

## IP&B Wins Closely-Watched Case in Supreme Court

### PRACTICE AREAS

Tax Controversies

*Ivins, Phillips & Barker*

June 4, 2001

Ivins, Phillips & Barker ("IP&B") prevailed in the United States Supreme Court on June 4, 2001, in a case involving an important and unusual consolidated return issue. *United Dominion Industries, Inc. v. United States*, No. 00-157. In an 8-1 decision, the Supreme Court ruled that the product liability expenses of a member of a consolidated group of corporations are eligible for the 10-year loss carryback, provided the whole group has a net operating loss, even though the member incurring the expenses had positive separate taxable income.

Represented by IP&B, *United Dominion* initiated the refund suit in federal district court, where it obtained a favorable judgment. The U.S. Court of Appeals for the Fourth Circuit reversed that decision. During the same time frame, IP&B also represented Internet Corporation on the identical issue in the Tax Court and the Sixth Circuit. The Tax Court ruled in favor of the Government, but IP&B prevailed in the Sixth Circuit and so set up the circuit split with the Fourth Circuit and its *United Dominion* decision. Last fall IP&B successfully petitioned the U.S. Supreme Court to take the *United Dominion* case – the first Supreme Court case on a consolidated return issue in 67 years. IP&B attorneys Eric Fox and Alan Swirski briefed the case in the Supreme Court, and Eric conducted the oral argument with Alan as second-chair.

IP&B's work on this case drew upon its 75-year history of developing and maintaining a nationally-recognized expertise in technical corporate tax issues, tax controversy, and tax

| 2 | IP&B Wins Closely-Watched Case in Supreme Court

litigation.