

Tax Controversies

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While the term “controversies” might initially be thought of exclusively in terms of litigation, nevertheless, in tax as in other areas of the law, most disputes are resolved without the need for litigation. The federal tax system provides many avenues and opportunities for resolving disputes between taxpayers and the IRS without resort to litigation, and our attorneys have a breadth of experience and skill in making the fullest possible use of all of these less formal dispute resolution mechanisms to obtain favorable outcomes for our clients.

These informal dispute resolution mechanisms begin long before a tax return is even filed in which a potentially disputed issue is presented, and include, for example, the IRS private letter ruling process (and the closely related accounting method change process), in which our attorneys have extensive experience in representing taxpayers in dealings with the National Office of the IRS Office of Chief Counsel. Other opportunities for resolving or avoiding disputes at an early stage include submitting comments to the IRS and Treasury on proposed regulations and other forms of proposed guidance on issues that could impact our clients as well as other forms of planning to minimize the need to take tax return positions that present avoidable risks of disputes.

Informal dispute resolution mechanisms in which our attorneys have extensive experience continue after the tax return is filed in dealing with the IRS examination teams in formats such as responses to IDRs (information and document requests), the potential for filing of a request for a technical advice memorandum (TAM) with the National Office of the IRS Office of Chief Counsel, and, finally, in

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representing taxpayers in the IRS Appeals Office, whose stated mission is to resolve disputes between taxpayers and the IRS through agreed settlements that avoid the need for litigation. In our experience, making the fullest possible use of these numerous less formal dispute resolution mechanisms generally produces results for our clients that have significant advantages, in terms of cost, certainty, and the substance of the resolution, over the use of litigation as a means to resolve federal tax disputes.

Nevertheless, in those instances when less formal dispute resolution opportunities do not produce satisfactory results, our attorneys have extensive experience in tax litigation at all levels of the judicial system, starting with the trial level in the United States Tax Court and the Court of Federal Claims (where the need for an actual trial can generally be avoided through fully stipulated facts or a motion for summary judgment), or, alternatively, United States District Court, continuing through the appellate level in the United States Courts of Appeals, and including the United States Supreme Court.

REPRESENTATIVE EXPERIENCE

Adam Corporation/Citibank NA and Federal Deposit Insurance Co.

- Member of panel of three arbitrators in controversy regarding tax sharing agreement from prior acquisition of financial institutions as part of Government response to 1980s savings & loan crisis (ongoing)
- Attorney: Bob Wellen

Bayer AG/Bayer Corp.

- Representation in litigation before the United States District Court for the Western District of Pennsylvania regarding research credit
- Attorneys: Jeff Moeller, Clif Cates

Centra, Inc./Detroit Int'l Bridge Co. and Central States, Southeast and Southwest Areas Pension Fund

- Served as expert witness in arbitration regarding alleged breach of ERISA in corporate transactions
- Attorney: Bob Wellen

Chesapeake Corporation v. Commissioner

- Represent taxpayer in litigation regarding leveraged partnership transaction (ongoing)
- Attorneys: Bob Wellen, Clif Cates, David Sherwood

CNG Transmission Management VEBA v. United States

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- Tax refund suit on behalf of a voluntary employees' beneficiary organization sponsored by Dominion Resources
- Attorneys: Eric Fox, Pat Smith, Kevin O'Brien

Dominion Resources

- Litigation of interest capitalization issue in U.S. Court of Appeals for the Federal Circuit
- Attorneys: Eric Fox, Les Schneider, Pat Smith

NEWS

- April 26, 2012
Robert Wellen Speaks at J. Nelson Young Tax Institute on Contingent M&A Prices
- April 19, 2012
Robert Wellen Speaks at Ninth Annual Institute on Tax Aspects of Mergers and Acquisitions
- March 28, 2012
Robert Wellen Speaks at ALI-ABA on Taxable Acquisition Structures
- March 2, 2012
Ivins Attorneys Speak at Federal Bar Association Tax Law Conference
- February 27, 2012
Robert Wellen Speaks at Consolidated Tax Return Regulations 2012 PLI Course
- January 24, 2012
Alex Sadler Comments Regarding Third-Party Return Information Disclosure Exception
Tax Analysts
- November 2, 2011
Ivins Attorneys Speak at 66th TEI Annual Conference
- October 20, 2011
Ivins Attorneys Speak at 2011 ABA Joint Fall CLE Meeting
- September 28, 2011
Ivins Attorneys Speak at Fort Worth TEI Meeting
- September 19, 2011
Ivins Attorneys Speak at Cincinnati TEI Seminar
- August 31, 2011
Ten Ivins Attorneys Named to 2012 Best Lawyers in America
- August 22, 2011
Patrick Smith Quoted in Tax Analysts Article on Omissions from Gross Income Cases
Tax Analysts
- July 21, 2011
Alex Sadler Joins Tax Controversy and Litigation Group

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- May 6, 2011
Ivins Attorneys Speak at 2011 ABA Tax Section May Meeting

STRATEGIES & OPPORTUNITIES

- FATCA: Information Reporting Rules for US Individuals Holding Specified Foreign Financial Assets
- IRS Announces Offshore Voluntary Disclosure Initiative

PUBLICATIONS

- April 27, 2012
Appeals Restrictions in Cornyn Legislation Get Mixed Reaction
Tax Analysts
- February-March 2012
Requests for Admission in Federal Tax Litigation: Uses, Limitations, Rules, and Strategic Considerations
Journal of Tax Practice & Procedure
- February 20, 2012
Standards for Tax Court Review in Equitable Innocent Spouse Cases
Tax Notes
- February 17, 2012
FATCA: Information Reporting Rules for US Individuals Holding Specified Foreign Financial Assets
Ivins, Phillips & Barker
- January 30, 2012
Expedited Opt-Out Needed for OVDI Participants Who Owe No Tax
Tax Notes
- January 24, 2012
Federal Circuit Clarifies Third-Party Return Information Disclosure Exception
Tax Analysts
- January 16, 2012
The APA's Reasoned-Explanation Rule and IRS Deficiency Notices
Tax Notes
- November 28, 2011
Is the Anti-Injunction Act Jurisdictional?
Tax Notes
- September 26, 2011
Navigating the Research Credit
Tax Notes
- September 26, 2011
Overcoming Appeals' Bad Rap (quotations in article by J. Coder)
Tax Notes

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- August 30, 2011
DC Circuit: 'The IRS Is Not Special'
Tax Notes
- June 20, 2011
Life After Mayo: Silver Linings
Tax Notes
- October 25, 2010
Mayo and Chenery: Too Much of a Shift in Rationale?
Tax Notes
- September 27, 2010
Gaps in the Seventh Circuit's Reasoning in Lantz
Tax Notes
- August 16, 2010
Omissions From Gross Income And the Chenery Rule
Tax Notes