

Tax Group Of The Year: Skadden

By Jaqueline McCool

Law360 (January 30, 2025, 4:03 PM EST) -- Skadden Arps Slate Meagher & Flom LLP's tax practice advised on key deals and cases in 2024, including Mars Inc.'s \$35.9 million acquisition of Kellanova and BlackRock Inc.'s \$12.5 billion acquisition of Global Infrastructure Partners, landing it among the 2024 Law360 Tax Groups of the Year.

With more than 130 attorneys across nine offices worldwide, the group offers a deep bench that can advise on tax matters ranging from international matters to congressional investigations.

Victor Hollender, partner and co-head of Skadden's tax group, told Law360 that what distinguishes Skadden's tax practice from others is the scope of cases and transactions that the team is able to take on.

"The breadth of the practice is really amazing, because we have a very strong bench on the litigation front, and we also have a very strong bench on the transactional side," Hollender said. "We cover the entire spectrum from doing a multibillion-dollar, cross-border transaction to handling a multibillion-dollar tax court case and then everything in between."

In August, the tax practice helped secure a \$39.5 million dollar merger between candy maker Mars Inc. and snack company Kellanova. The transaction will merge popular brands including Mars' Snickers, M&M's and Twix, with Kellanova's Pringles, Cheez-It and Pop-Tarts.

The agreement, unanimously approved by Kellanova's board, is subject to Kellanova shareholder approvals and other closing conditions, including regulatory approvals. It is expected to close within the first half of 2025.

When asked why Skadden's tax practice was uniquely situated to handle a transaction like the Mars and Kellanova merger, Hollender said, "Skadden just has the experience dealing with these types of issues. We've dealt with these types of issues over and over again. We're sensitive in understanding the tax implications both of the transaction itself and we're sensitive to understanding aspects of the transaction that will be important in integrating the company that's acquired going forward."

It wasn't all candy and popcorn for the Skadden tax practice in 2024. The team also represented Amgen in an ongoing case in the U.S. Tax Court, where Amgen has been assessed \$8.7 billion of tax plus interest and \$2 billion of penalties for the 2010 through 2015 tax years.



Raj Madan, partner and head of Skadden's Washington, D.C., tax group said the case is the first transfer pricing case that involves biopharmaceutical manufacturing.

In April, the Tax Court found that IRS agents gained proper supervisor approval in asserting the penalties associated with Amgen's tax bill under dispute.

Amgen filed a Tax Court petition in July 2021, arguing that a \$3.6 billion tax bill levied by the IRS was the result of the agency misattributing profits its Puerto Rican subsidiary earned while manufacturing biopharmaceutical products under intercompany license agreements.

Amgen claimed these licensing agreements reflected in part the "biopharmaceutical manufacturing expertise" of its Puerto Rican affiliate — Amgen Manufacturing Ltd., or AML — and the risks the subsidiary bore related to the manufacturing and commercialization of the products.

According to the petition, Amgen argued the IRS didn't take these items into account when it reallocated AML's income under Internal Revenue Code Section 482. That section requires pricing between a foreign subsidiary and U.S. company to comply with the arm's-length standard, which means transactions must be priced the same way as if the companies were unrelated and circumstances were similar.

Madan told Law360 that something that makes the Skadden tax practice unique is that the group has helped litigate many of the biggest transfer pricing cases recently, "that's because I think we have a good handle on how to marshal very complex cases involving a big factual record," Madan said.

Skadden was also part of the team guiding BlackRock Inc.'s \$12.5 billion acquisition of Global Infrastructure Partners. The purchase is expected to close mid-2025.

BlackRock and HPS, which has roughly \$148 billion in assets under management, will form a new private financing solutions business that will have broad capabilities across senior and junior credit, asset-based finance, real estate, private placements and collateralized debt, and will work "side by side" with BlackRock's \$3 trillion public fixed income business, BlackRock has said.

Hollender said that BlackRock has been a client for many years and that the merger was, "an exciting development in the asset management space."

He added that Skadden's tax practice is uniquely poised to take on these complex and high-profile transactions, because they're used to dealing with problems that are first of their kind and providing structure to transactions.

"We will provide that structure, because we constantly are creating structures, whether they're novel or whether they're not," Hollender said. "That's really our bread and butter and in our sweet spot."

The tax practice at Skadden regularly waded into federal waters, notably representing Liberty Global in its two lawsuits challenging Section 245A of the Internal Revenue Code, which was a statute added as part of the Tax Cuts and Jobs Act.

Section 245A allows U.S. shareholders to repatriate certain foreign earnings tax-free. Liberty Global

claimed a deduction against its gain from the sale of its stake in the affiliate to its U.K. parent company for \$2.4 billion.

Madan told Law360 that the case was interesting because it's the other end of the spectrum of the type of cases the practice handles and demonstrates the group's range.

The case will now depend on how the Tenth Circuit interprets the economic substance doctrine, which Congress codified in 2010 under Internal Revenue Code Section 7701(o).

Madan said something notable about the Skadden tax practice and something he was particularly proud of was the group's "incredible capabilities" at various levels.

"We have a great pool of associates," Madan said. "Like most firms, what makes us strong is our lawyers, and we have strong lawyers at every level."

--Additional reporting by Dylan Moroses, Natalie Olivo and Al Barabarino. Editing by Alyssa Miller.
