

Tax Controversy

Contact

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Overview

Post & Schell's Tax Controversy Practice represents businesses, non-profits, and individuals in tax controversy matters at the federal, state, and local level. We also provide pragmatic compliance advice that is informed by the Firm's experience in tax controversy matters.

Tax controversy matters require a unique skill set. While substantive knowledge of tax law is necessary, it is not sufficient. Successful resolution of tax cases also requires litigation skills so that a client's tax position can be presented in an effective and persuasive way. The complexity of tax law makes that particularly challenging.

To meet these needs, our Tax Controversy Practice features **James R. Malone, Jr.**, who couples substantive tax knowledge with significant experience in complex commercial litigation at the trial and appellate levels in both federal and state courts. Mr. Malone holds an LL.M. in Taxation and is active in the American Bar Association's Tax Section, as well as the Tax Section of the Philadelphia Bar Association, where he serves as a member of the Tax Council.

While each client's case is unique, our goal in every tax controversy engagement is to pursue a fair and efficient resolution to the dispute. Our pragmatic approach to tax matters treats litigation as a tool to be used in appropriate cases, not an end in itself.

In **federal tax matters**, we represent taxpayers on a nationwide basis through the full lifecycle of a tax controversy, including the following types of engagements:

- **Audit Defense.** At the audit stage, we collaborate with clients and their accountants, either providing support as necessary or serving as the primary representative where warranted.
- **Administrative Appeals.** We pay particular attention to the administrative appeal stage as it can offer a meaningful opportunity to resolve a case promptly. Not every federal tax matter should proceed directly to an administrative appeal, however, as there is a risk that additional issues will be identified and the case will be sent back to the examination unit. We spend the necessary time with the client and the client's accountant to weigh the potential risks and rewards of an appeal, and we have the advocacy skills to present the client's case in the best possible light.
- **Deficiency and Refund Actions.** We represent taxpayers challenging a determination that they have additional tax liabilities before the Tax Court. We also represent taxpayers in refund actions.
- **Collection Cases.** We represent clients who are the subject of IRS collection activity, including lien and levy matters. Our approach here is holistic; we not only evaluate the immediate collection action, we aim to resolve the outstanding liability. This includes an evaluation of the tax assessments that the IRS is pursuing, as they can often be overstated.
- **Re-Establishing Compliance.** We work with clients who have unfiled returns or other compliance problems that suggest that voluntary disclosure would be appropriate.
- **Support for Tax Professionals.** We consult with other tax professionals in a variety of contexts such as providing technical guidance on tax positions or evaluating the relative merits of a challenge to an IRS determination for a client. For professionals who face potential disciplinary proceedings before the IRS Office of Professional Responsibility, we collaborate with the Firm's Professional Licensure Group, which focuses on everything from revocations and suspension hearings, to professional disciplinary and reciprocity hearings.

In **state and local tax matters**, the range of services that the Firm offers is similar, but our focus is on the Commonwealth of Pennsylvania. In that context, we represent taxpayers before state and local tax authorities and in court. A significant segment of our state and local tax practice involves the representation of taxpayers in matters involving the City of Philadelphia.

We help taxpayers based in Pennsylvania and in other states navigate the Commonwealth's state and local tax system.

Representative Federal Tax Matters:

- Recently concluded an audit reconsideration representation for a taxpayer who owed the IRS over \$2.4 million for five tax years. The IRS agreed to audit adjustments that reduced that amount to zero. The client may actually receive a refund after being subjected to enforced collection for several years.
- Represented a taxpayer with multiple years of unfiled returns; the client was the subject of a \$400,000 federal tax lien and on-going collection activity in the form of levies. Result: The taxpayer's liability was reduced to zero.
- Represented a business owner in audit and before the Tax Court. Result: The case settled with a 30% reduction in tax due for one year and the elimination of accuracy-related penalties for all years at issue.
- Represented a client with long-standing payroll tax liabilities and unfiled personal returns. Result: The IRS agreed to compromise a substantial portion of the client's payroll tax liability.
- Ongoing federal tax engagements include audit reconsideration matter with over \$1 million at issue.

Representative State & Local Tax Matters:

- Represented the U.S. affiliate of a major multi-national corporation that was the subject of a local mercantile tax assessment of \$250,000 with additional exposure for the current and future tax years. Prosecuted a challenge to the assessment under relevant state law and the dormant commerce clause. Result: Settled for \$5,000.
- Represented the owner and manager of restaurant that had been sold. When the local tax authority sought collection from our clients, we named the purchasers as additional defendants and mounted a vigorous defense against the merits of the relevant tax assessment. Result: The municipality agreed to significantly reduce its overall tax claim, and we reached an agreement with the purchasers that limited our client's overall responsibility to contribute to the settlement significantly.
- Represented a manufacturing company in an administrative appeal of a penalty assessment for failure to file a timely return. Result: Complete abatement of the penalty.
- Represented a local non-profit that was denied a sales and use tax exemption. Result: Overturned on administrative appeal.
- Represented a business that had failed to register with the local tax authority or pay business privilege taxes for a decade. Result: The municipality agreed to waive the tax claims for half of the period and to abate all of the interest and penalties.
- Ongoing state and local tax engagements include representation of a health care consulting firm in connection with a sales and use tax audit, amnesty applications with the Department of Revenue, and refund claims against the City of Philadelphia on behalf of residents who paid taxes in other jurisdictions in addition to City Wage Tax.