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Derek W. Kaczmarek

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For seven years (2005-2012), tax litigation attorney Derek Kaczmarek was a trial attorney with the Internal Revenue Service in Phoenix, where he successfully litigated two cases of first impression: *Rainbow Tax Service, Inc. v. Commissioner* (128 T.C. No. 5) and *Fain v. Commissioner* (129 T.C. No. 11). His tax shelter and abusive tax scheme work included distressed asset debt shelter, offshore employee leasing shelter, 1099-OID refund scheme and abusive family limited partnerships. He also served as an instructor for the IRS Basic Trial Advocacy course, which prepares IRS trial attorneys to litigate before the U.S. Tax Court.

In 2012 Derek entered private practice to represent taxpayers in tax controversies involving the IRS and state and local taxing authorities. A partner in the firm, his experience encompasses federal, state and local tax litigation (civil and criminal); tax fraud and tax shelters; offshore voluntary compliance; gaming tax; IRS and gaming industry tip compliance agreements; innocent spouse relief; tax collection; and audit representation.

PRACTICE AREAS

Tax Litigation
Employment Tax Controversy
State and Local Tax

CERTIFICATIONS

Certified Specialist in Tax Law, Arizona Board of Legal Specialization

HONORS AND AWARDS

AV Preeminent® Rating, Martindale-Hubbell
"Top Lawyers," *North Valley Magazine*, 2016
"The Valley's Top Lawyers," *Desert Companion*, Las Vegas, 2014
IRS Office of Chief Counsel, SB/SE Bronze Medal Litigation Award, 2011
Cube Award for Significant IRS Litigation Victory for *Rainbow Tax Service, Inc. v. Commissioner*, 2007

PROFESSIONAL MEMBERSHIPS

American Bar Association: Section of Taxation
State Bar of Arizona: Vice Chair (2016-2017), Chief Budget Officer (2015-2016), Secretary (2014-2015), Tax Law Section Executive Council; Tax Court Liaison
Scottsdale Bar Association: Board of Directors
Indianapolis Bar Association: Tax Section, former Executive Committee member

COURT ADMISSIONS

Indiana, 2003
U.S. Tax Court, 2003
U.S. District Court, Southern District of Indiana, 2003
Illinois, 2004
Arizona, 2011
U.S. Court of Appeals, Ninth Circuit, 2011
Nevada, 2012
U.S. Court of Federal Claims, 2012
U.S. Court of Appeals, Seventh Circuit, 2013

PUBLISHED WRITING

"The IRS's Attack on 831(b) Captive Insurance," *Nevada Lawyer*, April 2016

"The SEC's Role in the Global Era: How the SEC Will Protect U.S. Investors in Foreign Markets," *Indiana Journal of Global Legal Studies*, Spring 2002

PROFESSIONAL ACTIVITIES

Ivy Tech Community College: Adjunct Professor of Business Law, 2003-present

PRESENTATIONS AND ARTICLES

"Small Captives, Big Issues: A Discussion of 831(b) from Audit to Appeals to the Courtroom" (co-presenter), State Bar of Arizona Tax Section, May 2017, Phoenix

"831(b) Captive Insurance - from Audits to the Dirty Dozen," Tucson Tax Study Group, April 2017

"Tax! Controversy! Tax Controversy!" (faculty), State Bar of Arizona Annual Convention, June 2016

"A Town Hall Meeting with the IRS: Discussion of 831(b) Captive Insurance Audits and Litigation," Western Regional Captive Insurance Conference, May 2016

"Is Your LLC Ready for an IRS Audit Under the New Rules?" State Bar of Arizona, May 2016

"Nuts & Bolts of Tax Court Litigation: Pre-Trial, Trial, and Post-Trial" (panelist), American Bar Association Section of Taxation 2016 Mid-Year Meeting, January 2016

"IRS Innocent Spouse Relief: Navigating the Process," State Bar of Arizona, October 2015

"The Ongoing Battle Between Captives and the IRS," Arizona Captive Insurance Association, September 2015

"Victory Over the IRS in Material Participation Challenge" (article), August 2015

"IRS Challenging Captive Insurance Company Arrangements" (article), September 2014

"U.S. Tax Court Practice: An Update and Perspective," State Bar of Arizona, Tax Section, May 2014

"IRS Offers Incentives to Taxpayers with Unreported Foreign Income" (article), February 2014

"Present Tax Controversies: Navigating the Process," UNLV School of Law, Las Vegas, November 2013

"Form 1099-K and Global High Net Wealth Industry Group," Tucson Tax Study Group, September 2013

"Worker Classification Issues and Solutions for Employers," Arizonans for the Improvement of Taxation, January 2013

"Effective Use of Expert Witnesses in the U.S. Tax Court," U.S. Tax Court Cases Symposium, American Society of Appraisers, Los Angeles, May 2012

Instructor, IRS Office of Chief Counsel Basic Trial Advocacy School, Dallas, 2011

"Development of Offshore Voluntary Disclosure Cases," Offshore Voluntary Disclosure Initiative Group, Phoenix, 2011

"Developing Fraud Cases for Trial," IRS Special Enforcement Program Agent Group, Phoenix, 2010

Instructor, West Virginia University's Advanced Fraud & Forensic Accounting Program, Morgantown, West Virginia, 2009

"Who Stole My Child Tax Care Credit?" Evansville Bar Association, Evansville, Indiana, 2004

REPRESENTATIVE CASES

Michael and M. Chastain Jones v. Commissioner, 146 T.C. No. 3 (2016) (U.S. Tax Court)

Norma L. Slone, Transferee, et al. v. Commissioner, T.C. Memo. 2016-115 (U.S. Tax Court)

Larry W. & Christine Kline v. Commissioner, T.C. Memo. 2015-144 (U.S. Tax Court)

Estate of Shirley Giovacchini v. Commissioner, T.C. Memo. 2013-27 (U.S. Tax Court)

Estate of Harvey Evenchik v. Commissioner, T.C. Memo. 2013-34 (U.S. Tax Court)

John Charles Geyer & Christin Teresa Wildfeuer v. Commissioner, T.C. Summary Opinion 2013-90 (U.S. Tax Court)

John Anthony Dominguez v. Commissioner, T.C. Memo. 2011-281 (U.S. Tax Court 2011)

James & Virginia Ellington v. Commissioner, T.C. Memo. 2011-193 (U.S. Tax Court 2011)

Susan G. Bell v. Commissioner, T.C. Memo. 2011-152 (U.S. Tax Court 2011)

Donald W. Ernle v. Commissioner, T.C. Memo. 2010-237 (U.S. Tax Court 2010)

Remington P. Fairlamb v. Commissioner, T.C. Memo. 2010-237 (U.S. Tax Court 2010)