



Tax Litigation

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In 1924, President Coolidge appointed James Ivins and Percy Phillips as two of the original judges on the United States Board of Tax Appeals (now the United States Tax Court). Judges Ivins and Phillips founded Ivins, Phillips & Barker in 1935, and tax litigation has been in the firm's DNA ever since. Our proficiency and reputation in substantive tax law are attractive to clients seeking to litigate high-stakes issues.

IPB has litigated cases involving a broad range of domestic and international tax issues, but has particular experience with the research credit, tax accounting, consolidated returns, employment taxes, estate and gift taxes, and challenges to tax regulations under the Administrative Procedure Act. Our recent tax litigation experience includes the following:

- *Bayer Corp. and Subsidiaries v. U.S.*, 2:09-cv-351 (W.D. Pa. - pending): representing Bayer Corporation in \$65 million tax refund suit in U.S. district court, challenging the IRS's denial of the research credit under section 41 of the Code.
- *Platinum Suppl. Ins., Inc. v. Comm'r*, No. 9816-17 (U.S. Tax Court 2018): in response to IPB's motion for summary judgment, the IRS conceded in full that Platinum Supplemental Insurance was not liable for \$3.6 million in alleged FICA tax and income tax withholding. The IRS had asserted that nearly a thousand insurance agents working with Platinum Supplemental were employees and not independent contractors.
- Voluntary Employees' Beneficiary Association (VEBA) litigation (U.S. Tax Court 2015): IPB negotiated settlements for over 50 clients in Tax Court cases involving over \$12 million in proposed tax assessments related to a VEBA.



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- *Boston Properties Ltd. P'ship v. District of Columbia*, No. 2012 CVT 011108 (D.C. Superior Court 2014): the D.C. Superior Court held that IPB's client, a Real Estate Investment Trust (REIT), was entitled to a tax refund of \$778,000 under a settlement agreement that the D.C. Office of Tax and Revenue had argued was not binding.
- *Dominion Resources, Inc. v. U.S.*, 681 F.3d 1313 (Fed. Cir. 2012): the Federal Circuit ruled for IPB's client Dominion Resources that a provision of the interest capitalization regulations under section 263A is invalid under *Chevron U.S.A. Inc. v. Natural Res. Def. Council, Inc.*, 467 U.S. 837 (1984). The court also held that the provision was arbitrary and capricious, and therefore violated the Administrative Procedure Act, because the IRS failed to explain the reasons for it as required by *Motor Vehicle Mfr. Ass'n. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29 (1983). *Dominion Resources* was the first case ever to apply the APA's arbitrary and capricious standard to invalidate a federal tax regulation.
- *Carolina Power and Light Co. and Subsidiary v. Comm'r*, No. 2272-01 (U.S. Tax Court 2007): on the eve of trial, the IRS conceded in full that Carolina Power and Light was not liable for an alleged \$17.3 million tax deficiency. The IRS had argued that the company made excess contributions to its VEBA in reliance on an improper contribution formula.
- *United Dominion Indus., Inc. v. U.S.*, 532 U.S. 822 (2001): the U.S. Supreme Court held for IPB's client United Dominion Industries in the first consolidated return case before the Court in 67 years. In an 8-1 decision, the Supreme Court ruled that the product liability expenses of a member of a consolidated group of corporations are eligible for the 10-year net operating loss carryback, provided the whole group has a net operating loss, even though the member incurring the expenses had positive separate taxable income.

NEWS

- March 5, 2026
IPB Recognized in Best Law Firms 2026
- March 5, 2026
Twenty-One IPB Attorneys Recognized in Best Lawyers in America and Ones to Watch 2026 Editions
- June 5, 2025
Ivins Attorneys Recognized in Chambers USA 2025
- May 12, 2025
Eric Solomon Honored by ABA Tax Section, Receives 2025 Distinguished Service Award
- March 5, 2025
Eric Solomon to Moderate Panel at University of Virginia Tax Panel



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- October 13, 2024
IPB Achieves Mansfield Certification Plus for the Third Time
- August 15, 2024
Twenty-Two IPB Attorneys Recognized in Best Lawyers in America and Ones to Watch 2025 Editions
- June 18, 2024
2024 Chambers USA Guide Recognizes Four IPB Partners Individually and the Tax and Benefits Practices
- May 17, 2024
"The State of the Non-Disavowal Principle after Complex Media"
Tax Notes Federal