

Financial institutions
Energy
Infrastructure, mining and commodities
Transport
Technology and innovation
Life sciences and healthcare

 **NORTON ROSE FULBRIGHT**

Tax investigations and disputes

A global service from Norton Rose Fulbright



Global tax investigations and disputes

Norton Rose Fulbright's tax investigations and disputes practice forms a major pillar of our global regulation and investigations group which was established to assist our clients as they navigate the evolving and increasingly complex global and cross-border regulatory, compliance and government enforcement environment.

Businesses today face unprecedented challenges as governments around the world become increasingly aggressive in their search for tax revenue. These enhanced enforcement efforts, together with an increased cooperation among government tax agencies, represent extraordinary challenges for multinational companies. Our tax investigations and disputes lawyers combine significant knowledge of international regulation, industry sector knowledge, cross-disciplinary skills and on the ground resources to provide our clients with a "one-stop" practical solution.

Our worldwide team of experienced tax investigations and disputes lawyers provides a global service and something extra: 'connectivity'. We are inter-connected across jurisdictions, industry sectors and regulatory fronts, enabling our teams to advise clients on managing multi-jurisdictional tax investigations and compliance matters, wherever they arise.

Our extensive experience includes representing public and private companies in all stages of tax disputes, from managing audits and investigations, to handling administrative contests, and litigating cases up to the highest court of appeals. We represent companies before government regulators in competent authority proceedings. We also advise on tax implications of general commercial settlements in litigation and regulatory matters.

We have handled a wide variety of tax disputes including transfer pricing adjustments; the determination of residency and permanent establishment for tax treaty purposes; characterisation of transactions and expenses; valuation disputes; business reorganisations and divestitures; rectifications; debt/equity issues; and targeted tax incentives, such as R&D credits, tax depreciation claims and domestic production activities deduction. We also have extensive experience in procedural matters, such as challenging tax penalties and interest; defending investigatory judicial proceedings; contesting requirements from the tax authorities; and tax collection actions.

Global platform

Europe
United States
Canada
Latin America
Asia
Australia
Africa
Middle East
Central Asia

Key industry sectors

Financial institutions
Energy
Infrastructure, mining and commodities
Transport
Life sciences and healthcare
Technology and innovation

Areas of advice

Government audits, investigations and enforcement
Litigation of tax disputes
Criminal tax defence
Transfer pricing
Access to information and lawyer-client privilege
Penalties and interest
Internal investigations
Tax return privacy
Whistleblower defence
Competent authority proceedings
Voluntary disclosures and tax amnesty representation

Regulation and investigations practice

Antitrust and competition
Financial services regulations
Investigations

Tax investigations and disputes

More than 50 locations, including Houston, New York, London, Toronto, Hong Kong, Singapore, Sydney, Johannesburg, Dubai.

Attorney advertising

Track record

Select transfer pricing representations

We represented a publicly traded technology company in defending a buy-in under a cost sharing agreement for certain intangible property rights. Although the tax authorities initially proposed a buy-in valuation exceeding \$2bn (the taxpayer's valuation was in the \$600m range) the case was settled with a pricing adjustment limited to 10% of the taxpayer's initial buy-in valuation.

We advised a global beverage company on whether an arm's-length charge was received by the US licensor for the use of certain intangibles. The amount in controversy exceeded \$500m. The audit was concluded favorably without an adjustment to the selected royalty pricing methodology.

We advised a multinational petrochemicals manufacturer in a Tier I audit case relating to the pricing methodology selected for an outbound buy-in under a cost sharing agreement for intangible property rights. Although a multi-million dollar pricing reduction was initially proposed by the Internal Revenue Service (IRS), by taking a proactive stance at the audit stage the audit was concluded without a pricing adjustment and within 8 months of the commencement of the audit.

We represented an oil and gas company before the IRS on issues arising during the course of multiple examinations, principally dealing with the proper application of the comparable profits method to the transfer of tangible property. One of the examinations is currently before IRS Appeals, with the Appeals Officer recommending a total concession by the IRS, and the other examinations are currently ongoing.

We represented an international drilling contractor under IRS examination with respect to multiple transfer pricing issues, such as management services, intercompany borrowing and lending transactions, and the intercompany leasing of tangible assets.

Select audit and litigation representations

We represented a publicly traded pharmaceutical company in US district court refund action for over \$470m regarding a transaction that involved complex financial products, international tax issues, economic substance, substance over form and the step transaction doctrine.

We represented public and private companies before the Canadian tax authorities and the courts on various issues related to the computation of income for tax purposes, including the deductibility/capitalisation of expenses, capital gain issues and financing issues.

We represented an Australian residential property developer in an Australian Taxation Office funded test case in the Federal Court of Australia which related to valuation methodology under Australia's goods and services tax.

We advised the taxpayer, a special purpose leasing company within Lloyds Banking Group, and winning at the first instance hearing in the First-tier Tribunal. This was the first taxpayer victory in a "main purpose" case for over 30 years and the case will have an impact across the wider tax world, as there are very few decisions on the application of "main purpose" tests.

We represented a publicly traded company under IRS examination and before IRS Appeals with respect to proposed adjustments for withholding taxes, foreign tax credits, dual consolidated losses, and the Section 199 deduction for domestic production activities. All of the proposed adjustments were conceded in full by the IRS.

We represented a world leader in the transport sector before five different Canadian jurisdictions in first instances and appeals in cases involving capital tax issues for 16 taxation years. The amount at stake was over \$100m.

We represented an Australian water authority in court proceedings to determine if a charge was properly characterised as a fee for services or as a tax.

We advised HSBC in litigation concerning the compatibility of the UK's Stamp Duty Reserve Tax regime for American depositary receipts (ADR) with EU law. This case has led not only to significant repayments for HSBC but also to a number of corporate taxpayers. Her Majesty's Revenue and Customs have also had to change its interpretation of the law to comply with the Judgment.

We represented a publicly traded company under IRS examination for civil tax fraud as a result of a tax whistleblower's allegations.

We represented a major international accounting firm in a dispute with the Canadian tax authorities as to whether an accounting firm is required to disclose the names of its clients who had implemented a specific tax planning technique to facilitate audits and assessments.

We advised a multinational technology company in dealing with an Australian Taxation Office investigation into the arrangements between that company and a large international internet search engine provider.

We represented an international drilling contractor before the US competent authority. The amount in controversy exceeded \$500m.

We represented public and private companies in more than 25 instances, at trial and appeal levels, including before the Supreme Court of Canada, in a debate of national importance on the determination of the taxpayers' right to rectify contracts in order to avoid unintended tax consequences.

We represented a multinational business in the first ever judicial review case before the Superior Court of a discretionary decision by the Quebec Revenue Agency refusing the cancellation of penalties.

Regulation and investigations Tax investigations and disputes contacts

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