



**Ellis L. Reemer**

**Partner**

**HEAD OF THE TAX CONTROVERSY PRACTICE**

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Ellis Reemer represents clients in all aspects of sophisticated, challenging tax disputes, at the federal, state and local levels.

Ellis has more than 35 years of experience, first as a Senior Trial Attorney with the IRS Chief Counsel's office and then in private practice. His clients seek his advice and representation with respect to their most important and complex tax controversies and criminal tax matters.

In federal civil tax controversy matters, Ellis represents clients in IRS audits, in protests to the IRS Appeals Office, and in tax litigation in the United States Tax Court, the United States District Court, the United States Court of Federal Claims and United States Courts of Appeal.

In federal criminal tax matters, Ellis represents clients in all aspects of IRS criminal tax investigations as well as in grand jury investigations.

International tax enforcement is a priority for the Department of Justice and the IRS. Ellis represents clients seeking to become compliant with US (as well as state) tax laws regarding international tax issues, including representing clients participating in Voluntary Disclosure Initiatives relating to previously undisclosed foreign financial accounts and in civil tax audits and criminal tax investigations related to these matters.

Where tax liabilities have been assessed but unpaid, Ellis represents clients before the IRS Collection Division and IRS Appeals in negotiating installment payment agreements and offers in compromise, in collection due process hearings, and in resolving lien priority and levy disputes.

In state and local civil tax controversy matters, Ellis represents clients in tax disputes with state and local taxing jurisdictions throughout the US, with particular emphasis on tax controversies and tax litigations with the New York State Department of Taxation and Finance and the New York City Department of Finance. In those matters, he represents clients in audits involving income, franchise, sales and use taxes, as well as in audits involving residency and allocation issues. Ellis also represents clients in conciliation conferences with the Bureau of Conciliation and Mediation Services and in administrative hearings and appeals before the New York State Tax Appeals Tribunal and New York City Tax Appeals Tribunal. Ellis also represents clients in state and local tax collection matters including negotiating installment payment agreements and offers in compromise.

In state and local criminal tax matters, Ellis represents clients in criminal tax investigations being conducted by state and local taxing

- Tax
- Corporate
- Regulatory and Government Affairs
- White Collar and Corporate Crime
- Litigation, Arbitration and Investigations
- Tax Controversy and Disputes
- International Tax Counsel
- Transfer Pricing

authorities, with an emphasis on investigations by the New York State Department of Taxation and Finance, the New York Attorney General and the New York District Attorney.

Ellis regularly represents accounting firms and their clients and is frequently consulted by other practitioners, among them transactional tax lawyers, bankruptcy lawyers, estate and gift tax attorneys, and matrimonial specialists.

## EXPERIENCE

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### REPRESENTATIVE FEDERAL TAX MATTERS

- Representation of a large national accounting firm in a federal grand jury investigation and promoter penalty audit relating to the development, marketing and reporting of tax shelter transactions; negotiated a US\$50 million Deferred Prosecution Agreement and an IRS Closing Agreement to resolve both and assisted in the creation of a compliance and ethics plan meeting the requirements of the US sentencing guidelines
- Assisted numerous clients (high-net-worth individuals, estates and financial institutions) in becoming compliant with US (and state) tax laws through voluntary disclosure initiatives relating to previously undisclosed foreign financial accounts; also represented clients in civil tax audits and criminal tax investigations relating to undisclosed foreign financial accounts and transactions
- Represented an internationally known auction house in an IRS audit with respect to the tax treatment of guarantee payments made in connection with obtaining art work for auctions
- Represented a multinational corporation in IRS audit and IRS appeal with respect to the tax consequences of a reorganization, liquidation and gain recognition agreement, including the characterization and valuation of intangible assets under IRC Section 936
- Persuaded the IRS Appeals Office to concede that significant payments to a high-profile shareholder of a major law firm were not "excess compensation" which should be treated as dividends
- Representation of accounting firms in connection with proposed preparer penalties, determinations with respect to E-filing status and disclosure obligations under IRC Section 7216
- Favorably resolved promoter penalty audits, transferee liability assessments and criminal tax investigations for a corporate client and its more than 60 subsidiaries which had engaged in, and promoted, "Midco" transactions, whereby gain on the sale of assets was sheltered by the sale of loss assets contributed to a corporation
- Represented individuals and limited liability companies in connection with IRS nominee/alter ego/transferee liability levies and in connection with wrongful levy claims and wrongful levy actions in the United States District Court
- Representation of clients, including lawyer and accountants charged with tax crimes, including failure to file and the filing of false returns
- Representation of clients in plea negotiations in criminal tax investigations, including resolving the civil tax component without imposition of a civil fraud penalty and in achieving sentences substantially below the sentencing guidelines range
- Negotiated a concession of almost 100 percent at IRS Appeals with respect to a proposed constructive dividend of more than US\$100 million by establishing that the amounts at issue were loans to a controlling shareholder
- Represented clients in worker classification matters, including worker classification audits, SS-8 determinations and in voluntary disclosures pursuant to IRS Announcement 2011-64
- Converted a proposed substantial assessment into a substantial refund, based on the US-UK income tax treaty

### REPRESENTATIVE STATE AND LOCAL MATTERS

- Represented a public water utility in reversing a determination by the New York State Department of Taxation and Finance that the purchase of electricity by the utility for use in powering pumps that create water pressure was subject to sales and/or use tax, by establishing that water pressure was utilized in the "production" of a public water supply, as opposed to in its "distribution"
- Represented an industry group in a New York State determination that computer-based job placement services constitute an "information service" subject to sales and use tax; represented individual taxpayers in negotiating closing agreements resolving this issue
- Represented clients in connection with sales and use tax disputes, including whether a service and/or product constituted "pre-written computer software" or an "information service" subject to sales and use tax
- Represented a nationally known hotel chain in sales, use and occupancy tax audits

- Represented a client in a New York State Audit and Administrative Hearing before the New York State Tax Appeals Tribunal in which the issue was whether installment payments received in connection with an IRC Section 453(B)(h) installment sale were New York source income to a non-resident of New York. After our client prevailed before the New York State Tax Appeals Tribunal, the New York State legislature retroactively amended the tax law to provide that such installment payments, as well as payments received in connection with IRC Section 338(h)(10) elections, are New York source income for non-residents; we also represent clients challenging the constitutionality of this retroactive amendment
- Represented a CEO of a Fortune 500 company in a New York State residency audit involving an issue of first impression regarding the allocation of income to New York; obtained "no change" determinations in multiple New York State, New York City and California residency audits for high-profile, high-net-worth individuals
- Represented clients, including accountants and lawyers in connection with the failure to file and/or pay New York State income tax, including filing voluntary disclosures and in criminal tax investigations
- Achieved favorable settlement and withdrawal of a US\$125 million jeopardy assessment for a prominent individual viewed by taxing authorities to be a tax evader

## CREDENTIALS

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### Admissions

- New York

### Recognitions

- *Chambers USA*
  - Band 2, Nationwide Tax: Controversy (2016-2018, 2021-2022)
  - Band 3, Nationwide Tax: Controversy (2015, 2019-2020)
  - Recognized Practitioner, New York Tax (2018-2019)
  - Band 3, Nationwide Tax: Controversy & Fraud (2013-2014)
  - Band 4, Nationwide Tax: Controversy & Fraud (2012)
- *The Legal 500 United States*
  - Recommended, US Taxes: Contentious (2016-2022)
  - Recommended, Tax Controversy (2014-2015)
  - Recommended, Domestic Tax: East Coast (2014)

### Education

- LL.M., Taxation, New York University
- J.D., St. John's University  
*cum laude*
- B.A., Hunter College

### Courts

- Supreme Court of the United States
- United States Court of Appeals for the Federal Circuit
- United States Court of Appeals for the Second Circuit
- United States Court of Federal Claims
- United States District Court for the Eastern District of New York
- United States District Court for the Southern District of New York
- United States Tax Court

## INSIGHTS

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Ellis is a frequent author and speaker on tax controversy matters and has spoken at leading tax controversy conferences, including New York University's Annual Tax Controversy Forum and the National Institute on Criminal Tax Fraud and the National Institute on Tax Controversy.

## Publications

### **IRS Implements Sweeping Changes to Circular 230: Key Points for Practitioners**

19 JUN 2014

For those whose practice relates to the Internal Revenue Code, it is imperative to read and become familiar with these new regulations

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### **New York's Highest Court Narrows Class of Statutory Residents: Good News for Some Out-of-State Owners of Residential Property in New York**

3 MAR 2014

New York tax law provides that a person who is in New York state for more than 183 days (in whole or in part) in a year and maintains a permanent place of abode in New York is a statutory resident, subject to tax on all income, regardless of that person's place of domicile.

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### **US DOJ and Swiss Government Announce New Voluntary Disclosure Program for Swiss Banks**

4 OCT 2013

A first of its kind program enabling eligible Swiss banks to address and resolve their status re the DOJ's ongoing enforcement investigations

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### **Time to "get right" with the Internal Revenue Service**

5 FEB 2013

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### **The IRS Continues to Focus on Stopping Offshore Tax Evasion and Ensuring Tax Compliance**

2 Jul 2012

The IRS continues to make strong progress in its international compliance efforts

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### **"Last, best chance": IRS offers new offshore voluntary disclosure program to US persons**

16 Feb 2011

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### **Voluntary disclosure program for offshore accounts provides opportunity for US taxpayers**

21 May 2009

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## IRS issues new voluntary disclosure guidance for unreported offshore accounts and entities

15 Apr 2009

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### Events

- Panelist, "State Prosecution of Tax Crimes," ABA Section of Taxation, Austin (September 2017)
- Panelist, "Errors, Omissions and Tax Penalties," 71st Annual Tax Executives Institute, Inc. Conference, Philadelphia, PA (October 18, 2016)
- Speaker, "Protecting Confidential Client Communications in Tax Matters: Ethics and Attorney-Client Privilege and Work Product Immunity," New York, NY and webinar, March 24, 2016
- Moderator, "When the Past isn't The Past: How to Correct Past Wrongdoing," 32nd Annual National Institute on Criminal Tax Fraud and the 5th Annual National Institute on Tax Controversy, Las Vegas, NV (December 10, 2015)
- Speaker, "Document Requests vs. Document Demands: New IRS Attitudes Toward Collecting Information During Audits," New York University 7th Annual Tax Controversy Forum, New York (June 5, 2015)
- Panelist, "When the Company is the Target: Ethical and Other Issues," 31st Annual National Institute on Criminal Tax Fraud and the Fourth National Institute on Tax Controversy, Las Vegas, NV (December 11, 2014)
- Speaker, "But This Is Just a Fishing Expedition! Contesting IRS Summonses," New York University 6th Annual Tax Controversy Forum, New York (June 20, 2014)
- Panelist, "Ask the Experts: Top Civil Tax Practice Tips and Representation Strategies," 30th Annual National Institute on Criminal Tax Fraud and the Third Annual National Institute on Tax Controversy, Las Vegas, NV (December 12, 2013)
- Panelist, "Tax Whistleblowers – Handling the Administrative and Judicial Proceedings," 30th Annual National Institute on Criminal Tax Fraud and the Third Annual National Institute on Tax Controversy, Las Vegas, NV (December 12, 2013)
- Speaker, "Finding Hidden Treasure: How To Use The Freedom of Information Act (FOIA) and Other Tools To Uncover Valuable Evidence," New York University 5th Annual Tax Controversy Forum, New York (June 7, 2013)
- Moderator, "Defending Penalties: Taxpayer and Preparer," 29th Annual National Institute on Criminal Tax Fraud and the Second Annual National Institute on Tax Controversy, Las Vegas, NV (December 7, 2012)
- Panelist, "Tax Litigation: The Practitioners' View," 29th Annual National Institute on Criminal Tax Fraud and the Second Annual National Institute on Tax Controversy, Las Vegas, NV (December 6, 2012)
- Speaker, "But I Relied on My Accountant! The Scope of the Reasonable Cause Defense to Penalties," New York University 4th Annual Tax Controversy Forum, New York (June 15, 2012)
- Speaker, "When Can I Talk To My Accountant?: Exploring The Scope of The Kovel Privilege and Related Issues," New York University 3rd Annual Tax Controversy Forum, New York (June 10, 2011)