

Elizabeth Julia Smith

Skadden

Counsel, Boston

Tax; Tax Controversy and Litigation



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Education

J.D., Yale Law School, 2009

B.A., Bates College, 2003
(*summa cum laude*)

Bar Admissions

Massachusetts

New York

U.S. District Court for the
District of Massachusetts

U.S. Tax Court

Elizabeth Julia Smith represents clients in administrative tax disputes and litigation. She advises multinational corporations, private investment firms and individuals in connection with IRS and state audits and administrative proceedings, trial and appellate litigation in federal and state courts, and proceedings brought by non-U.S. taxing authorities. Ms. Smith has represented clients in a variety of industries, including health care, energy, telecommunications, private investments, transportation and technology. Her experience encompasses a wide range of complex tax issues involving income, sales, self-employment, withholding and property taxes. In recognition of her work, she has been named to *The Best Lawyers in America* and repeatedly as one of *Boston Magazine's* Top Lawyers.

Ms. Smith's representative matters prior to joining Skadden include:

- obtaining a full IRS concession on a statute of limitations defense on behalf of a hedge fund client in U.S. Tax Court proceedings defending the statutory limited partner exception to self-employment (SECA) tax in the Internal Revenue Code, in *Ivory Investment Management, LP v. Commissioner*
- achieving a complete victory in two multimillion-dollar disputes over local taxes for a multinational energy company involving the definitions of manufacturing and machinery, one of which was argued before the Massachusetts Supreme Judicial Court, in *Veolia Energy Boston, Inc. v. Board of Assessors of Boston*
- advising a large data company in sales and income tax disputes with the Massachusetts Department of Revenue
- reaching a highly favorable settlement on behalf of a multinational utility company in connection with a state income tax dispute involving the addback of related party interest
- representing the purchaser of a company in litigation regarding its right to retain tax refunds and credits arising out of net operating loss carrybacks made possible by the CARES Act
- representing multiple private equity firms and hedge funds in disputes with the IRS involving the application of SECA tax to income received by limited partners
- advising several private equity firm portfolio companies in connection with IRS and state audits of management fees paid to sponsors
- obtaining a favorable settlement on behalf of individuals in a dispute with the Massachusetts Department of Revenue regarding responsible person liability
- counseling an individual in connection with a state court indemnification dispute arising out of a potential tax liability and related IRS audit
- advising multiple clients regarding state sales tax, income tax and procurement tax obligations in connection with actual and anticipated disputes with state regulators
- advising a private equity firm and its portfolio company in an internal investigation related to potential tax liabilities

Ms. Smith is active in the Boston Bar Association, and serves as co-chair of the Federal Tax and Business Transactions Committee of the Tax section.

Prior to joining Skadden, Ms. Smith was a counsel in the tax controversy practice of another leading law firm.

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Publications

“Considerations for Protecting Privileged Documents if the IRS Comes Knocking: A Brief Exploration of Privilege Nuances in the Tax Context,” *ALI CLE’s The Practical Tax Lawyer*, May 2022

“Damages from Inherently Physical Injuries Are Not Taxable,” *Tax Notes Today Federal*, March 7, 2022

“Tax Deductions For FCPA Settlement Amounts,” *FCPA Professor*, March 30, 2021

“Busy New Year: Predicted IRS Enforcement Trends in 2021,” *Bloomberg Tax*, December 31, 2020

Contributor, Comments submitted to OECD Centre for Tax Policy and Administration in response to BEPS Public Consultation Document: “Tax Challenges Arising from Digitalisation — Report on the Pillar One Blueprint by the IBA Taxes Committee Working Group,” December 14, 2020

“Taxing the Digitalising Economy,” *International Comparative Legal Guide’s Corporate Tax, 17th edition*, December 10, 2020

“Key Tax Considerations For Cos. With Remote Employees,” *Law360*, August 3, 2020

“Federal, State Tax Authority Enforcement-Related Responses to Covid-19,” *Bloomberg Tax*, May 14, 2020

“INSIGHT: Are Privilege Protections Shifting in the Tax Context?,” *Bloomberg Law*, April 13, 2020

“Diagnosing Sales Tax Rules for Digital Health Products,” *Law360*, March 2, 2020

“Top 5 Modern Tax Challenges for Digital Health Companies,” *Law360*, September 16, 2019

“Threat Of Sales Tax Overcollection Suits Grows Post-Wayfair,” *Law360*, June 20, 2019

“States Follow The IRS In Joining The Big Data Revolution,” *Law360*, February 22, 2019

“A Brief Exploration Of Privilege Nuances In The Tax Context,” *Law360*, February 13, 2019

Presentations

Speaker, “Taxation of Cryptocurrency: IRS Guidance, State and Local Tax Approaches, and Enforcement Trends,” Boston Bar Association, March 31, 2022

Speaker, “The Litigation Strategy and Implications of the Decision,” IFA USA New England Spring Symposium: Lessons from the Coca-Cola Co. U.S. Tax Court Decision, May 20, 2021

Speaker, “President Biden’s Tax Plan: Beyond the First 100 Days,” Boston Bar Association Webinar, May 19, 2021

Speaker, “Privilege in Tax: Practical Implications of Attorney-Client, Work Product, and Tax Practitioner Privileges,” Boston Bar Association Webinar, January 20, 2021

Moderator, “Use of Dispute Resolution to Resolve Large, Complicated Corporate Tax Disputes,” Leading Women in Tax Forum, March 3, 2020

Moderator, “Administrative Practice Committee Important Developments,” 2019 ABA May Tax Meeting, May 2019