

Counsel, Washington, D.C.

Tax Controversy and Litigation



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Education

J.D., Georgetown University Law Center, 2005 (*cum laude*; Executive Articles Editor, *Georgetown International Law Journal*)

B.A., Stanford University, 1999

Bar Admissions

District of Columbia
U.S. Tax Court
U.S. Court of Federal Claims

Experience

Law Clerk, Hon. Francis M. Allegra,
U.S. Court of Federal Claims
(2005–2006)

Kevin Stults concentrates his practice on federal tax controversy and litigation. He represents large financial institutions, multinational corporations and individuals at various stages of federal income tax controversies, including audits, administrative appeals and judicial proceedings. Mr. Stults' substantive experience encompasses a variety of complex tax issues, including foreign tax credits, economic substance/business purpose, corporate restructurings, life insurance, various partnership issues, IRS promoter examinations, prefiling agreements, and the TEFRA and BBA partnership audit and litigation procedures.

Mr. Stults is chair of the American Bar Association Section of Taxation's Committee on Administrative Practice, and past chair of the Tax Audits and Litigation Committee of the D.C. Bar Taxation Section. Prior to law school, Mr. Stults held various positions at Capital One Financial Corporation.

Mr. Stults' representative cases include:

- *Amgen Inc. & Subsidiaries v. Commissioner* (U.S. Tax Court, filed July 26, 2021; July 13, 2022). Ongoing transfer pricing cases concerning the licensing of complex biopharmaceutical products.
- *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.
- *Aventis, Inc. and Subsidiaries v. Commissioner* (U.S. Tax Court, filed September 23, 2020). Ongoing case of first impression challenging the IRS' determination that a Financial Asset Securitization Investment Trust (FASIT) was invalid.
- *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.
- *Hess Oil Virgin Islands Corp. & Subsidiaries v. The Government of the United States Virgin Islands and The Virgin Islands Bureau of Internal Revenue* (U.S. Court of Appeals for the Second Circuit; U.S. District Court, S.D.N.Y.; U.S. District Court, Virgin Islands). Multiple-year income tax refund and deficiency actions relating to the operations of the Hess refinery on St. Croix, involving nearly \$3 billion. Involved tax accounting issues and questions about the available jurisdiction(s) in which refund litigation could be brought.
- *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.

Publications

"Comments on Partnership Tax Audit and Litigation Regime Revisions," *ABA Section of Taxation*, November 2015, Principal Drafter

"Congress Overhauls Partnership Audit and Litigation Procedures," *Skadden, Arps, Slate, Meagher & Flom LLP*, November 3, 2015

"Cost Efficient Alternatives for Document Production Gaining Traction," *Skadden, Arps, Slate, Meagher & Flom LLP*, October 2, 2014