

Partner, Washington, D.C.

Tax Controversy and Litigation



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Education

J.D., The George Washington University Law School, 1992 (with honors)

B.A., New York University, 1990

Bar Admissions

District of Columbia

New York

New Jersey

U.S. Court of Appeals for the First, Third, Sixth, Ninth, Tenth, District of Columbia and Federal Circuits

U.S. Supreme Court

U.S. District Court for the District of Columbia and the District of Colorado

U.S. Court of Federal Claims

U.S. Tax Court

Associations

Senior Fellow, Litigation Counsel of America

Member, Trial Law Institute

Member, Diversity Law Institute

Barrister, Order of Veritas

Raj Madan, head of the firm's Washington, D.C. Tax Group, is a nationally recognized tax controversy lawyer with experience in resolving high-stakes and complex tax disputes. Mr. Madan handles matters at all stages of IRS administrative practice, as well as federal district court and tax court litigation. Clients turn to him to advise on a wide range of complex tax issues, including transfer pricing, cross-border withholding tax, foreign tax credits, structured finance, life insurance, investment tax credits, and business purpose doctrine and partnership disputes.

Having played a key role in several of the most significant litigated tax cases in the United States, both at trial and on appeal, Mr. Madan's recent rankings include being:

- Repeatedly recognized by *Chambers USA* in Band 1 for both Nationwide Tax Controversy and District of Columbia Tax, in which he is described as a "fantastic lawyer and litigator" and a "superstar" who is "strategic, creative and committed to the client."
- Named *International Tax Review's* 2022 North America Tax Litigation & Disputes Practice Leader of the Year.
- Named to *The Legal 500 U.S.* Hall of Fame in 2022.
- Named a Stand-Out Lawyer by *Thomson Reuters* in 2023.
- Named *Law360's* 2017 MVP for Tax.
- Repeatedly recognized by the *International Tax Review*, *The Best Lawyers in America*, *Lawdragon's* 500 Leading Litigators in America, *Expert Guides' Guide to the World's Leading Tax Advisers* and *Washingtonian*.
- Profiled in an article by *The American Lawyer* ("Rough Crossing"), which highlighted prominent litigators who have made a seamless transition from public to private practice.

Mr. Madan's ongoing cases include:

- *Liberty Global, Inc. v. United States* (U.S. District Court for the District of Colorado): Challenging regulations issued under Section 245A, a statute added as part of the Tax Cuts and Jobs Act of 2017. In April 2022, the court ruled that those regulations were invalid and unenforceable. This ongoing case implicates complex questions related to the IRS' authority to issue regulations and apply them retroactively.
- *Amgen Inc. & Subsidiaries v. Commissioner* (U.S. Tax Court): Ongoing transfer pricing case concerning the licensing of complex biopharmaceutical products.
- *Medtronic, Inc. v. Commissioner* (U.S. Tax Court; U.S. Court of Appeals for the Eighth Circuit): One of the most significant transfer pricing disputes with the IRS, involving a second trial in the U.S. Tax Court after the Eighth Circuit's review and remand. The Tax Court's 2022 ruling adopted Medtronic's transfer pricing methodology but made certain adjustments in favor of the IRS.
- *Eaton Corp. & Subsidiaries v. Commissioner; Eaton Worldwide LLC, Eaton Holding II S.A. R.L., A Partner Other Than the Tax Matters Partner v. Commissioner; Eaton Corp. & Subsidiaries, as successors by mergers v. Commissioner; Eaton Worldwide LLC, Eaton Holding II S.A. R.L., Tax Matters Partner v. Commissioner* (U.S. Tax Court): Multiple ongoing cases involving significant issues relating to the transfer pricing of various transactions and the taxation and treatment of a partnership for purposes of applying the subpart F provisions of the Internal Revenue Code.
- *Commonwealth Bank of Australia v. United States* (U.S. Court of Federal Claims): A high-profile dispute involving the U.S. taxation of financial transactions undertaken by the Australian bank.

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- *SIH Partners, LLLP, Explorer Partner Corp., Tax Matters Partner v. Commissioner* (U.S. Tax Court): Ongoing case on behalf of Susquehanna International Group, LLP involving the taxation of dividends paid on Swiss equities.
 - *Aventis, Inc. and Subsidiaries v. Commissioner* (U.S. Tax Court): Ongoing case of first impression challenging the IRS' determination that a Financial Asset Securitization Investment Trust (FASIT) was invalid.
 - *BankUnited, Inc. v. United States* (U.S. District Court for the S.D. Florida): A tax refund case of first impression concerning the application of the Treasury Regulations under Section 597 to the acquisition of a failed bank.

Mr. Madan's recent cases include:

- *Eaton Corporation v. Commissioner* (U.S. Tax Court; U.S. Court of Appeals for the Sixth Circuit): 2022 victory in the Sixth Circuit in the first case involving a court's review of an IRS decision to retroactively cancel an advance pricing agreement. The Sixth Circuit ruled for Eaton "on all issues," unanimously affirming a 2017 Tax Court decision.
- *Amazon.com, Inc. v. Commissioner* (U.S. Tax Court; U.S. Court of Appeals for the Ninth Circuit): A 2017 victory in one of the largest transfer pricing cases in decades and the first involving e-commerce. In 2019, a unanimous panel in the Ninth Circuit affirmed the Tax Court's decision.
- *Sirius XM Connected Vehicle Services Holdings Inc. v. Commissioner* (U.S. Tax Court): 2019 victory on behalf of Agero Holdings Inc. involving the IRS' determination of subsidiaries' status as insurance companies. The IRS conceded the case in full.
- *Starr International Company, Inc. v. United States* (U.S. District Court for the District of Columbia; U.S. Court of Appeals for the D.C. Circuit): The case, dismissed in 2019, involved the first taxpayer attempt to challenge a U.S. competent authority decision to deny discretionary relief under a tax treaty.
- *Athene USA Corp. v. United States* (U.S. District Court for the Southern District of Iowa): A 2018 global settlement with the IRS and DOJ of key issues in a refund case involving the IRS' disallowance of a change in method of accounting.
- *Lehman Brothers Holdings Inc. v. United States* (U.S. District Court for the Southern District of New York; U.S. Court of Appeals for the Second Circuit): A 2015 trial court decision in the U.S. government's favor in a case involving an interpretation of the U.S.-U.K. Tax Treaty. The case was settled in 2016 while pending appeal to the Second Circuit.

Representative cases in which Mr. Madan served as a principal participant prior to joining Skadden include:

- *The Dow Chemical Company v. United States* (U.S. District Court for the District of Michigan; U.S. Court of Appeals for the Sixth Circuit). Involved corporate-owned life insurance and economic substance.
- *GlaxoSmithKline Holdings (Americas) Inc. v. Commissioner* (U.S. Tax Court). Involved transfer pricing.
- *Nestlé Holdings, Inc. v. Commissioner* (U.S. Tax Court). Represented the IRS in a matter involving transfer pricing and valuation.
- *Riggs Nat'l Corp. and Subsidiaries v. Commissioner* (U.S. Tax Court). Represented the IRS in a matter involving foreign tax credits.