

Partner, Washington, D.C.

Tax



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Education

J.D., University of Virginia
School of Law, 2010

B.A., Baylor University, 2006

Bar Admissions

District of Columbia

Texas

U.S. Court of Appeals for the
Tenth Circuit

Nathan P. Wacker concentrates his practice in the area of tax controversy. He represents large financial institutions, multinational corporations and individuals at various stages of federal income tax controversy, including audits, administrative appeals, and trial and appellate judicial proceedings. Mr. Wacker's experience covers a wide range of complex tax issues, including transfer pricing, administrative law challenges to regulations, foreign tax credits, judicial substance doctrines (including economic substance and step transaction), various income tax treaty issues, classification of assets as ordinary or capital, and cross-border withholding.

Mr. Wacker was named a D.C. Rising Star by *The National Law Journal* and a Rising Star in Tax by *Law360* in 2023. He also has been featured in "They've Got Next," a *Bloomberg Tax* series spotlighting "young lawyers who are raising the bar."

Mr. Wacker's ongoing representative 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.
- *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.
- *TBL Licensing LLC, formerly known as Timberland Co., et al. v. Werfel* (U.S. Court of Appeals for the First Circuit): Ongoing case appealing an adverse U.S. Tax Court decision regarding the timing of income inclusions under Section 367(d).
- *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.
- *BankUnited, Inc. v. United States* (U.S. District Court for the Southern District of 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.
- *Liberty Global, Inc. v. Commissioner* (U.S. Tax Court): Ongoing case regarding income-sourcing rules.

Mr. Wacker's recent representative 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.
- *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.