

Steptoe & Johnson LLP
 China Central Place, 29th Floor,
 Tower 2
 79 Jianguo Road, Chaoyang
 District
 Beijing, 100025
 Tel: +86 10 5834 1000
 Fax: +86 10 5969 6099

Avenue Louise 489
 3rd Floor
 B-1050 Brussels
 Belgium
 Tel: +32 2 626 0500
 Fax: +32 2 626 0510

115 South LaSalle Street
 Suite 3100
 Chicago, IL 60603
 Tel: 312.577.1300
 Fax: 312.577.1370

2121 Avenue of the Stars
 Suite 2800
 Los Angeles, CA 90067
 Tel: 310.734.3200
 Fax: 310.734.3300

633 West Fifth Street
 Suite 700
 Los Angeles, CA 90071
 Tel: 213.439.9400
 Fax: 213.439.9599

1114 Avenue of the Americas
 New York, NY 10036
 Tel: 212.506.3900
 Fax: 212.506.3950

201 E. Washington Street
 Suite 1600
 Phoenix, AZ 85004
 Tel: 602.257.5200
 Fax: 602.257.5299

1330 Connecticut Avenue, NW
 Washington, DC 20036
 Tel: 202.429.3000
 Fax: 202.429.3902

Steptoe & Johnson
 99 Gresham Street
 London, EC2V 7NG
 England
 Tel: +44 20 7367 8000
 Fax: +44 20 7367 8001

IRS Controversy & Tax Litigation

Steptoe's Tax Controversy group includes experienced litigators who have served as Justice Department trial and appellate attorneys, judicial law clerks, and Treasury and IRS officials. We combine trial-tested litigation skills with up-to-date substantive tax experience. This combination enables us to take on the most challenging cases and achieve outstanding results for our clients.

Our attorneys have proven skills and extensive experience in all aspects of tax controversy and litigation:

- Managing IRS audits
- Filing and presenting protests to IRS Appeals
- Negotiating litigation settlements
- Trying cases in court
- Arguing appeals in Courts of Appeals and the Supreme Court

Our active controversy and litigation docket keeps us at the cutting edge of evolving administrative and judicial practice and procedures, strategy, and tactics.

In addition to our litigation skills, we are widely recognized for our substantive tax knowledge and experience. Members have LL.M. degrees in taxation from, and teach classes at, top law schools, and are constantly researching, writing, and speaking to professional audiences on a broad range of substantive tax issues.

Resolving IRS Administrative Controversies

Pre-controversy advice and counsel. Our tax attorneys combine litigation and substantive tax experience to assist clients in effectively anticipating and planning for future controversies. Often, when the tax treatment of an item or transaction is challenged, the ultimate resolution is influenced significantly by actions taken or not taken when the transaction was planned, implemented, or first reported. With this in mind, we provide experience-based advice on reporting, disclosure, document retention, and other pre-controversy matters.

Audit controversy skills. We effectively use all available procedural techniques, including pre-filing agreements (PFAs), requests for technical advice, Fast Track Appeals resolution, Early Referral, and other IRS practices and programs. We have extensive experience with IRS summonses, enforcement proceedings, and joint defense agreements.

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Individual and coordinated IRS and Treasury settlement efforts. We fashion creative and effective approaches to settlement. Our experience encompasses not only direct negotiations for single clients, but also group representations of taxpayers with the same or similar issues. We work hard to achieve favorable results, identifying the most effective approach, whether it be to the examining agent, LMSB, OTSA, Chief Counsel, the Office of the Commissioner, Treasury, or elsewhere.

IRS Appeals controversies. We prepare protests and negotiate with IRS Appeals to achieve favorable settlement results, and routinely negotiate at Appeals offices across the country, using all available Appeals tactics and strategies, including early referral and Appeals mediation, either to achieve settlement or to position the case to proceed most effectively into litigation.

Deep and Current Trial and Appellate Experience

Choice of forum. We have a wealth of knowledge on which to base critical decisions regarding choice of forum for litigation. Our backgrounds and experience enable us to identify both substantive and procedural benefits and detriments that bear on choice of forum decisions.

Settlement of cases in litigation. Many cases, when not settled administratively, can be favorably settled in litigation with the Justice Department or IRS. We have a history of achieving such settlements, drawing on our litigation skills and our experience as former Justice Department litigators and judicial clerks.

Actual trial experience. Relying on our courtroom experience, we develop and implement efficient, effective, and thorough trial strategies. Whether the case is presented by dispositive motion, or by trial, we have the required skill and experience, including intricate discovery and evidentiary disputes, the preparation and examination of fact and expert witnesses, and utilization of the most sophisticated electronic trial presentation and briefing techniques. Our experience enables us to be prepared for all the twists, turns, and surprises of trial advocacy.

Effective appellate advocacy. Steptoe tax attorneys have argued cases in every major federal Court of Appeals, as well as before the US Supreme Court. Our brief writing and appellate advocacy skills are recognized as leading in the bar.

Valuable Range of Experience

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Tax shelter controversies. We have defended clients in nearly every type of “tax shelter” controversy, securing industry-wide IRS settlements and obtaining settlements in individual cases. We recently took a client’s issue through a lengthy technical advice process, defended against an aggressive course of government pre-trial discovery spanning a two-year period, prosecuted a six-week trial, and presented the appeal. In another recent case, we were able to convince the government of the strength of our case at the discovery stage, and the government settled before trial on terms that were outstanding for the taxpayer. In another instance, we are negotiating with the IRS and acting as national coordinator defending the client against the shelter-related claims of other parties.

Industry-wide test cases. We have coordinated industry-wide controversies, selecting test cases as litigation vehicles, managing forum selection, and litigating from trial through appeal. For the mutual life insurance industry, Steptoe handled the trial court and appellate proceedings in four coordinated cases. We have also been able to achieve industry-wide coordinated settlements prior to litigation.

Start-to-finish controversy management skills. We often assist clients in planning or implementing transactions, with the understanding that IRS scrutiny is likely or unavoidable. Our substantive and litigation experience enable us to anticipate issues, and to deal effectively with those issues throughout all stages of the planning and controversy process. This is particularly important because decisions made at the pre-controversy stage about substantive approaches, procedural tactics, and privilege questions may have dramatic effects on future success in litigation.

Step-in litigation ability. We have successfully litigated cases in which we were not involved in the administrative process. These clients sought the highest level of litigation experience, and chose us for our premier tax litigation talent.

Unrivaled Talent

Substantive tax experience. Attorneys in our Tax department have experience in corporate tax, partnership tax, consolidated returns, international tax, transfer pricing, financial instruments and products, ERISA, employee benefits, tax-exempt organizations, state and local tax, and other areas of tax law.

Litigation experience. Attorneys in our Litigation department litigate across the United States and in other countries, and are available to assist with complex and innovative litigation strategies.

IRS Controversy & Tax Litigation

White-collar criminal experience. In recent years, our white-collar criminal defense attorneys have achieved unmatched results in numerous high-profile cases. Their experience also is available for use as needed in any tax controversy.

Our specific experience and particular skills, as well as backup provided by our colleagues in other practice disciplines, provide Steptoe's tax controversy lawyers with a valuable resource readily available as necessary to represent our clients effectively.

Noteworthy

- Ranked, *Chambers USA 2010: America's Leading Business Lawyers* (Nationwide)
- Recommended by *Legal 500 US 2010*