

Tax Controversy

Overview

In addition to our broad experience in Business and Estate Tax Planning, the Firm has an active Tax Controversy practice. Munsch Hardt attorneys represent major clients, including individuals and business entities of all types and sizes before the Internal Revenue Service, as well as the Texas Comptroller's Office. Whether at audit, appeals or in court, our team has successfully obtained favorable settlements for clients active in the financial, investment, energy, retail, hospitality, health care and insurance industries to name a few.

Our Firm's Tax attorneys have a thorough understanding of IRS practice and procedure, a working knowledge of substantive tax areas, and the skill to advocate a position before the IRS or, if necessary, in court. Regardless of the situation, our attorneys strive to minimize the scope of such disputes, resolving them as quickly and cost-effectively as possible.

In the initial stages of an audit, our Tax Controversy attorneys quickly identify significant issues and develop strategies to effectively achieve our clients' objectives. We advise on responding to information requests and summonses, establish procedures to identify and protect privileged documents, prepare witnesses and establish appropriate document retention procedures to preserve evidence. Munsch Hardt Tax attorneys possess the skills necessary to negotiate a settlement, as well as the experience and foresight to position the matter for litigation.

By working to resolve disputes at the earliest possible stage, we are often able to reach favorable outcomes for our clients without the additional costs, distraction and publicity that unnecessarily accompany formal tax disputes. In litigated matters, we bring to bear a team of experienced tax litigators who understand both the substantive tax issues and how to present a case effectively.

Experience

IRS National Office Tax Relief

Taxpayers granted tax relief in a "9100" case for missing federal tax classification elections resulting in the taxpayer filing the wrong federal tax return for over 10 years, resulting in tax, penalties and interest savings in excess of \$1 million.

IRS Tax Controversy

Assisted client in tax controversy with the IRS on the client's characterization as a "dealer" in real estate for Federal income tax purposes and obtained a settlement for substantially less.

IRS Tax Controversy

Represented a Major League Baseball team that deferred its income from advance season ticket sales (and the minimal associated expenses) until the related games were played. The IRS sought to require immediate inclusion of the ticket revenue. The Tax Court ruled in favor of the baseball team/taxpayer. The Tax Court rejected the IRS's argument that under *Schlude v. Commissioner*, the Taxpayer was required to include the prepayments, and applied *Artnell Co. v. Commissioner*, since the receipts would have had to be refunded if the Taxpayer did not play the season, the facts of the case fit within the narrow *Artnell* exception to the *Schlude* principle.

IRS Tax Controversy

Represented the IRS against a professional basketball player who created a personal services corporation similar to the one in *Sargent v. Commissioner*, which involved a professional hockey player). The Tax Court held for the IRS. Allen Leavell who played for the Houston Rockets in the NBA created a PSC for his services as a professional basketball player and to market his personal appearances and endorsement opportunities. Leavell was not only the sole shareholder of the PSC but also served as its president and treasurer. The Tax Court, while rejecting the ratio laid down in *Sargent*, took note of the authority of the Houston Rockets and the NBA to directly control Leavell's on court services and concluded that Leavell was an employee of the Houston Rockets and not his PSC, and that the payments made to his PSC should be considered personal income and be subject to Income Tax. *Leavell v. Commissioner* 104 T.C. 140 (1995).

Practice Leaders



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