

#### Practice Areas

- Tax
- Tax Controversy & Litigation

#### Education

- Emory University, B.A. 1979
- University of Wisconsin School of Law, J.D., 1982
- New York University School of Law, LL.M. (Taxation), 1984

#### Honors

- Listed, Chambers USA: America's Leading Lawyers for Business (2006, 2007, 2008, 2009, 2010, 2011)
- Listed, The Legal 500 U.S. – Tax Controversy (2007, 2008, 2009, 2010, 2011)
- Outstanding Attorney Award – U.S. Department of Justice, Tax Division (1990)
- Member, J. Edgar Murdock American Inns of Court (U.S. Tax Court) (1994-1996)

#### Bar Admissions

- Pennsylvania
- District of Columbia

## Philip Karter

Shareholder  
Philadelphia

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Philip Karter specializes in tax controversy and tax litigation matters. In a career spanning more than 25 years, Mr. Karter has litigated Federal tax cases in the United States Tax Court, the United States District Courts and the United States Court of Federal Claims and argued in the United States Court of Appeals. His range of trial experience, which includes more than two dozen jury and non-jury cases tried to judgment, encompasses a wide variety of complex and high-profile matters involving Federal income, estate and gift, and excise tax issues. Representative examples have included matters involving hostile takeover expenses, contingent liability and other tax reduction transactions, greenmail payments, transition rule tax credits, foreign tax credits, worthless stock, performance-based compensation, interest recomputations and netting, disparate treatment, timber depletion, coal excise taxes, debt-equity swaps and other financial product issues. Mr. Karter has handled countless other tax controversy matters that were resolved with the IRS at the administrative appeals or examination level.

Prior to joining Chamberlain Hrdlicka in 2007, Mr. Karter was a partner at Miller & Chevalier and formerly served as a trial attorney with the U.S. Department of Justice Tax Division, where he was honored with the Department's Outstanding Attorney Award. Mr. Karter is one of a select number of attorneys recognized as a national authority in tax litigation in Chambers USA and the US Legal 500 Litigation and Tax Guides.

Mr. Karter has spoken on a variety of tax issues before the American Bar Association's Section of Taxation, the Tax Executives Institute, the Federal Bar Association, the New York University School of Law, the Georgetown University Law Center, the Palm Beach Tax Institute, and various state bar and professional associations

#### Google Me Significant Cases

- *Frontier Oil Corporation v. Commissioner*, Docket No. 21151-10 (U.S.T.C. filed Sep. 23, 2010). Lead trial counsel for taxpayer claiming § 162(m)(4)(C) exception to limitation on deductibility of qualified performance-based compensation.

- New York

#### Court Admissions

- U.S. Supreme Court
- U.S. Court of Appeals for the Fourth, Seventh, Eighth and Federal Circuits
- U.S. Tax Court
- U.S. Court of Federal Claims
- U.S. District Court for the Eastern District of Pennsylvania
- U.S. District Court for the District of Columbia
- U.S. District Court for the District of Connecticut
- U.S. Court of International Trade

## Philip Karter, *Continued*

- *WFC Holdings Corp. v. United States*, Docket No. 07-CV-3320 (D.Minn. filed Jul. 13, 2007). Lead trial counsel for taxpayer claiming \$423 million capital loss from the sale of stock in a contingent liability lease management subsidiary.
- *Browning Ferris Industries, Inc. & Subsidiaries v. United States*, 75 Fed.Cl. 591 (2007) - Court granted motion to dismiss without prejudice in case of first impression involving question of whether tax refund claim filed by company that had previously liquidated for tax purposes was jurisdictionally defective. Ruling enabled taxpayer to refile in another jurisdiction where adverse precedent issued after case was filed is not controlling, notwithstanding government's claim of "forum shopping" and unfair prejudice.
- *Black & Decker Corp. v. United States*, 340 F. Supp. 2d 621 (D. Md. 2004), aff'd in part, rev'd in part and remanded, 436 F.3d 431 (4th Cir. 2006) - Trial counsel for taxpayer claiming \$560 million capital loss from the sale of stock in a contingent liability health care subsidiary.
- *Kohler Co. v. United States*, 468 F.3d 1032 (7th Cir. 2006), aff'g. 387 F. Supp. 2d 921 (E.D. Wis. 2005) - Obtained Seventh Circuit decision affirming summary judgment in favor of taxpayer's claim that participation in Mexican debt-equity swap did not produce short-term capital gain.
- *Black & Decker Corp. v. United States*, 219 F.R.D. 87, 92 A.F.T.R.2d 2003-6426, 2003-2 USTC 50,659 (D. Md., September 15, 2003) - Obtained ruling upholding taxpayer's claim of work product protection over documents prepared by accountant after taxpayer indicated its intention at IRS audit to rely on specific advice offered by accountant in an opinion letter previously disclosed to IRS.
- *Black & Decker Corp. v. United States*, 93 A.F.T.R.2d 2004-989, 2004-1 USTC 50,175, (D. Md., February 19, 2004) - Obtained court ruling affirming taxpayer's right to retain normally redacted information in Field Service advice that was inadvertently disclosed by government. The ruling rejected government's defense that information was protected by disclosure exceptions to Freedom of Information Act.
- *VF Corp. v. Commissioner*, No. 7584-02 (U.S. Tax Court, filed Apr. 19, 2002) - Obtained full IRS concession in Tax Court case involving the question of whether \$59 million cost of providing retail display to retail customers is currently deductible or must be capitalized.
- *Kimberly-Clark Corp. v. United States*, No. 02-0985 (E.D. Wis., filed Oct. 4, 2002) - Filed suit for taxpayer seeking credits against its United States federal corporate income tax liability for foreign taxes deemed paid by certain foreign subsidiaries.

## Philip Karter, *Continued*

- *Kimberly-Clark Tissue Co. v. United States*, 38 F. Supp. 2d 1028 (E.D. Wis. 1999) - Won summary judgment on issue involving taxpayer's entitlement to an investment tax credit under the "world headquarters" transitional rule of the 1986 Tax Reform Act.
- *Emhart Corp. v. United States*, No. 98-1823 (D. Md., filed June 9, 1998) - Obtained favorable settlement for taxpayer seeking to deduct the costs associated with the defense against a hostile takeover attempt.
- *Emhart Corp. v. Commissioner*, 75 T.C.M. 2231 (1998) - Won taxpayer's claim to a worthless stock deduction for losses attributed to the disposition of a foreign subsidiary.
- *Kimberly-Clark Tissue Co. v. United States*, No. 97-0134 (E.D. Wis., filed Feb. 12, 1997) - Obtained favorable settlement before trial for taxpayer seeking to amortize a \$100 million greenmail payment over the term of the standstill agreement provided by a hostile shareholder in exchange for the greenmail payment.
- *VF Corp. v. Commissioner*, No. 23340-95 (U.S. Tax Court, filed Nov. 9, 1995) - Obtained full IRS concession in Tax Court case involving the question of whether taxpayer could accrue and deduct costs for cooperative advertising with its retailers before claims were submitted and payments were made.

## Seminars and Presentations

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- Chicago Tax Club
- Return Preparation 2012
- Tax Executives Institute - If You Knew Then What You Know Now

## News

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- Chamberlain Hrdlicka Ranked Nationally in 2011 Chambers USA
- Chambers USA Once Again Ranks Chamberlain Hrdlicka Among Top Ten National Firms in Tax Litigation
- Philadelphia Office Profiled in Philadelphia Inquirer
- Legal 500 Again Names Chamberlain Hrdlicka as Preeminent in Tax Controversy
- Chambers USA 2009 Rankings Again Place Chamberlain Hrdlicka Among Top Ten National Firms in Tax Litigation
- Chambers USA Names Nine Chamberlain Hrdlicka Lawyers as Leaders in their Field

## Articles and Publications

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- "IRS Access to Computerized Records of Corporate Taxpayers," 87 *Journal of Taxation* (September 1997).
- "U.S. Officials' Latest Proposals to Curb 'Abusive Tax Shelters' Could Affect Legitimate Cross-Border Transactions," *Journal of International Tax Planning* (March 2000).
- Co-author of "Transfer Pricing for Services," *Transfer Pricing Methods - An Applications Guide*, John Wiley & Sons (2004).
- "The Role of Economic Substance In Tax Shelter Controversies," 19 *The Corporate Counselor* 8 (January 2005).

## Blog Posts

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- Musings in the Aftermath of the First Schedule UTP Filing Season, *Taxblawg.net* (December 8, 2011)

## Philip Karter, *Continued*

- Tax Court May Be The Forum of Choice for Taxpayers Seeking to Challenge Treasury Regulations, *Taxblawg.net* (June 23, 2011)
- The Reporting Requirement for Deferred Tax Assets Under Schedule UTP: IRS Instructions Muddy the Waters; *Taxblawg.net* (November 23, 2010)
- The Tax Workpapers Conundrum - Will "Justice" Kagan Accept What Solicitor General Kagan Opposed? *Taxblawg.net* (July 1, 2010)
- Venerable "Kovel Rule" May Be Under New Attack; *Taxblawg.net* (May 10, 2010)
- Trust But Verify - Proposed Schedule UTP And The Implications To Attorney Work Product; *Taxblawg.net* (April 20, 2010)
- Son of BOSS Case Highlights Ongoing Dispute Over Application Of The Valuation Misstatement Penalty; *Taxblawg.net* (March 12, 2010)
- The Subliminal Message Underlying Announcement 2010-09; *Taxblawg.net* (March 11, 2010)

## Professional Affiliations

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- American Bar Association
- Pennsylvania Bar Association
- Philadelphia Bar Association

