



## Stephen F. Gertzman

### SENIOR COUNSEL

Stephen F. Gertzman is widely considered the nation's preeminent lawyer in the area of tax accounting. His treatise, *Federal Tax Accounting* (Warrant, Gorham & Lamont, 1988, 2d Ed. 1993), is generally recognized as the leading authority on the topic and is used by many colleges, universities and law schools. Over the years, his advice has been sought by the Treasury and IRS on matters of tax accounting. His writings have been cited in a number of court decisions.

sgertzman@milchev.com  
(202) 626-6080

#### PRACTICES

Tax Accounting  
Tax Controversy & Litigation  
Transactional Tax Planning

#### EDUCATION

- J.D.  
University of Florida, Levin  
College of Law  
with high honors, Order of the  
Coif  
1972
- M.A. (Accounting)  
University of Florida  
1970
- B.S.B.A.  
University of Florida  
with high honors  
1968

Before joining Miller & Chevalier, Mr. Gertzman was at Ernst & Young LLP for more than 12 years, where he served as its National Director of Federal Tax Accounting and its Director of Accounting Methods and Inventories. Before then, Mr. Gertzman was a partner for more than 20 years at the law firm of Sutherland, Asbill & Brennan LLP. His practice covers tax planning, changing methods of accounting, representing clients administratively before the IRS and litigating tax issues. He has represented taxpayers in a wide variety of industries, from small, closely held businesses to the nation's largest, publicly held corporations.

Mr. Gertzman was an adjunct professor at the Emory University School of Law for 20 years. He has chaired the Committee on Tax Accounting Problems of the ABA's Tax Section, its Subcommittees on Inventories and Tax Accounting Controversies and numerous task forces on tax accounting issues.

Mr. Gertzman is a frequent speaker on tax accounting topics. While at the University of Florida School of Law, he served as Executive Editor of the *Florida Law Review*.

#### REPRESENTATIVE ENGAGEMENTS

Working with many of the nation's largest manufacturers, wholesalers and retailers in the automotive, consumer products, textile, pharmaceutical, agricultural and food processing, chemical, petroleum, steel, paper and forest products, furniture, defense, jewelry, tobacco, and apparel industries, as well as others, on obtaining or sustaining:

For LIFO taxpayers:

- The use of a single NBU pool for multiple divisions and/or operations
- The use of so-called component costing in lieu of product costing
- Changes in base years and/or revisions of base costs in order to simplify computations
- The use of simple ratios to differentiate between purchased and manufactured items in ending inventory
- The benefits of low basis "bargain purchase" inventories in cases where so-called "Hamilton issues" were asserted

- The use of moving or rolling average cost methods in a variety of circumstances prior to their limited allowance in Rev. Proc. 2008-43

For LIFO and/or non-LIFO inventories:

- Write-downs of inventory due to shrinkage
- Market write-downs in unusual circumstances for taxpayers using the lower of cost or market method
- A host of inventory costing issues involving the application of sections 471, 472, 263A, 460 and 451

Working with taxpayers in the above-identified industries as well as many of the nation's largest service providers, including those in the data processing, information, telecommunications, publishing, electric and gas, sports, broadcasting, home building and land development, transportation and freight hauling, and healthcare industries, as well as those in the legal and accounting professions, on:

Changes in methods of accounting both in normal and unusual circumstances, or issues involving such methods, including, for example:

- Mid-year changes in circumstances where accurate computations of section 481 adjustments could not be made
- Implementation of new methods of accounting over a period of years involving different times for, and different locations of, the changes
- Simplified procedures for applying and/or implementing new methods of accounting
- Changes with terms and conditions different from those set forth in the published revenue procedures governing changes in methods of accounting
- Allocations of sales based royalties to cost of goods sold alone or between cost of goods sold and ending inventories
- Allocation of rebates, refunds, etc. between costs of goods sold and ending inventories

Controversies involving a wide range of issues for taxpayers in the above-identified industries including (in addition to the matters described below that involved litigation):

- Use of the cash, accrual, hybrid and other, unique or unusual methods of accounting
- Whether particular methods of accounting clearly reflected income
- The impact of generally accepted accounting principles (GAAP) on tax accounting
- Eligibility for special or atypical methods of accounting
- The use of estimates, ratios and other simplifying procedures for tax reporting
- The existence of "contests" affecting when items of income or expense are accruable
- Application of the economic performance rules, the nonaccrual-experience method, et al.

Representation of clients in litigation, either as first chair or as a member of the litigation team, on matters involving:

- Deduction in one year of the cost of tools and equipment used over a period of two years
- The use of the cash and/or hybrid methods of accounting in a wide variety of circumstances
- The application of accrual methods of accounting in a wide variety of circumstances
- Application of the *Geometric Stamping* principle, pursuant to which the Service may be bound to its prior determinations
- The treatment of certain receipts as deposits rather than as advance payments of income
- The application of the nonaccrual-experience method of accounting under section 448
- Determination of appropriate procedures for determining inventory shrinkage
- Determination of whether particular tax benefits were subject to normalization or flow-through accounting
- The use of protective applications for changes in methods of accounting
- Whether the application of the then-applicable consolidated return regulations amounted to a method of accounting
- The use of an incremental costing method of accounting in conjunction with long-term contract methods of accounting
- The use of long-term contract methods of accounting

In addition to the foregoing, representation of a large variety of clients in many different industries on controversies involving all aspects of tax accounting, including:

- The existence of, or changes in, methods of accounting
- Application of the clear reflection of income principle
- Virtually every doctrine or principle associated with tax accounting

Over his more than 40 years of practice, it is difficult to find a tax accounting or inventory issue with which Mr. Gertzman does not have some prior client representation and experience.

#### **RANKINGS AND RECOGNITION**

- *Chambers USA*: Tax (District of Columbia), 2011 - 2020
- *The Best Lawyers in America*<sup>®</sup>: Litigation & Controversy - Tax, 1987 - 2021
- *The Best Lawyers in America*<sup>®</sup>: Tax Law, 2018 - 2021
- *Washington, DC Super Lawyers*<sup>®</sup>: Tax, 2020
- *International Tax Review*: Tax Controversy Leaders (U.S.), 2015, 2017
- *Legal 500*: Tax: Tax Controversy, 2012

## **AFFILIATIONS**

- Fellow, American College of Tax Counsel
- Advisory Trustee, Southern Federal Tax Institute
- Trustee Emeritus, Georgia Federal Tax Conference
- Member, American Bar Association
- Member, Atlanta Bar Association

## **ADMISSIONS**

### **Bar Admissions**

- District of Columbia
- Georgia