

**Miller and Chevalier Chartered
Twenty Plus Years of Docketed Tax Cases**

February 14, 2012

No.	Case	Principal Issue	Status/Result	M&C Attorney
1	<u>NetJets Large Aircraft, Inc. v. United States</u> , No. 11-1023 (S.D. Ohio filed Nov. 14, 2011)	Whether NetJets was required to collect section 4261 excise tax on air transportation from owners in its fractional aircraft ownership program	In discovery phase	Maria O. Jones Steven R. Dixon
2	<u>Main's Properties LLC v. Board of County Commissioners of Frederick County, Maryland</u> , Nos. 10-MI-00-0365 and 11-MI-00-0390 (Md. Tax Ct. decided Aug. 11, 2011)	Whether the taxpayer qualified for a property tax credit in connection with improvements to three historic structures located in a historic district.	Taxpayer won	Michael M. Lloyd David B. Blair Rex Winter
3	<u>The Howard Hughes Company, LLC v. Commissioner and Howard Hughes Properties, Inc.</u> , Nos. 10539-11 and 10565-11 (Tax Ct. filed May 6, 2011) (consolidated)	Whether taxpayers' land-sale contracts from their residential land-development business are eligible for completed-contract method of accounting	In discovery phase	Stephen F. Gertzman Kevin L. Kenworthy Steven R. Dixon Sat Nam Khalsa
4	<u>United States v. GE HFS Holdings, Inc.</u> , No. 8:10-cv-2331 (M.D. Fla filed Oct. 18, 2010)	(1) Whether the government timely filed its section 3505(b) action under applicable statute of limitations and (2) whether defendant is liable for sums equal to unpaid payroll taxes under section 3505(b)	Prevailed on partial summary judgment motion on statute of limitations issue eliminating more than 80% of claim; trial tentatively set for June 2012 on remaining 20%.	Marianna G. Dyson David B. Blair Steven R. Dixon
5	<u>Rehrig v. Commissioner</u> , Nos. 10067-10 and 10070-10 (Tax Ct. filed May 3, 2010)	Whether restrictions in a shareholders' agreement would be enforced if the agreement were breached. This issue will determine whether petitioners are to be considered shareholders for purposes of the S corporation rules, which will ultimately determine whether they are subject to income tax on their company's earnings during the relevant period	Case settled shortly before trial	Kevin L. Kenworthy George M. Clarke, III

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6	<u>United States v. Haynor</u> , No. 1:09-cr-00172 (S.D. Ohio filed Oct. 22, 2009)	Defense of tax professional against criminal charges relating to an alleged tax shelter conspiracy involving large corporations	Pre-trial motion phase; trial anticipated 2012.	Thomas E. Zehnle Dawn E. Murphy-Johnson
7	<u>SEBFS Investments, LLC. v. Commissioner</u> , No. 30279-08 (Tax Ct. filed Dec. 16, 2008)	Whether the partners were entitled to claim a loss with respect to certain investments	In discovery phase	Patricia J. Sweeney David B. Cubeta George M. Clarke, III Layla J. Aksakal
8	<u>DeNaples v. Commissioner</u> , 100 T.C.M. (CCH) (2010), <i>reconsideration and motion denied</i> , 101 T.C.M. (CCH) (2011), <i>appeal pending</i> (3d Cir., No. 11-2205)	Whether exclusion of interest on state installment agreement is allowable under Code sec. 103	Pending before the 3d Cir.; Oral argument held Nov. 16, 2011	Alan I. Horowitz David B. Blair Joel C. Weiss Layla J. Aksakal
9	<u>BCP Trading & Invs., LLC v. Commissioner</u> , Nos. 10200-08 and 10201-08 (Tax Ct. filed May 1, 2008)	Whether partners were entitled to claim a loss with respect to investments in partnership	In discovery phase	George M. Clarke, III Layla J. Aksakal
10	<u>Washington Mutual, Inc. v. United States</u> , No. 08-321T (Fed. Cl. filed Apr. 30, 2008)	Whether a taxpayer that participates in a supervisory merger of a failing savings and loan institution is entitled to basis for its acquisition of the right to operate interstate savings and loan branches following the merger.	One count of complaint stayed; In discovery on two other counts	Maria O. Jones Steven R. Dixon
11	<u>Blue Cross & Blue Shield of Kansas, Inc. v. Commissioner</u> , No. 8088-08 (Tax Ct. filed Apr. 4, 2008)	Whether the taxpayer is entitled to deduct under section 162 a settlement payment and associated legal fees incurred in connection with a prior litigation with the Kansas Attorney General regarding the taxpayer's mutual, as opposed to charitable, status, and associated charitable obligations	In settlement negotiations	Maria O. Jones Frederick H. Robinson

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Twenty Plus Years of Docketed Tax Cases**

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12	<u>Washington Mutual, Inc. v. United States</u> , No. 08-211T (Fed. Cl. filed Mar. 31, 2008)	Whether a taxpayer that participates in a supervisory merger of a failing savings and loan institution is entitled to basis for its acquisition of the right to operate interstate savings and loan branches following the merger	In discovery phase	Maria Jones Steven R. Dixon
13	<u>Washington Mutual, Inc. v. United States</u> , 636 F.3d 1207 (9th Cir. 2011), <i>rev'g and remanding</i> , No. 06-1550, 2008 U.S. Dist. LEXIS 120100 (W.D. Wash. Aug. 12, 2008)	Whether a taxpayer that participates in a supervisory merger of a failing savings and loan institution is entitled to basis for its acquisition of the right to operate interstate savings and loan branches following the merger	Taxpayer won on appeal; In discovery and pre-trial phases; trial set for Mar. 2012	Maria O. Jones Alan I. Horowitz Steven R. Dixon
14	Amicus Brief on behalf of American Electric Power Company, Inc., in support of Appellees in: <u>PPL Corp. v. Commissioner</u> , 665 F.3d 60 (3d Cir. 2011), <i>rev'g</i> , 135 T.C. 304 (2010)	Whether the 1997 U.K. Windfall tax is a creditable income tax under U.S. principles	Taxpayer lost	Kevin L. Kenworthy David B. Blair
15	Amicus Brief on behalf of the National Trust for Historic Preservation, in support of Appellees in: <u>Historic Boardwalk Hall, LLC v. Commissioner</u> , No. 11-1832 (3d Cir. filed Apr. 1, 2011)	Whether taxpayer formed to facilitate restoration of a historic building was a sham partnership or lacked economic substance	Pending before the 3d Cir.; Oral argument to be held on Apr. 20, 2012	David B. Blair Alan I. Horowitz John C. Eustice

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16	Amicus Briefs on behalf of Committee on Taxation and Committee on Corporate Reporting of Financial Executives International in First Circuit and in support of certiorari: United States v. Textron Inc. , 577 F.3d 21 (1st Cir. 2009), <i>cert. denied</i> , No. 09-750 (U.S. May 24, 2010)	Whether the work product doctrine prevents the IRS from using a summons to obtain tax accrual workpapers prepared by a taxpayer's attorneys that contains their opinions of potential litigation hazards	Taxpayer lost; En banc decision ordering enforcement of IRS summons	Kevin L. Kenworthy Alan I. Horowitz
17	Mobil Corp. v. Commissioner , 67 Fed. Cl. 708 (2005)	Multiple issues, including worthless stock deductions, enhanced oil recovery credits under section 43, mark-to-market issues, depreciation issues, and several sourcing issues. IRS filed motion to dismiss on jurisdictional grounds	Court ruled most claims were valid "informal claims"	Kevin L. Kenworthy Robert L. Moore, II
18	ExxonMobil Corp. v. Commissioner , No. 11805-00 (Tax Ct. filed Nov. 17, 2000)	Multi-issue case: IRS disallowance of credits for foreign taxes paid to Australia, Holland, and the United Kingdom; allocation of foreign tax credits under section 907; accrual of dismantlement costs; others	All issues settled	Kevin L. Kenworthy David B. Blair George A. Hani Rocco V. Femia Robert L. Moore, II
19	ExxonMobil Corp. v. Commissioner , 136 T.C. 99 (2011), <i>appeal pending</i> , (2d Cir., Nos. 11-2814, 11-2817)	Whether interest netting is available for 1975-1980 period of overlapping interest obligations	Taxpayer prevailed on summary judgment; Government appeal pending before the 2d Cir.	Kevin L. Kenworthy Alan I. Horowitz Steven R. Dixon
20	Louisiana Health Serv. & Indem. Co. v. United States , No. 05-0914 (M.D. La. filed June 29, 2005)	Whether taxpayer is entitled to a loss upon the termination of some of its health insurance contracts based on its proof of the fair market value of those contracts on January 1, 1987	Summary judgment granted in taxpayer's favor on most liability issues on July 2, 2009; refund amount settled May 2010 and case dismissed Oct. 2010	Maria O. Jones Adam P. Feinberg Kathryn M. Sneade

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21	<u>United Air Lines, Inc. v. United States</u> , No. 06-641 (Fed. Cl. filed Sept. 11, 2006)	Whether airline is entitled to a refund of the Government's assessments of liability for unpaid international passenger user fees that should have been paid by the passenger and collected by the airline	Settled Mar. 2010	Adam P. Feinberg
22	<u>Continental Airlines, Inc. v. United States</u> , 77 Fed. Cl. 482 (2007), <i>appeal dismissed</i> , No. 2009-5013 (Fed. Cir. June 3, 2009)	Whether airline is entitled to a refund of the Government's assessments of liability for unpaid international passenger user fees that should have been paid by the passenger and collected by the airline	Taxpayer won; Appeal dismissed and mandate issued June 3, 2009	Adam P. Feinberg
23	<u>American Airlines, Inc. v. United States</u> , 551 F.3d 1294 (Fed. Cir. 2008)	Whether airline is entitled to a refund of the Government's assessments of liability for unpaid international passenger user fees that should have been paid by the passenger and collected by the airline	Taxpayer won; Mandate issued Apr. 13, 2009	Adam P. Feinberg
24	<u>Hosp. Serv. Ass'n of Northeastern Pennsylvania v. United States</u> , 78 Fed. Cl. 434 (2007), <i>appeal docketed</i> , No. 2009-5020 (Fed. Cir. Dec. 8, 2008)	Whether taxpayer is entitled to a loss upon the termination of some of its health insurance contracts based on its proof of the fair market value of those contracts on January 1, 1987	Taxpayer won; Appeal dismissed and mandate issued Jan. 29, 2009	Maria O. Jones Adam P. Feinberg Kathryn M. Sneade Frederick H. Robinson
25	<u>Miller & Chevalier Chartered v. Internal Revenue Service</u> , No. 07-01472 (D.D.C. filed Aug. 14, 2007)	Whether taxpayer is entitled to additional documents requested under FOIA related to the transfer pricing regulations	Additional documents produced; case dismissed Dec. 29, 2008	Kevin L. Kenworthy Kathryn M. Sneade
26	<u>Family Home Providers, Inc. v. Internal Revenue Service, et al.</u> , No. 08-898 (D.D.C. filed May 28, 2008)	Whether a down-payment assistance organization is entitled to tax-exempt status	Case mooted by intervening legislation; case dismissed Oct. 30, 2008	Marc J. Gerson

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27	<u>Barrick Res. (USA) Inc. v. United States</u> , 99 A.F.T.R.2d (RIA) 307 (D. Utah 2006), <i>aff'd</i> , 529 F.3d 1252 (10th Cir. 2008)	Whether taxpayer timely filed its refund claim that corrected a claim for refund that was previously timely filed	Taxpayer lost	Alan I. Horowitz Dennis P. Bedell
28	<u>Hercules, Inc. v. Commissioner</u> , No. 21793-03 (Tax Ct. filed Dec. 23, 2003)	Whether taxpayer is entitled to a capital loss from the sale of stock in a contingent liability management subsidiary; multiple other issues, including whether section 1341 applies to deductions for environmental remediation expenditures	Contingent liability case settled; Other issues settled July 30, 2008 and case dismissed Aug. 7, 2008	Patricia J. Sweeney Layla J. Aksakal Frederick H. Robinson
29	<u>Black & Decker Corp. v. Commissioner</u> , 340 F. Supp. 2d 621 (D. Md. 2004), <i>aff'd in part, rev'd in part, and remanded</i> , 436 F.3d 431 (4th Cir. 2006)	Whether taxpayer is entitled to capital loss from the sale of stock in a contingent liability health care subsidiary	Taxpayer lost	Laura G. Ferguson Joel C. Weiss
30	<u>Fed. Nat'l Mortgage Ass'n v. United States</u> , 56 Fed. Cl. 228 (2003), <i>rev'd and remanded</i> , 379 F.3d 1303 (Fed. Cir. 2004), <i>on remand</i> , 69 Fed. Cl. 89 (2005), <i>aff'd</i> , 469 F.3d 968 (2006), <i>cert. denied</i> , 128 S. Ct. 1110 (2008)	Whether interest netting applies to pre-1998 periods of overlapping payments when the statute of limitations for one of the tax years remained open in 1998	Taxpayer lost	Alan I. Horowitz
31	Motion to Quash Third-Party Subpoena on behalf of the Blue Cross and Blue Shield Association in: <u>Wellpoint, Inc., f.k.a. Anthem, Inc., v. Commissioner</u> , No. 13585-05 (Tax Ct. filed July 21, 2005)	Whether subpoena, filed on the eve of trial, should be enforced	IRS withdrew subpoena 4 days after the filing of our motion to quash	Kevin L. Kenworthy Adam P. Feinberg
32	<u>Exxon Mobil Corp. v. Internal Revenue Service</u> , No. 06-1729 (N.D. Tex. filed Sept. 22, 2006)	Whether a taxpayer is entitled to additional documents requested under FOIA related study of taxpayer transfer pricing documentation	IRS produced documents; case dismissed June 2007	Kevin L. Kenworthy Kathryn M. Sneade

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Twenty Plus Years of Docketed Tax Cases**

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33	<u>Kohler Co. v. United States</u> , 468 F.3d 1032 (7th Cir. 2006), <i>aff'g</i> , 387 F. Supp. 2d 921 (E.D. Wis. 2005)	Whether taxpayer incurred gain in a Mexican debt-equity swap transaction	Taxpayer won; Affirmed by 7th Circuit, Mandate issued Feb. 26, 2007	Joel C. Weiss Adam P. Feinberg
34	<u>Blue Cross & Blue Shield of Wyo. v. United States</u> , No. 04-01791T (Fed. Cl. filed Dec. 21, 2004)	Whether taxpayer is entitled to a loss upon the termination of some of its health insurance contracts based on its proof of the fair market value of those contracts on January 1, 1987	Settled March 2007	Maria O. Jones Adam P. Feinberg Kathryn M. Sneade Frederick H. Robinson
35	<u>ExxonMobil Corp. v. Commissioner</u> , 126 T.C. 36 (2006), <i>aff'd</i> , 731 F.3d 731 (5th Cir. 2007)	Whether the lower GATT rate for corporate overpayments also applied to the interest that had accrued prior to adoption of GATT rate	Taxpayer lost	Alan I. Horowitz Kevin L. Kenworthy Robert L. Moore, II
36	Amicus Brief on behalf of the Blue Cross and Blue Shield Association in: <u>Capital Blue Cross v. Commissioner</u> , 122 T.C. 224 (2004), <i>rev'd</i> , 431 F.3d 117 (3d Cir. 2005)	Whether taxpayer is entitled to a loss upon the termination of health insurance contracts based on its proof of the fair market value of those contracts in 1987	Taxpayer won	Alan I. Horowitz Maria O. Jones Frederick H. Robinson
37	<u>Danstar Ferment v. Commissioner</u> , No. 12288-04 (Tax Ct. filed July 13, 2004)	Application of personal holding company tax	Settled 2005	David B. Blair
38	<u>Long-Term Capital Holdings, L.P. v. United States</u> , 150 F. A'ppx 40 (2d Cir. 2005)	Whether the trial court properly rejected Long-Term's reasonable cause and good faith defense to penalties and whether the 40% penalty applies even though Long-Term did not misstate the value of any asset	Affirmed	Alan I. Horowitz Laura G. Ferguson
39	<u>Weyerhaeuser Co. v. Commissioner</u> , No. 4712-05 (Tax Ct. filed Mar. 9, 2005)	Qualification of recycling facility for tax-exempt financing	Settled 2005	David B. Blair

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40	Amicus Brief on behalf of the American Petroleum Institute in: <u>Clajon Gas Co. v. Commissioner</u> , 354 F.3d 786 (8th Cir. 2004)	Whether depreciation “class life” is determined by the business of the taxpayer or the activity in which the asset is used	Taxpayer won	Alan I. Horowitz
41	<u>Columbia/St. David’s Health Care, L.P. v. Commissioner</u> , No. 4608-00 (Tax Ct. filed Apr. 27, 2000) No. 0538-02 (Tax Ct. filed Jan. 11, 2002)	Partnership item determination and allocation issues	Settled 2004	Lawrence B. Gibbs David B. Cubeta
42	<u>ExxonMobil Corp. v. United States</u> , 253 F. Supp. 2d 915 (N.D. Tex. 2003), <i>appeal dismissed</i> , No. 03-10405 (5th Cir. Jan. 9, 2004)	Whether representative market or field price used to compute percentage depletion deduction for gas sold under fixed price contracts may exceed taxpayer’s actual sales price	Taxpayer substantially prevailed	Emmett B. Lewis Alan I. Horowitz Robert L. Moore, II
43	<u>Fla. Power & Light Co. v. United States</u> , 375 F.3d 1119 (Fed. Cir. 2004)	Whether the presence of a pintle hook disqualifies a utility truck from the mobile machinery exception to the federal highway vehicle excise taxes	Affirmed	Alan I. Horowitz
44	<u>Gen. Elec. Co. v. United States</u> , 384 F.3d 1307 (Fed. Cir. 2004)	Whether the lower GATT rate for corporate overpayments also applies to the interest that had accrued prior to adoption of GATT rate	Affirmed	Alan I. Horowitz Robert L. Moore, II
45	<u>Mary Kay Holding Corp. v. Commissioner</u> , No. 018150-02 (Tax Ct. filed Nov. 20, 2002)	Whether taxpayer may deduct amounts paid to its CFCs under section 162; alternatively, whether taxpayer properly reported its true taxable income as required by section 482	Settled 2004	Patricia J. Sweeney David B. Blair Robert L. Moore, II
46	<u>Robinson v. United States</u> , 335 F.3d 1365 (Fed. Cir. 2003), <i>cert. denied</i> , 540 U.S. 1105 (2004)	Whether an employer’s section 83 deduction for compensation expense should be based on the actual value of transferred stock or on the amount taken into income by the employee	Taxpayer won	Alan I. Horowitz Robert L. Moore, II

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47	Sunoco, Inc. v. Commissioner , 87 T.C.M. (CCH) 937 (2004)	Whether the Tax Court has jurisdiction over Sunoco's claims for additional overpayment interest	Taxpayer won	Alan I. Horowitz Robert L. Moore, II
48	VF Corp. v. Commissioner , No. 7584-02 (Tax Ct. filed Apr. 19, 2002)	Whether the costs of providing retail display to retail customers are currently deductible or must be capitalized	Government conceded in full 2004	Joel C. Weiss
49	Boeing Co. v. United States , 537 U.S. 437 (2003), <i>aff'g</i> , 258 F.3d 958 (9th Cir. 2001), <i>rev'g</i> , 82 A.F.T.R.2d (RIA) 6246 (W.D. Wash. 1998)	Whether taxpayer properly allocated and apportioned R&D expenses for commercial airplanes in determining DISC/FSC benefits	Taxpayer lost	Alan I. Horowitz
50	Amicus Brief on behalf of the American Petroleum Institute in: Saginaw Bay Pipeline Co. v. United States , 338 F.3d 600 (6th Cir. 2003)	Whether depreciation "class life" is determined by the business of the taxpayer or the activity in which the asset is used	Affirmed	Alan I. Horowitz
51	Shell Petroleum Co. v. United States , 319 F.3d 1334 (Fed. Cir. 2003)	Whether taxpayer was collaterally estopped by prior decision from seeking "tar sands credit" under section 29 for oil produced using modified steam injection techniques	Taxpayer lost	Alan I. Horowitz
52	Atl. Richfield Co. v. Commissioner , No. 4444-95 (Tax Ct. filed Mar. 21, 1995)	Multi-issue case with over 200 issues, including hedging (commodities and currencies), tax accounting (Windfall Profits Tax and deficiency interest accruals, take or pay contracts, expense accruals), foreign source income and loss, oil and gas, and capitalization issues	Settled 2002	David B. Cubeta Phillip L. Mann
53	BP Corp. N. Am. v. Commissioner , No. 16684-97 (Tax Ct. filed Aug. 7, 1997) No. 13078-99 (Tax Ct. filed July 29, 1999)	Whether Amoco is entitled to foreign tax credits for Egyptian income taxes paid on its behalf by the Egyptian national oil company pursuant to a production sharing agreement; other issues	Settled 2002	Kevin L. Kenworthy Robert L. Moore, II Jay L. Carlson

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54	<u>Kimberly-Clark Corp. v. United States</u> , No. 02-0985 (E.D. Wis. filed Oct. 4, 2002)	Whether the taxpayer is entitled to credits against its United States federal corporate income tax liability for foreign taxes deemed paid by certain foreign subsidiaries	Settled January 2007	Joel C. Weiss
55	<u>Flint Indus., Inc. v. Commissioner</u> , 82 T.C.M. (CCH) 778 (2001)	Whether parent corporation entitled to bad debt or worthless stock deductions related to advances made to failing German subsidiary even though the subsidiary continued operations and was subsequently profitable	Taxpayer won	Kevin L. Kenworthy
56	<u>Reeves, Inc. v. Commissioner</u> , No. 11807-01 (Tax Ct. filed Sept. 20, 2001)	Whether certain amounts paid with respect to federal and state law liabilities (including environmental liabilities and federal income tax deficiency interest) give rise to specified liability losses under section 172(f) (as in effect prior to the 1998 amendment)	Settled 2002	Dennis P. Bedell
57	<u>Universal Computer Consulting Holding Inc. v. Commissioner</u> , No. 13874-99 (Tax Ct. filed Aug. 17, 1999)	Whether taxpayer accurately valued covenant not to compete; whether taxpayer properly deducted computer equipment sold to customers; whether taxpayer properly deducted business expenses paid to sister corporations	Settled 2002	George A. Hani Phillip L. Mann
58	<u>E.I. Du Pont de Nemours & Co. v. United States</u> , No. 01-0449T (Fed. Cl. filed Aug. 1, 2001) (M&C represented Conoco, Inc., a former Du Pont subsidiary; Du Pont has separate counsel)	Whether trading in certain regulated futures contracts by Conoco (formerly part of Du Pont's consolidated group) are "hedging transactions," with the result that the gains and losses from the transactions are properly characterized as ordinary gains and losses	Settled 2004	Kevin L. Kenworthy
59	<u>Emhart Corp. v. United States</u> , No. 98-1823 (D. Md. filed June 9, 1998)	Whether taxpayer was entitled to deduct the costs associated with the defense against a hostile takeover attempt; whether certain in-house costs were currently deductible	Settled 2001	Joel C. Weiss

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60	<u>Exxon Corp. v. United States</u> , 244 F.3d 1341 (Fed. Cir. 2001)	Whether representative market or field price used to compute percentage depletion for gas properties may exceed the taxpayer's actual sales price	Taxpayer won	Patricia J. Sweeney Alan I. Horowitz Robert L. Moore, II
61	<u>FMC Corp. v. Commissioner</u> , 82 T.C.M. (CCH) 884 (2001)	Whether taxpayer is entitled to theft loss under § 165 for damages caused by illegal insider trading	Taxpayer lost	David B. Blair
62	<u>Kuparuk River Unit, Phillips Alaska, Inc., Tax Matters Partner v. Commissioner</u> , No. 24044-95 (Tax Ct. filed Nov. 17, 1995)	Whether certain assets qualify for the investment tax credit and whether taxpayer may accrue future costs of dismantling oil production structures and equipment	Settled 2001	Phillip L. Mann
63	<u>American Airlines, Inc. v. United States</u> , 40 Fed. Cl. 712 (1998), <i>aff'd in part</i> , 204 F.3d 1103 (Fed. Cir. 2000)	Whether gift certificates and per diem allowances provided to flight crews were includible in wages	Taxpayer lost gift certificates issue, but settled per diem issue favorably	Marianna G. Dyson
64	<u>LTV Steel Co. v. United States</u> , 42 Fed. Cl. 65 (1998), <i>rev'd and remanded</i> , 215 F.3d 1275 (Fed. Cir. 2000)	Whether, following the PBGC's termination of the qualified plans, benefits paid from a trust to steel workers in settlement of a class action should have been subjected to FICA and FUTA taxes	Taxpayer lost on remand	Marianna G. Dyson
65	<u>Blue Cross Blue Shield of Tenn. v. Commissioner</u> , No. 10178-98 (Tax Ct. filed June 4, 1998)	Whether pursue and pay coordination of benefits savings qualify as salvage recoverable for purposes of the special deduction provided by section 11305(c)(3) of the Revenue Reconciliation Act of 1990; whether the taxpayer is entitled to losses for intangibles that became worthless and were abandoned during years at issue	Settled 2000	Maria O. Jones Frederick H. Robinson

**Miller and Chevalier Chartered
Twenty Plus Years of Docketed Tax Cases**

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66	<u>ExxonMobil Corp. v. Commissioner</u> , 114 T.C. 293 (2000)	Whether taxpayer may accrue future costs of dismantling oil production structures and equipment	Taxpayer lost	Emmett B. Lewis Alan I. Horowitz Kevin L. Kenworthy David B. Blair Robert L. Moore, II Jay L. Carlson
67	<u>Fed. Nat'l Mortgage Ass'n v. United States</u> , No. 00-594T (Fed. Cl. filed Oct. 3, 2000)	Claim for interest based on government's failure to pay refund within 45 days of return filing	Government conceded in full	Alan I. Horowitz
68	<u>Host Marriott Corp. v. United States</u> , 113 F. Supp. 2d 790 (D. Md. 2000), <i>aff'd</i> , 267 F.3d 363 (4th Cir. 2001)	Whether federal income tax deficiency interest and worker's compensation amounts qualify as specified liability losses under section 172(f) eligible for a ten-year carryback	Taxpayer won	Alan I. Horowitz Dennis P. Bedell
69	Amicus Brief on behalf of Aerospace Industries Ass'n in: <u>Lockheed Martin Corp. v. United States</u> , 210 F.3d 1366 (Fed. Cir. 2000)	Whether a researcher who bore the risk of unsuccessful research under a fixed-price contract should be denied the section 41 research credit on the ground that it allegedly did not retain "substantial rights" in the research	Affirmed	Alan I. Horowitz
70	<u>Exxon Corp. v. Commissioner</u> , 113 T.C. 338 (1999)	Whether the United Kingdom's Petroleum Revenue Tax is a creditable tax under section 901 or section 903	Taxpayer won	Kevin L. Kenworthy David B. Blair Robert L. Moore, II Jay L. Carlson
71	<u>Exxon Corp. v. Commissioner</u> , 78 T.C.M. (CCH) 165 (1999)	Whether taxpayer may economically accrue deficiency interest deduction	Taxpayer lost	Robert L. Moore, II Frederick H. Robinson
72	<u>Kimberly-Clark Tissue Co. v. United States</u> , 38 F. Supp. 2d 1028 (E.D. Wis. 1999)	Whether taxpayer was entitled to an investment tax credit under the "world headquarters" transitional rule of the 1986 Tax Reform Act	Taxpayer won	Joel C. Weiss

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73	<u>Kimberly-Clark Tissue Co. v. United States</u> , No. 97-0134 (E.D. Wis. filed Feb. 12, 1997)	Whether taxpayer was entitled to amortize a \$100,000,000 greenmail payment over the term of the standstill agreement provided by a hostile shareholder in exchange for the greenmail payment	Settled 1999	Joel C. Weiss
74	<u>THC Partners v. Commissioner</u> , Nos. 22481-97, 13252-98, 16994-98 (Tax Ct. filed Nov. 18, 1997) Consolidated Nov. 12, 1998	Whether the partnership should have specially allocated one-third of the gross distribution amounts from the Estate of Howard Hughes as taxable income to the law firm of Andrews & Kurth	Settled 1999	Lawrence B. Gibbs
75	<u>Amoco Corp. v. Commissioner</u> , 138 F.3d 1139 (7th Cir. 1998)	Whether Amoco is entitled to foreign tax credits for Egyptian income taxes paid on its behalf by the Egyptian National Oil Company pursuant to a production sharing agreement	Taxpayer won	Kevin L. Kenworthy Alan I. Horowitz Laura G. Ferguson Robert L. Moore, II Jay L. Carlson
76	<u>The BOC Group, Inc. v. United States</u> , No. 98-3614 (D.N.J. filed Aug. 3, 1998)	Whether the value of discounted meals provided to employees on the company's premises were excludable from wages	Government conceded following submission of taxpayer's motion for summary judgment	Marianna G. Dyson
77	<u>B.F. Goodrich Co. v. United States</u> , No. 98-0486 (N.D. Ohio filed Feb. 27, 1998)	Whether interest expenses on corporate owned life insurance ("COLI") are deductible	Settled 1998	Maria O. Jones
78	<u>Emhart Corp. v. Commissioner</u> , 75 T.C.M. (CCH) 2231 (1998)	Whether taxpayer was entitled to claim a worthless stock deduction for losses attributed to the disposition of a foreign subsidiary	Taxpayer won	Joel C. Weiss
79	<u>Data Gen. Corp. v. United States</u> , No. 96-385T (Fed. Cl. filed July 1, 1996)	Whether the value of benefits provided to employees under the employer's car and relocation plans should have been treated as wages for payroll tax purposes	Settled	Marianna G. Dyson

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Twenty Plus Years of Docketed Tax Cases**

No.	Case	Principal Issue	Status/Result	M&C Attorney
80	<u>Pac. Landmark Hotel, Ltd. v. Commissioner; Pa. Gateway, Ltd. v. Commissioner</u> , No. 13222-95 (Tax Ct. filed July 17, 1995) No. 13223-95 (Tax Ct. filed July 17, 1995) No. 17921-95 (Tax Ct. filed Sept. 11, 1995) No. 12748-94 (Tax Ct. filed July 18, 1994) No. 6806-95 (Tax Ct. filed May 3, 1995) No. 13351-95 (Tax Ct. filed July 18, 1995) No. 12724-94 (Tax Ct. filed July 18, 1994) No. 6962-95 (Tax Ct. filed May 8, 1995)	Whether interest on a nonrecourse loan that accrues each year is made contingent because it is payable upon a sale or refinance of the encumbered property	Settled 1998	Kevin L. Kenworthy Dennis P. Bedell
81	<u>VF Corp. v. Commissioner</u> , No. 23340-95 (Tax Ct. filed Nov. 9, 1995)	Whether the taxpayer could accrue and deduct costs for cooperative advertising with its retailers before claims were submitted and payments were made	IRS conceded 1998	Joel C. Weiss
82	<u>Cheng v. Commissioner</u> , No. 509-96 (Tax Ct. filed Jan. 11, 1996) <u>Pen v. Commissioner</u> , No. 510-96 (Tax Ct. filed Jan. 11, 1996)	Whether commissions earned as compensation for the performance of personal services in Taiwan are taxable as income effectively connected to a United States trade or business	IRS conceded 1997	Lawrence B. Gibbs Rocco V. Femia
83	<u>Exxon Corp. v. United States</u> , 88 F.3d 968 (Fed. Cir. 1996), <i>rev'g</i> 33 Fed. Cl. 250 (1995), <i>cert. denied</i> , 520 U.S. 1119 (1997)	Whether representative market or field price used to compute percentage depletion for gas properties may exceed the taxpayer's actual sale price	Taxpayer won	Alan I. Horowitz Robert L. Moore, II

**Miller and Chevalier Chartered
Twenty Plus Years of Docketed Tax Cases**

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84	<u>Int'l Paper Co. v. United States</u> , 33 Fed. Cl. 384 (1995) and 39 Fed. Cl. 478 (1997)	Multi-issue case: IRS disallowance of casualty losses for timber lost due to Hurricane Frederic; calculation of combined taxable income under DISC provisions; proper interpretation of deferred inter-company transaction regulations; allocation of purchase price; valuation issues; and characterization of incremental payment as purchase price rather than interest	Taxpayer won (motion for partial summary judgment) on contract purchase price, DISC, consolidated return, and part of casualty loss issues; other issues settled	Dennis P. Bedel Frederick H. Robinson George A. Hani
85	<u>Kimberly-Clark Tissue Co. v. United States</u> , 97-1 U.S. Tax Cas. (CCH) ¶ 50,308 (E.D. Pa. 1997)	Whether taxpayer was entitled to a refund of miscomputed tax deficiency interest attributable to a period prior to crediting an estimated tax overpayment to a subsequent year's tax liability	Taxpayer won	Joel C. Weiss
86	<u>Kroger Co. v. Commissioner</u> , 73 T.C.M. (CCH) 1637 (1997)	Inventory shrinkage and severance payments	Taxpayer won	Frederick H. Robinson
87	<u>Lockheed Sanders, Inc. v. United States</u> , No. 93-366 (D.N.H. filed July 1, 1993)	Whether Lockheed is prohibited from pursuing refund claims (equitable recoupment, judicial estoppel, form over substance)	Settled 1997	Frederick H. Robinson
88	<u>Reynolds Metals Co. v. Commissioner</u> , 114 F.3d 1177 (4th Cir. 1997)	Whether \$14 million loss was incurred on redemption of subsidiary's bonds acquired by parent in conversion to parent stock	Taxpayer lost	Frederick H. Robinson
89	<u>Staley Mfg. Co. v. United States</u> , 119 F.3d 482 (7th Cir. 1997)	Whether to allow a current deduction for investment banking fees paid in connection with an unsuccessful effort to defeat a hostile tender offer (retained to assist counsel of record to prepare Circuit Court appeal)	Affirmed	Joel C. Weiss
90	<u>Weyerhaeuser Co. v. United States</u> , 92 F.3d 1148 (Fed. Cir. 1996), <i>cert. denied</i> , 519 U.S. 1091 (1997)	Whether casualty losses may be claimed for timber loss due to Mt. St. Helens' eruption	Taxpayer won	Patricia J. Sweeney Alan I. Horowitz Robert L. Moore, II

**Miller and Chevalier Chartered
Twenty Plus Years of Docketed Tax Cases**

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91	<u>Atl. Richfield Co. v. Dep't of the Treasury</u> , 79 A.F.T.R.2d (RIA) 585 (D.D.C. 1996)	Whether taxpayer could compel IRS to issue an FPAA	Taxpayer lost	Emmett B. Lewis
92	<u>Scott Paper Co. v. United States</u> , 943 F. Supp. 489 (E.D. Pa. 1996)	Whether the government's claims that the deliberative process and attorney-client privileges protected it from disclosing documentary evidence relating to the computation of deficiency interest	Taxpayer won	Joel C. Weiss
93	<u>Trinity/Denton II, Ltd. v. Commissioner</u> , No. 26409-93 (Tax Ct. filed Dec. 6, 1996)	Whether taxpayer is prevented from asserting that substance of transaction controls over its form	IRS conceded 1996	Lawrence B. Gibbs
94	<u>Wrangler Apparel Corp. v. United States</u> , 931 F. Supp. 420 (M.D.N.C. 1996)	Whether a portion of a company's greenmail payment could be amortized	Taxpayer won	Joel C. Weiss
95	Amicus Brief on behalf of Aerospace Industries Ass'n in: <u>Fairchild Indus., Inc. v. United States</u> , 71 F.3d 868 (Fed. Cir. 1995)	Whether progress payments made under a fixed-price contract should be treated as government "funding" that disqualifies a researcher from claiming the section 41 research credit	Affirmed	Alan I. Horowitz
96	<u>Ford Motor Co. v. Commissioner</u> , 71 F.3d 209 (6th Cir. 1995)	Whether current deduction of the total future payments required by structured settlements funded by single premium annuities clearly reflected income	Taxpayer lost	Alan I. Horowitz
97	<u>Malone & Hyde, Inc. v. Commissioner</u> , 62 F.3d 835 (6th Cir. 1995)	Whether premiums paid to a captive insurance company are deductible	Taxpayer lost	Kevin L. Kenworthy
98	<u>Mitchell Energy & Dev. Corp. v. United States</u> , No. 91-1541T (Cl. Ct. filed Oct. 24, 1991)	Whether natural gas condensate is taxable crude oil under windfall profit tax	Settled 1995	Lawrence B. Gibbs

**Miller and Chevalier Chartered
Twenty Plus Years of Docketed Tax Cases**

No.	Case	Principal Issue	Status/Result	M&C Attorney
99	<u>Stoltz Mortgage Co. v. Commissioner</u> No. 4534-94 (Tax Ct. filed Mar. 16, 1994)	(1) Constructive dividend vs. deductible payment for services; (2) whether income for services provided in connection with mortgage placement is passive income under section 469	Settled 1995	Kevin L. Kenworthy
100	<u>Canadian Oxy Offshore Prod. Co. v. United States</u> , No. 88-320T (Cl. Ct. filed May 27, 1988) No. 88-621T (Cl. Ct. filed Nov. 26, 1988)	Whether interest accrues on overpayments of windfall profits tax credited by the IRS against subsequent liabilities	Settled 1994	Frederick H. Robinson
101	<u>In re Columbia Gas Sys.</u> , 171 B.R. 189 (Bankr. D. Del. 1994)	Numerous issues, including deductibility of payments made in connection with long-term gas purchase contracts, deductibility of gas transportation costs, deductibility of delay rentals, research credit issues, depreciation issues	Settled 1994	Kevin L. Kenworthy
102	<u>Exxon Corp. v. Commissioner</u> , 102 T.C. 721 (1994)	Whether representative market or field price used to compute percentage depletion for gas properties may exceed the taxpayer's actual sales price	Taxpayer lost; government later conceded issue	Alan I. Horowitz Robert L. Moore, II
103	<u>Friedman v. Commissioner</u> , No. 20580-89 (Tax Ct. filed Aug. 21, 1989) No. 14620-89 (Tax Ct. filed Apr. 25, 1990) No. 891-90 (Tax Ct. filed June 23, 1989) No. 7835-90 (Tax Ct. filed Sept. 9, 1991) No. 20169-91 (Tax Ct. filed Jan. 11, 1990)	Numerous issues, including partnership and securities issues	Settled 1994	David B. Cubeta Dennis P. Bedell
104	<u>Wrangler Apparel Corp. v. United States</u> , No. 94-186T (Fed. Cl. filed Mar. 18, 1994)	Whether the taxpayer properly funded its pension plan	Government conceded	Joel C. Weiss

**Miller and Chevalier Chartered
Twenty Plus Years of Docketed Tax Cases**

No.	Case	Principal Issue	Status/Result	M&C Attorney
105	<u>Exxon Corp. v. Commissioner</u> , 66 T.C.M. (CCH) 1707 (1993)	Whether a foreign legal restriction precludes adjustments under sections 61 and 482 (ARAMCO Advantage)	Taxpayer won	Kevin L. Kenworthy Robert L. Moore, II Jay L. Carlson
106	<u>ANR Storage Co. v. United States</u> , Nos. 368-87T, 165-89T (Cl. Ct. filed June 28, 1987 and Mar. 24, 1989) Consolidated Sept. 29, 1989	Whether natural gas condensate is taxable crude oil under windfall profit tax	Settled 1992	David B. Cubeta
107	<u>Exxon Corp. v. Commissioner</u> , 63 T.C.M (CCH) 2067 (1992)	Evidentiary issues related to sections 61 and 482 adjustments	Taxpayer won most issues	Kevin L. Kenworthy Robert L. Moore, II Jay L. Carlson
108	<u>FMC v. Commissioner</u> , Nos. 2016-90, 20609-90 (Tax Ct. filed Jan. 29, 1990 and Sept. 13, 1990)	Depletion on TRONA production	Settled 1992	Kevin L. Kenworthy Dennis P. Bedell
109	<u>Oryx Energy Co. v. United States</u> , No. 90-4007T (Cl. Ct. filed Dec. 12, 1990)	Whether taxpayer was subject to deposit penalties under Windfall Profit Tax	Settled 1992	David B. Cubeta Frederick H. Robinson
110	<u>Exxon Corp. v. United States</u> , 931 F.2d 874 (Fed. Cir. 1991)	Whether the Chief Judge had authority, on remand, to amend previous findings of fact, and whether the new findings were erroneous (regarding judgment on remand allowing a bad debt deduction and a worthless stock deduction)	Taxpayer won	Robert L. Moore, II
111	<u>Student Loan Mktg. Ass'n v. Commissioner</u> , No. 285-89 (Tax Ct. filed Jan. 13, 1988) No. 27946-89 (Tax Ct. filed Nov. 20, 1989)	Character of hedging gains and losses	Settled 1991	Phillip L. Mann Frederick H. Robinson
112	<u>MAPCO Inc. v. Commissioner</u> , No. 1324-89 (Tax Ct. filed Jan. 19, 1989)	Whether mitigation provisions allowed IRS to assess deficiency after expiration of the statute of limitations	Settled 1990	Dennis P. Bedell

**Miller and Chevalier Chartered
Twenty Plus Years of Docketed Tax Cases**

No.	Case	Principal Issue	Status/Result	M&C Attorney
113	<u>Marathon Petroleum Co. v. Commissioner</u> , No. 29643-87 (Tax Ct. filed Sept. 2, 1987)	Whether various offshore drilling platforms qualified for IDC and ITC; miscellaneous other issues	Settled 1990	Kevin L. Kenworthy Dennis P. Bedell
114	<u>Commercial Group Props., Inc. and Individual Investors v. Commissioner</u> , Tax Ct. (dozens of petitions on behalf of Commercial Group Properties, Inc. partnerships and investors)	Whether interest could be deducted under Rule of 78s	Settled 1989	Frederick H. Robinson
115	<u>Litton Indus., Inc. v. Commissioner</u> , 89 T.C. 1086 (1989)	Whether a dividend declared by a wholly owned subsidiary and paid by a promissory note prior to commencement of efforts by the parent to dispose of the subsidiary is a dividend or part of the selling price	Taxpayer won	Dennis P. Bedell
116	<u>Bennett v. Commissioner</u> , No. 19882-87 (Tax Ct. filed June 24, 1987)	Whether gross income should include the (1) fair market value of overriding royalty interests and, if so, what that value should be; (2) negligence penalty; (3) substantial understatement of liability penalty	Settled 1988	Phillip L. Mann
117	<u>Exxon Corp. v. United States</u> , 840 F.2d 916 (Fed. Cir. 1988)	Whether the Claims Court erred in holding that the law of the case doctrine compelled it to allow a \$9 million bad debt deduction and a \$2.1 million worthless stock deduction	Taxpayer lost on this procedural issue but ultimately prevailed on substantive issue	Robert L. Moore, II
118	<u>U.S. Steel Corp. v. United States</u> , 848 F.2d 1232 (Fed. Cir. 1988), <i>rev'g</i> 11 Cl. Ct. 541 (1987)	Whether taxpayer realized taxable income when it repurchased its outstanding bonds for less than their face amount	Taxpayer won	David B. Cubeta Dennis P. Bedell
119	<u>Berkshire Hathaway, Inc. v. United States</u> , 802 F.2d 429 (Fed. Cir. 1986)	Whether the section 47(a) investment tax credit recapture liability constitutes a "tax imposed by section 11"	Taxpayer won	Frederick H. Robinson

**Miller and Chevalier Chartered
Twenty Plus Years of Docketed Tax Cases**

No.	Case	Principal Issue	Status/Result	M&C Attorney
120	<u>Exxon Corp. v. United States</u> , 785 F.2d 277 (Fed. Cir. 1986)	Whether a potential fraudulent conveyance claim precludes a bad debt deduction under section 166	Taxpayer won	Robert L. Moore, II