



IRS Hires Outside Counsel

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Background

- IRS Loss In *Veritas*
 - Transfer Pricing - Cost Sharing Buy-In
 - Tax Court Rejects Testimony Of IRS Expert In Support Of Income Method
 - IRS Decides Not To Appeal
- IRS Issues AOD 2010-005
 - Rejects *Veritas* Holding
 - Critical Of Tax Court's Fact Finding



Tax Court In *Veritas*

After an extensive stipulation process, a lengthy trial, the receipt of more than 1,400 exhibits, and the testimony of a myriad of witnesses, our analysis of whether respondent's \$1.675 billion allocation is arbitrary, capricious, or unreasonable hinges primarily on the testimony of Hatch. Put bluntly, his testimony was unsupported, unreliable, and thoroughly unconvincing. Indeed, the credible elements of his testimony were the numerous concessions and capitulations.



IRS Hires Quinn Emanuel

- IRS Audits Microsoft's Cost Sharing Arrangements
- Hires Outside Counsel To Assist In Developing Case At Audit (\$2.2 M Contract)
- Temporary Section 6103 Regulations Facilitate Sharing Of Summoned Materials, Testimony
- Notifies Microsoft That Quinn Emanuel Lawyers May Attend Witness Interviews

Microsoft Summons Enforcement Proceeding (W.D. WA)

- Oct. 2014 - IRS Issues Designated Summonses, Brings Enforcement Action
- Microsoft Objects To Quinn Emanuel's Involvement In Audit
 - Challenge to Statutory Authority Under § 7602
 - Challenge to Temporary Regulations Under APA
 - Attack On Statute Of Limitations Waiver
- June 2015 - Court Grants Evidentiary Hearing, To Be Held On Nov. 5.



Commentary

- S. Gibson - Insult To IRS Chief Counsel And Tax Division Lawyers?
- R. Pies - Other Agencies Hire Outside Counsel For Big Ticket Litigation, Why Not IRS?
- How Does IRS, As A Law Enforcement Agency, Ensure Fidelity To Its Mission When Working Through Outside Counsel?



The IRS Mission Statement

Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.

- Statement describes IRS's role and public's expectations of IRS.
- The IRS role is to help the large majority of compliant taxpayers with the tax law, while ensuring that the minority who are unwilling to comply pay their fair share.

Questions

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