

## FATCA, Withholding & Information Reporting

Information reporting is the backbone of the U.S. tax system. Miller & Chevalier's lawyers have decades of combined experience with the information reporting and withholding requirements of the Internal Revenue Code. The team is nationally recognized for advising payors and other filers with all aspects of information reporting including non-employee compensation, payments to attorneys and doctors, interest and dividends, broker payments of gross proceeds, mortgage interest, third-party payment networks and payment cards, and the Affordable Care Act.

Miller & Chevalier's lawyers also advise U.S. withholding agents and foreign financial institutions on the complicated rules applicable to the withholding and reporting of cross-border payments under Chapter 3 and the Foreign Account Tax Compliance Act (FATCA), including required reporting on Forms 1042, 1042-S, and 8966 and evaluating Forms W-8BEN, W-8BEN-E, and W-8IMY. Miller & Chevalier's lawyers are regarded as foremost authorities in guiding large multinationals through the complicated process of identifying the appropriate status of their foreign affiliates and foreign vendors under both Chapter 3 and Chapter 4. They bring outstanding knowledge, experience, and a reputation for finding practical solutions to difficult problems.

In addition to our federal practice, Miller & Chevalier has a thorough understanding of state reporting and withholding requirements, including California non-resident withholding and other state withholding provisions. They have advised companies on how to comply with these requirements, as well as how to correct prior mistakes, providing clarity in an environment marked by confusion and a lack of formal guidance from state authorities.

### **REPRESENTATIVE ENGAGEMENTS**

- Advised a large multinational retailer on the development of a comprehensive Chapter 3 and Chapter 4 (FATCA) compliance program, registration of foreign financial institutions within its expanded affiliated group, and the application of FATCA regulations and intergovernmental agreements to entities and retirement plans located in several foreign countries.
- Advised a foreign systemically important financial institution on various issues related to FATCA, including application of the grandfathered obligation rules to various financial products and due diligence obligations.
- Advised a private equity fund on the proper FATCA classification and FATCA compliance obligations of various entities and funds located in multiple jurisdictions around the world.
- Successfully represented an energy company in an audit before IRS appeals asserting over \$100 million in information reporting penalties and backup withholding failures related to payments of non-employee compensation and payments to attorneys.
- Advised an aircraft charter company during an IRS audit of the proper Chapter 3 withholding and reporting treatment of foreign employees operating aircraft in international travel between the United States and foreign jurisdictions.
- Developed a remediation plan and advised a large national retailer on compliance with California's nonresident withholding tax regime including the Withholding Voluntary Compliance Program.

### **GOVERNMENT EXPERIENCE**

- Commissioner, Internal Revenue Service
- General Counsel, U.S. Nuclear Regulatory Commission
- Assistant Commissioner (Technical), Internal Revenue Service
- Tax Assistant to the Solicitor General, U.S. Department of Justice
- Assistant to the Solicitor General, U.S. Department of Justice
- Acting Chief Counsel, Internal Revenue Service

- Deputy Chief Counsel, Internal Revenue Service
- Counselor to the IRS Commissioner, Internal Revenue Service
- Assistant Chief of Staff, Joint Committee on Taxation, U.S. Congress
- Majority Tax Counsel, U.S. House of Representatives Committee on Ways and Means
- Assistant Legislative Counsel, Joint Committee on Taxation, U.S. Congress
- Senior Counsel and Lead Economic Policy Advisor, Senator John D. Rockefeller IV, Chairman of the Senate Commerce, Science and Transportation Committee and Senior Member of the Senate Finance Committee
- Tax and Trade Counsel, Congresswoman Stephanie Tubbs Jones, Senior Member of the House Ways and Means Committee
- Advisor to the Assistant Secretary for Tax Policy, U.S. Department of the Treasury
- Counsel, Subcommittee on the Environment of the U.S. Senate Committee on Commerce
- Deputy Associate Solicitor, Office of the Solicitor, U.S. Department of Labor
- Senior Trial Attorney, Office of the Solicitor, U.S. Department of Labor
- Attorney Advisor, U.S. Department of the Treasury
- Attorney Advisor, Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service
- Honors Attorney, Office of the Associate Chief Counsel (International), Internal Revenue Service
- Honors Attorney, U.S. Department of the Treasury
- ERISA Counsel, Regional Office of the Solicitor, U.S. Department of Labor
- ERISA Trial Attorney, Regional Office of the Solicitor, U.S. Department of Labor
- Legislation Attorney, Joint Committee on Taxation, U.S. Congress
- Legislative Director, U.S. Senator
- Member, President Barack Obama's Transition Team, Economic and International Agency Review Working Group
- Senior Benefits Law Specialist, Office of Regulations and Interpretations, U.S. Department of Labor

## **RANKINGS AND RECOGNITION**

- *Chambers USA*: Tax: Controversy (Nationwide), 2007 - 2019
- *Chambers USA*: Government Relations: Specialist Tax Firms (Nationwide), 2019
- *Chambers USA*: Tax (District of Columbia), 2003 - 2019
- *Legal 500*: Tax: Contentious, 2013 - 2019
- *Legal 500*: Tax: International Tax (U.S.), 2013 - 2019
- *Legal 500*: Tax: Non-Contentious, 2007 - 2019
- *U.S. News - Best Lawyers® "Best Law Firms"*: Tax Law (National), 2010 - 2020
- *U.S. News - Best Lawyers® "Best Law Firms"*: Tax Law (District of Columbia), 2010 - 2020
- *International Tax Review "Americas Tax Awards"*: Americas Tax Policy Firm of the Year, 2012 - 2013, 2015 - 2016
- *International Tax Review "Americas Tax Awards"*: Washington, DC Tax Firm of the Year, 2013

- *International Tax Review "Americas Tax Awards"*: Washington, DC Transfer Pricing Firm of the Year, 2012
- *International Tax Review: World Tax* (Washington, DC), 2012, 2014 - 2020
- *International Tax Review: World Transfer Pricing* (National), 2014 - 2020