

# Tax Controversy and Litigation

Skadden's Tax Controversy and Litigation Group assists clients in resolving high-stakes, complex tax disputes. Our group has repeatedly earned recognition as one of the leading tax practices, including in *Chambers USA*, *Law360*, *Legal 500* and *International Tax Review*.

Our tax controversy attorneys represent clients in every type of dispute with taxing authorities, including audits, administrative appeals, Tax Court and district court litigation, and international matters involving competent authority.

We handle a broad range of tax matters involving transfer pricing, financial products, partnership issues, tax accounting, tax credit qualifications, gift and estate taxes, excise taxes, exempt organization qualification, employment taxes and worker classification matters, tax treaty and withholding tax issues, novel controversies related to the Tax Cuts and Jobs Act (TCJA), and state and local taxes.

Our clients rely on the deep experience of our tax attorneys, many of whom have previously served in U.S. government positions, including at the Department of the Treasury, IRS, Department of Justice and on congressional tax writing committees.

## Administrative Settlements

The vast majority of our successes for clients are reached privately through the administrative process, which involves developing creative resolution strategies and utilizing various procedural avenues including with IRS exam, pre-filing agreements, IRS appeals, multijurisdictional (competent authority) and voluntary disclosures. Recent representative experience includes:

- Helping a hedge fund client resolve a long-running, multibillion-dollar tax dispute, which *The Wall Street Journal* described as one of the largest tax settlements in history.
- Representing **Veolia Environnement SA** (France) in its IRS dispute regarding a \$4.5 billion worthless stock deduction. Following an extensive 10-year-long audit, the IRS conceded in full.
- Representing prominent individuals in IRS global high wealth examinations.

## US Tax Litigation

In addition, we have been involved in some of the most significant litigated tax cases in the United States, both at trial and on appeal. Recent successes include:

- Successfully representing **Liberty Global** in its challenge of the validity of regulations related to TCJA — a decision that the government estimated has implications in the “billions of dollars.”
- Victories in Tax Court trials of large transfer pricing disputes, including for:
  - **Amazon** in one of the largest transfer pricing cases in decades and the first involving e-commerce; and
  - **Eaton Corp.** in the first case involving the court's review of an IRS decision to retroactively cancel an advance pricing agreement.
- Victories in a district court on behalf of **Altria Group Inc.** in a tax refund IRS dispute, and in a Tax Court trial on behalf of **Fidelity Investments** in a tax credit dispute, the first IRS challenge to an energy-related tax equity partnership transaction in many years.
- Favorable settlements, including:
  - in Tax Court on behalf of **Mylan Inc.** and **Agero Holdings, Inc.**; and
  - in federal district court on behalf of **Athene USA Corp.** in a refund dispute, as well as on behalf of **Liberty Tax** in an injunction action.
- Appellate victories, including:
  - in the Sixth Circuit for **Eaton Corp.** in the first case involving a court's review of an IRS decision to retroactively cancel an advance pricing agreement;

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- in the Eleventh Circuit for the **Hewitt family** by obtaining an invalidation of a Treasury regulation as arbitrary and capricious under the Administrative Procedure Act;
  - in the D.C. Circuit on behalf of **Starr International Company Inc.** involving a competent authority decision;
  - in the Ninth Circuit for **Seaview Trading** involving the statute of limitations for partnership returns; and
  - in the Supreme Court as counsel for *amicus* **American College of Tax Counsel**.
- State and local tax litigation including representing:
- **Altria Group Inc.** in a dispute with the Michigan Department of Treasury challenging the state's power to tax a \$4.7 billion gain as extraterritorial income. Litigation in the state Court of Claims resolved with a full concession by the Michigan Department of Treasury; and
  - **Priceline.com** with regard to nationwide sales and use as well as hotel occupancy tax disputes, including long-running litigation in more than 50 separate lawsuits in state and federal courts.

In addition, we are currently representing several clients in litigation, including **Medtronic**, in Tax Court, one of the most significant transfer pricing disputes with the IRS; and **Amgen Inc.**, in Tax Court, regarding a transfer pricing dispute with billions of dollars at stake.

## US Tax Enforcement

We also have deep experience representing clients in tax enforcement areas related to congressional investigations, third parties under subpoena, promoter investigations and criminal tax investigations.

## Non-US Tax Disputes

We handle a broad range of non-U.S. tax disputes, including matters involving taxing authorities, court disputes (whether against a taxing authority or another private party in relation to contractual tax obligations), and arbitrations and other dispute resolution mechanisms. Our European tax team operates seamlessly across borders and, where relevant, also as part of an integrated team with our U.S. tax controversy and litigation attorneys.

Recent representative experience includes:

- Securing a victory for **Vodafone International Holdings B.V.** in its long-running \$5.5 billion dispute with the Republic of India under the Netherlands-India bilateral investment treaty.

- Assisting numerous clients in responding to formal inquiries from various taxing authorities, particularly involving companies in the financial services, medical device and pharmaceutical sectors.
- Assisting clients in cross-border audits and exchange-of-information requests, and negotiating bilateral and multilateral advance pricing agreements with different taxing authorities, including as an audit resolution strategy.
- Advising multinationals in relation to various jurisdictions' (including U.K. and Germany) taxation of global intellectual property, such as developing audit strategies, multilateral controls and related contractual and securities law issues, as well as relief under double tax and bilateral investment treaties.
- Advising clients on various state aid matters introduced by the European Commission. For example, we recently acted as state aid counsel for **Kingfisher plc** with respect to its annulment petition and other procedural matters before the EU General Court, for which we deployed a cross-disciplinary team in our London and Brussels offices.

## Recognition

Our tax controversy practice and its attorneys have repeatedly been recognized in the highest bands of *Chambers USA*, *Chambers Global*, *Chambers High Net Worth*, *The Legal 500*, *Tax Directors Handbook* and *International Tax Review*. Recent rankings include:

- Recognized at the 2022 *International Tax Review's* Americas Awards as Americas Tax Court Firm of the Year — for the fourth consecutive year — and U.S. Tax Disputes Firm of the Year.
- Repeatedly recognized as Tax Group of the Year by *Law360* every year since 2015 and No. 1 in *Vault's* Best Law Firm for tax every year since 2010.
- Named 2023 Tax Law Firm of the Year in *U.S. News — Best Lawyers* as part of the publication's 13th edition of the Best Law Firms rankings.
- Named Tax Controversy Firm of the Year at the inaugural *Chambers USA* District of Columbia Awards in 2019, which recognize the leading practices based in the U.S. capital.

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**"Market-leading strength across an impressive range of tax disputes, both in and out of the US Tax Court."**

— *Chambers USA 2022*