

#### Practice Areas

- Tax
- Tax Controversy & Litigation
- Tax Planning

#### Education

- Clemson University, B.S., cum laude, 1992
- Mercer University, J.D., 1995
- University of Florida, LL.M., 1996

#### Honors

- Super Lawyer, selected by Corporate Counsel in Tax 2009
- Named "A Leader in the Field of Taxation" by Chambers USA – America's Leading Lawyers for Business 2005, 2006, 2007
- Georgia Super Lawyers Rising Stars 2005, 2006, 2007

#### Bar Admissions

- Georgia

#### Court Admissions

- United States Tax Court
- United States District Court, Northern District of Georgia

## Charles E. Hodges, II

Shareholder

Atlanta

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Charles "Chuck" E. Hodges, II concentrates his practice in civil and criminal federal tax controversies and complex tax planning. He has been involved in over 100 cases against the IRS involving all areas of tax law (income, estate, employment, etc.) representing a broad range of taxpayers from individuals, estates and partnerships to publicly-traded corporations. A substantial number of these engagements have involved the defense of TEFRA partnerships and limited liability companies engaged in IRS' "listed transactions."

Mr. Hodges handles approximately 15 court cases against the IRS per year and has yet to lose a trial against them, recovering for his clients from the IRS over \$1 million in reimbursement of attorneys' fees at the conclusion of their trial victory.

Mr. Hodges represents taxpayers against the IRS at all administrative and judicial levels from examination through court proceedings. He has represented taxpayers in many different federal courts including: the United States Tax Court, the United States District Court for the Northern District of Georgia, the United States District Court for the Southern District of Mississippi, the United States District Court for the District of Arizona, the United States Court of Federal Claims, and the Court of Appeals for the Fifth and Eleventh Circuits.

Mr. Hodges has been a key litigator in various cases earning him honors such as a "Leader in the Field" of Taxation by the 2005-2008 Chambers USA—America's Leading Lawyers for Business as well as a "Georgia Super Lawyer" for 2008 and "Georgia Super Lawyers Rising Star" for 2005, 2006, and 2007.

#### Significant Transactions

- Caracci v. Commissioner, 456 F.3d 444 (5<sup>th</sup> Cir. 2006). The IRS sought over \$250 million in excise taxes referred to as "intermediate sanctions" under I.R.C. § 4958 against three home-health care agencies and their owners in relation to the transfer of assets and liabilities when the agencies converted from tax-exempt to non-exempt status. The Federal Fifth Circuit Court of Appeals found taxpayers not liable for any excise tax liability. Complete taxpayer victory

- United States District Court, Southern District of Mississippi
- United States District Court, District of Arizona
- United States Court of Appeals for the 5th and 11th Circuit
- United States Court of Federal Claims
- All Georgia State Courts

## Charles E. Hodges, II, *Continued*

- *Katz v. Commissioner*, T.C. Memo 2008-269. Case regarding exchange of equity swap transaction for a private annuity involving U.S. and foreign parties. IRS sought to tax all capital gain upon exchange and asserted penalties. Tax court found taxpayer not liable for capital gains tax on future annuity amounts and found penalties did not apply. Complete taxpayer victory.
- *Estate of Lassiter v. Commissioner*, T.C. Memo 2000-324. The IRS attempted to collect over \$11 million from the estate of a prominent landowner in Georgia and New York by challenging a disclaimer executed by the family members involving a pre-1982 will. The Tax Court found the disclaimer to be valid. Complete taxpayer victory
- *International Capital Holding Corp. and Subsidiaries v. Commissioner*, T.C. Memo 2002-109. IRS challenged the deductibility of compensation paid between related companies under I.R.C. § 162. Court found company not liable for any additional income taxes. Complete taxpayer victory and IRS liable for attorneys' fees
- *Trucks, Inc. v. United States*, 1:96-CV-800 (No. Dist. Ga. 2002). In a jury trial in the Federal District Court for the Northern District of Georgia (Atlanta), the IRS attempted to collect millions from a large trucking company based on attack of their per diem plan for reimbursing drivers for over-the-road travel expenses. Court issued directed verdict to trucking company at the conclusion of the trial. IRS liable for attorneys' fees
- *U.S. v. Jillson and Nixon*, 99-2 U.S.T.C. ¶ 50,937 (DC-So. Fla. 1999). Rare taxpayer victory in summons enforcement case involving two executives of large installation company

### Case Studies

- Achieved significant refund for Estate devastated by Hurricane Katrina and Hurricane Ivan under rarely utilized estate tax loss statute, I.R.C. Section 2054.
- Achieved full concession by IRS of multiple "Section 2036" cases for Estates docketed in the U.S. Tax Court
- Achieved full IRS concession of a \$20 million civil fraud case docketed in the U.S. Tax Court against a large consolidated group based in the South

### News & Publications

Mr. Hodges is a columnist for the Journal of Taxation and has authored numerous tax articles for the Journal of Taxation, Estate Planning and Journal of Exempts, as well as has been cited in publications including the Wall Street Journal's on-line publications, Financial Advisor, and Atlanta Business Chronicle.

## Charles E. Hodges, II, *Continued*

### Seminars & Presentations

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Mr. Hodges has made over 150 presentations on all areas of tax issues and has presented to organizations including the Tax Sections and Real Property, Probate and Trust Sections of the American Bar Association, University of Miami Heckerling Tax Institute, American Institute on Taxation, Georgia Society of CPAs, Chattanooga Tax Practitioners, South Carolina Society of CPAs, Minnesota Society of CPAs, and Georgia Bar continuing legal education seminars. His presentation topics have included the following:

- Dealing with the IRS at the Examination and Appeals levels
- Representing Partnerships (and LLCs) in TEFRA proceedings
- Complex Tax Planning in Light of Current IRS Environment
- Representing Corporate Fiduciaries during Estate-Tax Examinations
- Handling a Tax Case: From Examination through Trial

### News

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- 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
- Six Chamberlain Hrdlicka Attorneys Named Tops in their Field
- Chambers USA Names Seven Chamberlain Hrdlicka Attorneys as Leaders in Their Field
- Chambers USA Ranks Chamberlain Hrdlicka Among Top Ten National Firms in Tax Litigation

### Professional Affiliations

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- American Bar Association RPE&T Section Advisor to the AICPA Business Valuation/Forensics/Litigation Support
  - Member, The Fellows of the American Bar Foundation
  - Member, Court Procedure & Practice Committee; Chair, Discovery Sub-Committee, American Bar Association, Tax Section
  - Member, American Bar Association, Real Property, Probate and Trust Section; Vice-Chair, Tax Litigation Committee
  - Chair 2005-2006, Member, Executive Committee, 2003-2007, Georgia Bar, Tax Section
  - Member of Senior Advisory Board, Clemson University College of Business & Behavioral Science
  - Atlanta Bar Association, Tax Section
  - Member, Atlanta Tax Forum
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