GeTtin' SALTY Podcast – Episode 65

Nikki Dobay: Hello and welcome to Gettin' Salty, a state and local tax policy podcast hosted by Greenberg Traurig. My name is Nikki Dobay, shareholder in the Sacramento, California and Portland, Oregon offices. I am super excited and pleased to be joined today by a new colleague, great friend and wonderful person all around, Nicki Howard. She joined us just last week in our Atlanta office as a shareholder with Greenberg Traurig and I couldn't be more excited. [00:00:30] Nicki, thank you so much for being here.

Nicki Howard: Absolutely happy to be here.

Nikki Dobay: And for many of our podcast listeners, you're probably like, "Nicki Howard? I know Nicki Howard." Yes, a lot of people know Nicki Howard, she is nationally recognized. She has been in-house with CSX for many years, we're going to chat about that and all of the great things she's been up to and we just couldn't be more pleased to have you here as part of the GT SALT team. So, Nicki, you're new to [00:01:00] the podcast and what I generally start with my new guests is how did you get into SALT but we were recently at a lunch and I think the more interesting question for you is how did you get into tax because a lot of people are like, "Oh, I didn't plan it." I've only had two people on the podcast that were like, "I wanted to be a tax lawyer, what I was for." So, what's your story? How did you get into tax?

Nicki Howard: So, I went to high school in Atlanta, Georgia and I think this program is popular a lot of other places but I was [00:01:30] in a program called INROAD which offers professional internships to students starting the summer after their senior year of high school and then throughout their summers while they're in college. I interviewed for that, I had a lot of interviews, it was getting tight, I hadn't been offered a job yet, my UPS interview came, which is headquartered here in Atlanta, and I went into that interview and I went into it knowing I got to get this job.

Nikki Dobay: Okay.

Nicki Howard: I'm going to do whatever it takes to get this internship, okay? And [00:02:00] as soon as I sat down, the gentleman across from me's first question was like, "So, how'd you get into tax?" And it was like, "Tax? This is a tax interview? I thought this was an accounting, just regular accounting but, whatever, we're in it now." So, it's always just been so titillating, it's just always ... It changes a lot and it's just such an interesting area of the law and of accounting-

Nikki Dobay: Did you know that was true or no?

Nicki Howard: I did not know that was true but, you know what, come to find out-

Nikki Dobay: It is.

Nicki Howard: ... it is some of the sexiest work I've ever done. So, [00:02:30] I received that interview, my boss at the time was ... The VP of tax and treasure was Marisa Gresta who's very close to me and just took a particular interest in my career. I did not know him prior to joining UPS but he now is somebody that's very close to me, he was at my wedding, he sat at the table with my parents along with his wife who ... It just feels like he took very good care of me. And then my boss Rick Bishop who I know very well now because we speak together lot and he's still [00:03:00] at UPS. And so, it was interesting and I did love it and I loved UPS, I loved the environment that they created and presented, I loved what I learned but I came out of college all the years later with my bachelor's and my master's in business which, back then, even though I look like I'm barely in my 20s, I'm actually not.

And so, back then, people were not receiving their bachelor's and master's straight back to back and I was hitting a ceiling pretty quickly in my career [00:03:30] and Marisa Gresta suggested that I go to law school and, really, the rest was history. But he also urged me to really open my mind, he said don't just go in there dedicated just to tax, maybe you'll enjoy other areas of the law. And I did go in and I really did spend a lot of energy ... If you look at my transcript, you're going to think I'm a torts expert but that's just because I loved my torts Professor Dr. Heidi Li Feldman, she's still at Georgetown. She was fantastic [00:04:00] and I adored her and so I took every class she offered and so I'm a torts expert by the time I graduate but I'm really a tax person and I have a pretty strong passion for the death penalty, I'm opposed to the death penalty. So, I spent a lot of time doing that while I was in law school as well but, when all the dust settled, I'm a tax professional. And so, I-

Nikki Dobay: Well-

Nicki Howard: Mm-hmm.

Nikki Dobay: ... I went to law school thinking I would be a public defender. And so, I also did a lot of work, death penalty work. [00:04:30] My whole paper my last year was on Texas's system but that's for another podcast.

Nicki Howard: Another podcast.

Nikki Dobay: But yeah, I had no interest in tax in law school. We had to take a federal tax class and I liked it but, funny thing, then I went off and got an LLM, I went ... So, I think I'm going to be a public defender, I get a clerkship, actually, we had a semester where you could go work at the public defender's office and then I realized you actually ... [00:05:00] You just were helping people with life, it was less of legal work and more of-

Nicki Howard: Yeah, I need to get my psychology degree, therapy.

Nikki Dobay: Right, right, yeah. Our supervisor one day was like, "Do you know how to use a calendar?" that's what he asked one of our clients. So, I was then like, "I don't know, maybe that's not what I want to do." Then I had a clerkship and then I decided to get my LLM-

Nicki Howard: In tax?

Nikki Dobay: In tax-

Nicki Howard: Okay, yeah.

Nikki Dobay: ... while I'm clerking. So, I'm applying for my LLM program and [00:05:30] I had to get my transcript from undergrad. And when I got it, I was like, "I never got a C in anything in undergrad." And I called my college and I was like, "I'm sorry but I never got a C and there's a C on my transcript." And they were like, "Do you remember tax accounting spring term of this year?" and I was like, "No, but now I do and I did not like that class but I am [00:06:00] not a tax accountant."

Nicki Howard: Well, tax accounting, it's hard to cut your teeth on it, that's not the same with just tax accounting. There's tax accounting, in-run tax accounting, that's different.

Nikki Dobay: So, let's talk about cutting your time at CSX because we skipped this part of the story, guys, sorry.

Nicki Howard: We can go back, we can go back.

Nikki Dobay: Yeah. So, you go to law school and then?

Nicki Howard: So, I go to law school, I go to Georgetown for law school, September 11th happened and it changes [00:06:30] my trajectory because I came from Shearman & Sterling in New York, that's where I worked immediately prior to law school and really where I intended on going back. But there was a lot that happened with some of the law firms after September 11th and it changed the culture and the population and a lot of the partners that I knew and the people that I worked with who were no longer there. And from Atlanta where I was raised ... I'm from Oklahoma, I was born in Oklahoma but I was raised here in Atlanta, I have a strong relationship with [00:07:00] UPS, as you know, and Alston & Bird was one of their primary counsels at the time and so I go to Alston & Bird and I start my career there and I'm an international person and a federal person.

My LOM is in tax but my focus was international, that was back when we had all the buckets. Literally, the year after I graduate with my LOM, they get rid of all the buckets and we just go to tax and it's like, "Oh, that's fine," because it was the worst thing about the LOM program for international [00:07:30] taxes, you just really had to dig in there but that doesn't exist anymore. And so, I'm an international person, I work with Alston & Bird, I leave Alston & Bird, I don't know, '07, '08 when the economy was having a downturn. I felt pretty confident I didn't want to partner at a firm but look at me now so, apparently, I changed my mind [inaudible 00:07:52], yeah.

Nikki Dobay: Spoiler alert. We all have different paths so I said that once too.

Nicki Howard: Yeah. So, I really left because I felt like [00:08:00] we should make space for the people who know they want to be here forever and I started doing strictly international work for Mohawk Industries and just protecting funds from a manufacturing perspective, I did that externally. And then CSX came knocking, in that interview, I made pretty clear to them that I was an international and a federal attorney. There was a lot of talk about state and locals, I got a little concerned so, halfway through the interview process, the third or fourth person I spoke to, I kept [00:08:30] reiterating from that point forward, "You all know I'm not state and local, right?"

And everybody felt like, "Yes, Nicki, we know that. We have your resume, we're aware, don't worry." I get the job, they're like, "You're going to do it 10%," that's what I was told. I get the job and, no, it's 80%, 90% because there really just wasn't a great deal of attention being placed on the state local at the time that I came because there's been a little bit of a chasm between [00:09:00] me coming and the person who was there before me who's a very good attorney. And so, I start working and there's just a lot of opportunity in the state space and there's just a lack of education on the railroad. It's a very specific industry and there are a lot of people who don't understand that industry and that doesn't stop just because we're at a department of revenue.

And so, really, it was just an opportunity to educate and to help people understand and that doesn't change from federal to international, it's [00:09:30] just which code am I dealing with and which one am I answering and I really had to teach a lot of my federal colleagues and the people that I really grew up with. We spent a lot of time acting like we didn't understand these SALT folks, these SALT folks are working way harder than we are. When we have a question, we answer the question one time. But a SALT person gets a question, they answer the question across their footprint and, in CSX, that means 27 localities and so it's this is way [00:10:00] harder than what anybody implied so you know.

Nikki Dobay: Well, yeah, it's interesting to have ... And you'll be doing this with clients very soon where they're like, "Well, but what's the answer?" and it's like, "Well, there's going to be about 30 to 40 of them."

Nicki Howard: Yes, that's right.

Nikki Dobay: A couple of the states follow each other but they're all doing their own thing. And we got to work together when you were at CSX, that's-

Nicki Howard:	Absolutely. That's why I know you and it was so fabulous.
Nikki Dobay:	I know. And [00:10:30] you taught me all about intermodal. I had no idea what intermodal was until we got to work on a case together. And I was actually just driving yesterday and there was a rail car going by and it said intermodal and I was like, "I know what that means."
Nicki Howard:	It's the waves for the future, it's what we're doing.
Nikki Dobay:	Yeah. So, you really dug in deep to SALT and I think this is a good lesson for a lot of listeners is that, oftentimes, state tax does get, I don't want to say forgotten, [00:11:00] but it's people's-
Nicki Howard:	It can be forgotten.
Nikki Dobay:	Yeah, and people simplify it and think like-
Nicki Howard:	They simplify it.
Nikki Dobay:	... "Oh, it's not that big of a deal," but there can be a ton of opportunities.
Nicki Howard:	It's a big deal. Yeah, it's a big ... And there's a lot of burden associated with it and so, if you ignore it ... We actually had a big merger that we just dealt with at CSX and, of course, you look at mergers and acquisitions from a federal perspective but there was a huge issue in one of our Northeastern states enough that it could kill the deal. And so, [00:11:30] if you don't have someone looking at things from a worldwide round-robin SALT perspective, you are opening yourself up to unknown liability and there's just not a lot of firms that do that but guess what?
Nikki Dobay:	Guess what?
Nicki Howard:	There's now GT.
Nikki Dobay:	There is.
Nicki Howard:	And we have a world view. We're not having to go outside and borrow knowledge from different and different people, we have a worldview because of the team that you have built, Dobay.
Nikki Dobay:	So, you were at [00:12:00] CSX for many, many years and then you've been in a transition mode the last several months and I also ... When I left PWC in 2015, I was like, "I will never be a partner or shareholder anywhere," and that's when I went to COST and, yes, look at me now too so everything comes full circle. But considering the transition, what made you look at GT and think that this would be a good landing spot for you and your skill [00:12:30] set?

Nicki Howard: It really was you. If you hadn't been here, and I can make it broader, but when I first decided that I was leaving CSX which, as you know, was a very difficult decision. I love CSX and I love the railroad, I love the people that I work with, I like what we built there, it's an amazing company and I hope that it goes on to be amazing and stay amazing forever. But then it was a relocation issue, I didn't want to move back to Florida which was required for CSX in a very understandable way [00:13:00] and I started doing transition meetings with all of all the people that I work with outside to get them ready for the fact that I was leaving. And in those transition meetings, I did receive a lot of offers and a lot of interest because, as you mentioned earlier, I speak at a lot of conferences, I'm pretty well known in the industry.

And so, there was a lot of interest and a lot of people talking to me and you were one of them and, because we are friends and because we've known each other for so long, I was pretty candid with you about my desires [00:13:30] and I'm a parent-

Nikki Dobay: Yeah, and you said I'm never going to a law firm.

Nicki Howard: I can't say that, I can't say that. You did a good job, [inaudible 00:13:38] and it was-

Nikki Dobay: I know, I'm very persuasive.

Nicki Howard: And GT has a culture that I like. I'm a late in life mother, I have a gaggle of children, it's very important to me to be a mother to them but it's also important to me to nurture my first baby which was my career and you all have given me a space to do that and we have built a team. [00:14:00] Dobay, when you brought me in, you also recently brought in another new shareholder, Breen Schiller and the three of us represent something very special. And there were other firms that I was talking to pretty heavily and they were doing a great job of selling themselves to me but what GT had that none of those other firms had was Breen and Nikki Dobay and, the three of us together, we covered the country. I cover the East, not just the Southeast, also the Northeast. [00:14:30] You cover the West and then Breen comes in and she's Central.

We all know how to litigate, you are a legislative powerhouse. We do a lot of speaking, we do a lot of educating. We come from a lot of different areas because I have the logistics chain, I have trucking, I have rail and then I'm also very heavily involved with all things electric and the PUC world and all of that and we all know our DORs and we know everything that we're doing and I believed [00:15:00] that we could create something special that I didn't necessarily see when I was with the law firms previously. And so, there was nothing there that was attractive to me, that felt like I want to go back to a law firm and be a partner. But then you came with your vision and it was a beautiful vision and I'm 100% bought in.

Nikki Dobay: Well, and I think one of the things that you bring that's so important and that I'm really excited to share with some of the clients that maybe don't know you is your in-house [00:15:30] perspective and your deal perspective. Because I've spent a lot of time with ... I haven't worked on the state side but I have a lot of firm experience and policy experience and what should the answer be and I can find the answer but, from a client perspective, they don't always want the best legal answer. We give them the legal answer and the legal options but there's a practical piece to all this and you have those [00:16:00] insights and can help clients on this side say, "Hey, I've been in your shoes and this is what I would do."

Nicki Howard: Absolutely, absolutely. We have so many stakeholders. When you're in-house, you have to get the entire C suite on your side and, for me, I work for the CFO which means I have the ... Even though I'm an attorney, I'm a tax attorney so, at CSX, and I do love a structure where the tax attorney reports to the CFO not to the CLO because we have different goals, our goal is really a very fiduciary one. [00:16:30] And although we can get into the political and everything, what we're doing is protecting the money.

So, it's all about buy-in and making sure that you know how to talk to the stakeholders that are outside of the CFO organization that care about more than just the bottom line dollar and then also helping them understand the difference between below the line and above the line and how that's going to make a difference because tax is happening below the line. But if we're doing something like incentives and credits, that contribution happens above the line and then we just have to help [00:17:00] them speak that language, make sure that everybody knows how to talk to their stakeholders.

And because we do, like you said, it's not always just the legal answer. We want to be a good corporate citizen in all of the localities where we are, we're the railroad, we blow horns, people don't always love it, we might make you late to work so we want to make sure you love us, okay? We want to make sure, every time you see our train go by, you realize that that's just America at its best at work, we don't want you to think [00:17:30] of anything negative. So, I understand the concept of having to please everybody and how it's not just a tax answer and I don't move, as you know, and I was a difficult client, okay?

Nikki Dobay: I know, I know, yes.

Nicki Howard: I was a difficult client because I don't like to settle.

Nikki Dobay: She was a great client. She's tough and I was just like, "Oh, man."

Nicki Howard: Yeah, I'm tough. I don't lose cases, I don't give money away, I don't leave money on the table. When you come in and you want to audit [00:18:00] me, guess what? My people got it right. Not a little bit right, we got it exactly right.

Nikki Dobay: Right.

Nicki Howard: And that's another thing that I'm hoping I can bring in, I would like to talk to you before you get to controversy. We're here at controversy and we're going to win for you in controversy but, if you let me in your door prior to controversy, I can make that tax department perfect. I can make it move like silk so that you don't have as many worries and, when we get to controversy, we just have to remind you where [00:18:30] we are and remind you who we are as a taxpayer.

Nikki Dobay: Yeah, and that is very much a philosophy I come to this with too. There's a time and a place for controversy-

Nicki Howard: Absolutely.

Nikki Dobay: ... and I go in front of legislators and I tell them they're going to get sued and I do feel like then it's my civic duty to sue states so they know I'm serious. But there's also litigation is expensive and lengthy-

Nicki Howard: That's [inaudible 00:18:57].

Nikki Dobay: ... and you get tired of it and you get beat down.

Nicki Howard: You get tired. They beat you down, they beat you down, mm-hmm.

Nikki Dobay: [00:19:00] Yeah. And so, I try to come to it and I think you, Breen and I all have this philosophy, there's the political policy angle, relationship angle that we always want to have in place.

Nicki Howard: So important, yeah.

Nikki Dobay: There's the what are our priority issues that we're going to go to the mat on. And then where I come in and often will talk to clients is like, "Okay, we're litigating this but we might lose. Or even if we win, [00:19:30] they might try to change the law so why don't we go in and try to change the law too?"

Nicki Howard: Change the law, change the law.

Nikki Dobay: And-

Nicki Howard: That's one thing we offer that I think a lot of law firms don't and part of the reason why you're so attractive to me because you have to be willing to attack this thing from all angles and the legislative angle is one that's forgotten by the traditional tax practitioner. Because you can fix this thing and it takes time to go through the legislative [00:20:00] process but, if you understand it and if you have forethought and foresight which a team like ours can have now because we've got it from all angles, you can get your changes in there in the proper timing.

Nikki Dobay: Yeah, yeah. I like to say it's long game approach.

Nicki Howard: Yes.

Nikki Dobay: Again, there's priority issues where you're going to spend time and money. For a $10,000 issue, no, it probably doesn't make sense to go try to change the law but, for big issues, there's a lot of reasons to do that. All right, [00:20:30] so-

Nicki Howard: Absolutely.

Nikki Dobay: We're going to just do a little more tax talk and then I do have to ask you a surprise non-tax question I know and that's the most important part about this. So, in the interest of time, I want to cover just two points. So, we were talking about before the podcast following the TCJA and now with the, I don't like to say what the name of the bill is, the new federal legislation, federal tax is still obviously a big piece of the puzzle but, with rates going [00:21:00] down and just many things that have happened at the federal level, the federal tax piece has gotten lower, the state tax piece has gotten higher. And from my perspective, that gives the states a lot of opportunities to provide incentives and credits and things like that or just do things that are pro-business tax policy-

Nicki Howard: Absolutely.

Nikki Dobay: ... to get businesses to be active in their state.

Nicki Howard: Absolutely.

Nikki Dobay: I live on the West Coast where [00:21:30] none of those things happen but you are in the Southeast where the states are actively engaged-

Nicki Howard: Very actively engaged.

Nikki Dobay: ... with business and trying to get them involved.

Nicki Howard: Absolutely. We have so many opportunities when it comes to credits and incentives and a lot of the states are getting creative. We have a very good credit in Alabama that I was able to help CSX use and has become a huge part of our economic development arm. And honestly, because these states, states in the [00:22:00] East, I don't know what you all deal is in the West but, in the East-

Nikki Dobay: We do nothing, just ...

Nicki Howard: Why? We have space, we have land, we have opportunity and it can be developed and, if it's developed in conjunction with the corporation and with somebody who's bringing business and who's going to be a tenant on that property when it comes to economic development, that makes the company willing to contribute to the success of this business location. [00:22:30] And there are so many credits and incentives, a lot of them unknown. When CSX started using our credit in Alabama, we were the first. It had been on the books and it was just money that was turning over that was going unused, it's like having children who are going to college and you think there's no money out there, there's plenty of money that people are trying to give away that nobody's looking at, they just don't know.

What we have learned is the legislature, the states, they're interested, they want to bring in business, they want [00:23:00] to land good customers and good clients and good industry in their environment and a lot of stuff is coming from overseas, a lot of things. We landed so many car dealerships, so many of the people from Asia who wanted to have something in the US and, when the EV battery, who knows where that's going, but that got very popular for a little while and they needed space for that. There is an appetite for it and we have a deep, deep knowledge and [00:23:30] a deep bench on our side and in our team on how to utilize and maneuver and manipulate those tools to the good of a broad, broad range of clients.

Nikki Dobay: All right. Well, we'll wrap up ... That'll be the tax talk for today. But thank you, Nicki, so much for joining me. I know you'll be joining us on many podcasts-

Nicki Howard: Absolutely, this is so fun.

Nikki Dobay: ... and next time we'll get Breen in the mix.

Nicki Howard: Great.

Nikki Dobay: Also, I don't think we've told you this but we do a webinar quarterly and you're going to be featured on the next one.

Nicki Howard: Okay, can't wait.

Nikki Dobay: So, we'll get you the date on [00:24:00] that but just couldn't be more excited to have you here and joining the team.

Nicki Howard: I couldn't be more excited to be here, Dobay. I truly, truly mean that. This is exciting, what a new journey for this old dog.

Nikki Dobay: Stop. All right. But before I let you go, surprise non-tax question.

Nicki Howard: Okay.

Nikki Dobay: And I do these a lot, so coming up with new questions can be hard. So, I used the lifeline this morning and this one is coming from Breen so it's a surprise non-tax question for me too. What is your favorite [00:24:30] Christmas song? And how this works is I ask and then I'll answer so you can collect your thoughts. So, what is your favorite Christmas song? Mine is Sleigh Ride and I'm a big fan of the classic Sleigh Ride where the trumpet does the horse neighing. So, that's my favourite, I'm more of a classic Christmas song person. The other thing that I'll say about Christmas songs is we had a CD growing up or a tape probably and it was called The Happy Hamsters [00:25:00] and I assume it wasn't really sung by hamsters but ...

Nicki Howard: It's just a high-pitched thing?

Nikki Dobay: Yes, yes. And apparently, it was a rip-off of the three chipmunks and they sang all the Christmas classics. Our mother hated that album but we still send her songs from it every year. So, favorite Christmas song?

Nicki Howard: So, I'm going to go Motown style, okay? So, I like all of the very, very soulful Christmas songs. So, we're going to go with [00:25:30] This Christmas, just This Christmas. I like anything the Temptations ... Well, no, no, let's do Silent Night, their Silent Night, the Temptations' Silent Night.

Nikki Dobay: Okay, yes.

Nicki Howard: It's so hard to say favorite because wait till Christmas really gets here, Dobay, you'll have to come to my house and you'll realize how difficult that question was for me because we are a Christmas family.

Nikki Dobay: Have you started listening to the Christmas music on Sirius?

Nicki Howard: Have I?

Nikki Dobay: Okay.

Nicki Howard: Absolutely. As soon as the children got back from [00:26:00] trick-or-treating, okay?

Nikki Dobay: Okay.

Nicki Howard: Yeah. The people are outside of my house right now putting the lights up, it's time.

Nikki Dobay: All right, all right.

Nicki Howard: You know how Mariah Carey does her it's time thing?

Nikki Dobay: Yeah, yes.

Nicki Howard: Yes, we're about that, we're that family. And this year things have been weird in the world lately and so, as soon as ... We usually wait until Thanksgiving [inaudible 00:26:21] Christmas, no, my whole family, we've got Christmas down path. I should turn my camera around, we have Christmas everywhere. We're ready, we're ready. I love Christmas.

Nikki Dobay: [00:26:30] All right. Breen nailed this question. Well, thank you so much for joining me. Thank you for being here.

Nicki Howard: Absolutely, absolutely,

Nikki Dobay: Thank you for being amazing. Thank you for the listeners for tuning in. Information for Nicki and Nikki will be in the show notes and I will be with you all again in a few weeks on the next Gettin' Salty.