



JOSHUA D. SMELTZER

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BROWN FOX

JOSHUA D. SMELTZER IS A TAX ATTORNEY with over sixteen years of experience representing individuals, corporations, receiverships and formerly the U.S. Government in a variety of tax matters in U.S. District Courts, the U.S. Court of Federal Claims, U.S. Tax Court, and U.S. Bankruptcy Courts. Mr. Smeltzer uses the first-hand knowledge gained inside the government to both advise and represent clients before and during IRS examinations and when defending tax positions at IRS Appeals or in federal court. He has experience handling individual, corporate and partnership tax disputes involving various tax credits and deductions, reporting and disclosure of foreign bank accounts, individual and corporate tax audits and collection, partnership audits and collection, estate and gift tax audits and collection, cryptocurrency tax issues, summons enforcement and many other tax topics. Joshua prides himself on his ability to clearly explain complex tax issues in an understandable way so that clients can make effective decisions. Mr. Smeltzer also has extensive litigation experience in federal court, both as a government and private attorney, involving a variety of discovery, evidentiary, and procedural issues. That experience includes twelve federal court trials. Although his experience and practice are focused on tax disputes, he has also advised on non-tax governmental investigations and litigated non-tax disputes in federal court.

After earning a long list of honors in law school, Mr. Smeltzer was hired by the Department of Justice Tax Division through the Attorney General's honors program. At the Department of Justice, he was a specialist in large and complex tax cases pending in federal courts throughout the country. This included tax disputes where the amount at issue totaled hundreds of millions of dollars and, in one case, over a billion dollars. The Department of Justice awarded Mr. Smeltzer its Outstanding Trial Attorney award seven times during his tenure. As a private attorney he publishes and speaks regularly regarding a variety of tax topics and has been retained as an expert witness in tax law.



EXPERIENCE

PRE-CONTROVERSY TAX ADVICE

- » Almost all changes in financial position have tax consequences. Mr. Smeltzer provides advice on potential impact of changes or proposed changes in financial position and the reporting and disclosure issues involved. This experience includes advice regarding charitable donations, executive compensation, changes in business ownership, receipt or providing of settlement or judgment awards, and obligations regarding disclosure of certain tax positions, foreign bank accounts, and cryptocurrency or other financial investments.

TAX AUDIT EXAMINATIONS

- » An audit notice from the IRS or Comptroller can cause immediate anxiety. Mr. Smeltzer has experience handling the complicated audit landscape on behalf of taxpayers to achieve good results. Mr. Smeltzer has handled individual, corporate, partnership, and estate tax audits. This includes nego-

tiating the scope of the audit, responding to information document requests, arguing against proposed audit adjustments, and negotiating resolution of procedural and legal disputes.

ADMINISTRATIVE INTERNAL REVENUE SERVICE APPEALS

- » Mr. Smeltzer has experience preparing protests of IRS adjustments and negotiating with the Office of Appeals to achieve favorable settlement results. This includes routinely appearing before IRS Appeals officers across the country and using all available procedural and legal strategies to achieve a favorable settlement or to position the case well for litigation.

FOREIGN BANK ACCOUNT COMPLIANCE AND EXAMINATIONS

- » Mr. Smeltzer regularly advises taxpayers regarding compliance and reporting requirements related to foreign bank accounts. This experience includes helping taxpayers during IRS examinations and litigating against penalty actions brought by the Department of Justice Tax Division.

RECEIVERSHIP TAXATION

- » Mr. Smeltzer provides advice regarding tax issues relating to the formation and tax reporting involved in receiverships and potential personal liability of a receiver for federal tax debts. Mr. Smeltzer also serves as counsel to receivers in recovery actions in federal court.

TAX REVIEW OF BUSINESS TRANSACTIONS

- » Mr. Smeltzer regularly communicates with business owners on the tax impact of corporate transactions involving mergers, acquisitions, company and asset sales, raising of capital, and changes in business structure or ownership.

TAX LITIGATION IN FEDERAL COURT

- » Over his career, Mr. Smeltzer has litigated cases on a wide variety of federal tax issues including tax shelter transactions, employment taxes, estate taxes, IRS summonses, tax liens and collection matters, foreign bank accounts, individual and corporate tax credits and incentives, and many other tax disputes. This includes taking twelve cases to trial. Mr. Smeltzer has appeared in numerous Federal District Courts, the United States Tax Court, and the Court of Federal Claims and is intimately aware of the specifics involved in each forum.

BANKRUPTCY LITIGATION

- » Mr. Smeltzer has experience advising on and defending against IRS Objections to Claim, claims of dischargeability of tax debts, and government requests for information in bankruptcy proceedings. Joshua has also handled a variety of tax disputes raised in Adversary Proceedings and trial before the U.S. Bankruptcy Court.

CRYPTOCURRENCY

- » Mr. Smeltzer regularly advises clients on the tax implications of investing in cryptocurrency and the reporting obligations under current IRS guidance. Mr. Smeltzer also has experience defending taxpayers with cryptocurrency investments during audit examinations with the IRS.

FREEDOM OF INFORMATION ACT REQUESTS AND LITIGATION

- » The Freedom of Information Act provides taxpayers the right to access their records or information. Mr. Smeltzer's government experience gives him first-hand knowledge into the types of documents and information kept by the government and exemptions claimed by the government to withhold such information.

SUMMONS ENFORCEMENT ACTIONS

- » The IRS may summons taxpayers or third parties for information related to their investigation. Mr. Smeltzer's government experience gives him unique knowledge regarding the procedures used to obtain information through summonses and the limits placed on the summons power.

PUBLICATIONS AND PRESENTATIONS

Mr. Smeltzer frequently writes and speaks on a variety of tax topics. The following are recent publications and presentations.

Publications

- » *Tax Issues: A Checklist for Receivers*, The Receiver, the newsletter of the National Association of Federal Equity Receivers (2020).
- » *Top Five Tax Considerations for Renewable Energy Investors*, Dallas Bar Association – Headnotes (April 2020).
- » *IRS Prepares for Battle on Cryptocurrency Reporting*, Tax Notes Federal (January 27, 2020).
- » *Renewable Energy Investors May Face Increased IRS Scrutiny*, Vol. 165, No. 8, Tax Notes Federal (November 25, 2019).
- » *Opt Out of OVDP, Pay Much Less?*, Vol. 165, No. 6, Tax Notes Federal (November 18, 2019).
- » *John Doe Summons Risk Underscores Need for Attorney-Client Privilege*, Vol. 164, No. 10, Tax Notes Federal (September 2, 2019).
- » *IRS is Pushing Willful Foreign Account Penalties, Be Careful*, Global Assets (Summer 2019).
- » *Acquisitions Trigger R&D Tax Credit Problems*, Vol. 27, No. 12, The M&A Report (July 2019).
- » *What the IRS Says Is "Willful" Keeps Expanding*, Vol. 164, No. 2, Tax Notes Federal (July 8, 2019).

Presentations

- » *Responding to Common IRS Notices*, Strafford Webinars (March 2020).
- » *Basics of Renewable Energy Tax Equity*, American Bar Association – Tax Section (October 2019).
- » *Basics of Tax Litigation*, Dallas Bar Association (September 2019).
- » *Preparing Cases for Tax Court and Federal District Court Litigation*, Internal Revenue Service LB&I Training Conference (February 2018).



ADMISSIONS

- » Member, State of Texas Bar (2019)
- » Member, State of Maryland Bar (2004)
- » Admitted, United States Tax Court
- » Admitted, United States Court of Federal Claims
- » Admitted, U.S. District Court N.D. Texas
- » Admitted, U.S. District Court E.D. Texas
- » Admitted, U.S. District Court S.D. Texas
- » Admitted, U.S. District Court for the District of Maryland
- » Admitted to the U.S. Bankruptcy Courts for the Northern, Eastern, Southern and Western Districts of Texas



AFFILIATIONS

- » Executive Committee Member, Federal Bar Association
- » Member, Federal Bar Association – Tax Section
- » Member, American Bar Association
 - » Tax Section Member
- » Member, Dallas Bar Association
 - » Publications Committee Member
 - » Law In Schools Committee Member



Member



EDUCATION

- » American University, Washington College of Law, J.D., *Magna Cum Laude*, *Order of the Coif*, 2004
 - » Executive Editor, Administrative Law Review
 - » Dean's Fellowship for the Legal Writing Department
- » University of Utah, B.S. Psychology, 2000
 - » Dean's List
 - » Golden Key and Psi Chi National Honor Societies



IN THE COMMUNITY

- » Mr. Smeltzer is actively involved in his church and local scout troops. He also volunteers his time on various committees for local bar associations.

MORE ABOUT JOSHUA D. SMELTZER

A Utah native, Mr. Smeltzer calls the Dallas area home with his wife and two children. In his spare time, he can usually be found camping, hiking, backpacking, or kayaking with his family or friends. Mr. Smeltzer is also actively involved as an Assistant Scout Master and Merit Badge Counselor in both his son's and daughter's scout troops.