

Tax Controversy & Litigation

The Tax Controversy & Litigation practice regularly deals with the Internal Revenue Service (IRS), the U.S. Department of Treasury, the Department of Justice (DOJ) and state taxing authorities in resolving tax disputes and cases. We have successfully handled a wide variety of tax disputes at the federal, state and local tax levels.

Our tax litigation representations include diverse industries involving a wide array of substantive tax issues in the areas of income, estate and gift, excise, employment tax and the tax-exempt arena. Our attorneys are often required to apply complex tax law provisions to facts arising out of highly specialized areas such as transfer pricing, business valuation, complex mergers and acquisitions, corporate finance and real estate. In preparing cases, we work closely with in-house specialists as well as with private sector and academic consultants and expert witnesses. We work in a fully integrated fashion with our clients' in-house counsel and tax directors and take pride in understanding and achieving our clients' tax disputes goals. Our Tax Controversy & Litigation practice's ability to realistically evaluate litigation hazards has led to extraordinarily favorable settlements for clients at the examination and IRS Appeals levels and pretrial settlements.

In addition to representing clients in tax litigation, we frequently counsel our clients regarding tax procedures, such as reporting and disclosure requirements, the avoidance or abatement of tax penalties, privileges, summons enforcement and discovery. We also represent clients involved in criminal tax investigations advising at the entity, senior management or outside advisor level during the grand jury process, indictment and post-indictment.

Matters

- Represented the Kansas City Chiefs in an appeal to the Missouri Supreme Court in a sales and use tax case (*The Kansas City Chiefs Football Club, Inc. v. Director of Revenue, Mo.*, No. SC97730, 6/2/20). The tax assessment related to renovations that were made to Arrowhead Stadium and the administrative offices adjacent to Arrowhead Stadium during such time period. An extremely complicated case, it involved numerous and lengthy legal documents related to financing of the renovations through tax credits and various other sources. Through Polsinelli's representation of The Kansas City Chiefs, the Missouri Supreme Court unanimously found in favor of The Kansas City Chiefs and vacated a \$677,171.55 Missouri use tax assessment and a \$252,775.39 Missouri sales tax assessment, plus statutory interest, for certain periods in tax years 2008-2011.
- Represented heavy truck and equipment distributor in connection with IRS audit and appeal of excise tax assessment resulting in refund of more than \$3 million to taxpayer.
- Represented a leading haircare and skincare company and some of its former owners in an IRS audit of its 2017 federal income tax return. During the year of audit, the client reported revenues in excess of \$285

million and its owners entered into a sale of the company with an unrelated third party for an enterprise value of approximately \$1.5 billion. After a lengthy period of representation the client and former owners and negotiations with the Internal Revenue Service, Polsinelli was able to obtain a “no change” determination from the Internal Revenue Service for both the 2017 tax reporting year for the client as well as the reporting of the sale transaction by its owners of \$1.5 billion.

- Representation of multiple family farms as part of split up transaction and reorganization, including the issuance of an IRS private letter ruling related to the tax-free nature of the transaction.
- Representation of alternative energy developer in dispute with state tax assessors related to qualification of development project for state sales tax and property tax exemptions.
- Negotiated at the IRS audit and appeals levels a more than \$1.2 million reduction in excise taxes for a private foundation client. The issue involved investments made by the private foundation that the IRS viewed as jeopardizing the carrying out of the foundation’s charitable purposes. Through Polsinelli’s advocacy, the IRS reduced the client’s excise tax exposure by over 90%.
- Obtained private letter ruling from the IRS on favorable tax treatment of foreign Subpart F income to tax-exempt organization from foreign blocker entity.
- Negotiated a \$1.6 million reduction in excise tax liability with the IRS on behalf of a large private foundation.
- *AT&T Communications of the Southwest v. Director of Revenue* (Mo. AHC 2013). The Missouri Administrative Hearing Commission ruled in favor of the taxpayer and found that passive investment income earned by the taxpayer was not Missouri source income and was not subject to Missouri corporate income tax. The Commission followed the holding in an earlier case handled by the Polsinelli tax team for Medicine Shoppe International (discussed below), by ruling that the Medicine Shoppe International tax treatment of passive investment income was applicable to the taxpayer, which calculated its Missouri taxable income under a different section of the tax law.
- *Matter of the Appeal of Chipotle Mexican Grill, Inc.* (Kansas COTA 2010). The Kansas Court of Tax Appeals ruled in favor of the taxpayer and held that income earned from the investment of excess cash proceeds was properly treated as non-business income and was not treated as business income that can be apportioned to Kansas for corporate income tax purposes.
- *Western Blue Print Co. v. Director of Revenue*, 311 S.W.3d 789 (Mo. S. Ct. en banc 2010). The Missouri Supreme Court affirmed the decision of the Missouri Administrative Hearing Commission and ruled that CDs prepared by the taxpayer from printed materials that were scanned, were not taxable. By applying the true object of the transaction test, the computer output produced by the taxpayer was not taxable.