program.

From the Office of the Controller, Rebecca Rhynhart (available at <https://controller.phila.gov/philadelphia-audits/data-release-beverage-tax/>):

# Data Release: Beverage Tax Revenue and Expenditures

DOWNLOAD DATA

December 11, 2018

Interactive

Rebecca Rhynhart

Data Release

FY17

FY18

FY19 Q1

As part of an on-going effort to increase transparency around how the City spends your tax dollars, the City Controller's Office is releasing information about the revenue and spending for the Philadelphia Beverage Tax. This release offers an update on the Beverage Tax through the end of the first quarter of Fiscal Year 2019 (September 30, 2018).

This release builds on the Controller's Office's first Beverage Tax [data release from March 2018](#) and expands on it, releasing data on individual expenditure items associated with the three main Beverage Tax spending areas: Pre-K, Community Schools, and Rebuild. All data is taken directly from the City of Philadelphia's general ledger system, FAMIS, which is used to track departmental spending. For each spending area, users can view summaries of the expenditures by vendor name and spending category, as well as search for individual expenditures using an interactive table. The complete data set, which includes expenditures from July 1, 2017 to September 30, 2018, can be downloaded using the button at the top of this page.

Mayor James Kenney proposed the Philadelphia Beverage Tax in 2016 to fund the City of Philadelphia's Pre-K expansion and Community Schools program and to pay debt obligations for the bond borrowing for Rebuild. The tax, a 1.5-cents per ounce levy, took effect on January 1, 2017. In its first year of operation, the City funded 2,000 Pre-K seats and 9 Community Schools. This school year (2018-2019), 2,250 Pre-K seats and 12 Community Schools funded by the Philadelphia Beverage Tax will be available. To-date, no debt service for Rebuild has been paid, although the first bonds have been issued recently. Spending associated with Beverage Tax revenue has been delayed due to pending litigation against the tax. The lawsuit was resolved in the City's favor in July 2018, and the number of Pre-K seats and Community Schools is expected to increase next school year.

Some notes about the data presented here:

- The data for individual expenditures is taken directly from the City of Philadelphia's general ledger system (FAMIS), which the City uses to track spending.
  - In FAMIS, expenditures are categorized by major and minor classes. The major class provides a broad description of the spending, e.g., payroll, while the minor classes give a more detailed description.
  - Potentially sensitive information has been removed, and some formatting changes have been made for clarity.
  - Negative expenditures can be recorded in FAMIS. They are sometimes necessary to offset other, possibly erroneous, spending items.
- The total revenue generated from the Philadelphia Beverage Tax since its inception is \$137.0 million. This includes revenue from all of fiscal years 2017 and 2018 and the first quarter of fiscal year 2019.
- Expenditures related to Beverage Tax funds include spending on Pre-K, Community Schools, and Rebuild as part of Parks and Recreation Special Projects. Beverage Tax revenue not spent in these three areas remains in the General Fund, the City's main operating fund.
- The majority of Beverage Tax revenue, \$101.2 million or about 74% of the total, remains in the General Fund.
- The total spending for each of the three areas is
  - \$31.7 million, or 23.2% of the total revenue, on Pre-K;
  - \$3.5 million, or 2.5% of the total revenue, on Community Schools; and
  - \$605 thousand, or 0.4% of the total revenue, on Parks and Recreation, Rebuild.

# Total Beverage Tax Revenue and Spending

All Dates ▾

