

Sheldon “Shelly” Kay



Biographical Info

Sheldon “Shelly” Kay has more than 40 years of experience in counseling clients on federal tax controversies, including IRS procedure navigation, dispute resolutions, tax litigation, compliance and reporting issues. Shelly has litigated more than 40 tax cases in federal courts, and spent 20 years in government services with the IRS, most recently as Chief of Appeals.

As IRS Chief of Appeals, Shelly led the IRS Appeals Office organization, which is tasked with resolving tax controversies without litigation on basis that is fair and impartial basis to both the government and the taxpayer. He has also served as partner-in-charge of the Southeast area’s tax controversy group for a Big Four accounting firm, and was the IRS District Counsel for the Georgia District. In that position, Shelly was the primary legal representative for the District Director, the Director for the Atlanta Service Center, and the Chiefs of Appeals, Collection, Criminal Investigation and Examination Divisions. Prior to this office, Shelly was in charge of the IRS District Counsel offices in St. Louis, Missouri, and Fort Lauderdale, Florida.

Shelly has taught trial techniques and strategies at the National Institute of Trial Advocacy programs, and has trained many senior attorneys in the IRS Chief Counsel’s office on litigation and discovery skills. He has been an adjunct professor at several universities, as well as an assistant editor of *Mertens Law of Federal Income Taxation* and *Casey Federal Tax Practice*. Shelly is a frequent speaker before Tax Executives Institute (TEI), State Bar and Certified Public Accountant groups.

Professional Experience

Crowe Horwath LLP: June 2016-present
Principal

Sutherland Asbill & Brennan: 2004-2011, 2013-2016

Partner

At Sutherland, Shelly specialized in handling tax controversy matters. Represented clients before LB&I and SB/SE, as well as Appeals Division. Also litigated and handled cases in U.S. Tax Court, Claims Court, and several district courts. Additionally, successfully argued several cases before courts of appeal and submitted an *amicus* brief in another.

Internal Revenue Service: 2011-2013

Chief and Deputy Chief of Appeals

Shelly served as a member of the Commissioner's Senior Executive Team overseeing approximately 2,000 employees with a \$250 million budget. During Sheldon's tenure, a CPE Committee was created to enhance a year-round, high quality educational program for all employees. Sheldon collaborated with Harvard's Negotiation and Mediation Clinical Program to review and analyze IRS offering in an effort to analyze and enhance ADR programs. He also spearheaded efforts with other business units to refocus Appeals to its goal of resolving cases. Additionally, Mr. Kay helped negotiate a cross-functional agreement on the *Ex Parte* Revenue Procedure, and recommended a similar cross-functional effort to review Revenue Procedure 87-24. During his time at the IRS, Sheldon focused on improving conference procedures by discussing the use of the Rapid Appeals Procedure for appropriate cases, and modified the IRM to consider taxpayers' requests for the location of conferences.

KPMG, LLP: 1998-2004

Partner

Professional Honors and Awards

Named to *The Best Lawyers in America* in the area of tax law (2009-2011, 2014) and litigation and controversy - tax (2016)

Recognized by *The Legal 500 United States* in the area of law controversy (2015)

Recognized by Chambers USA: Guide to Leading Business Lawyers in the area of tax (2009-2011)

Selected for inclusion in Georgia Super Lawyers® (2009-2016)

Selected for inclusion in Georgia Super Lawyers®, Corporate Counsel Edition (2009)

Representative Experience

Shelly has more than 40 years of experience and litigated more than 40 tax cases:

- *K2 Inc. v. Commissioner*, in which the statute of limitations was applicable in a transferee liability case
- *Estate of Williams v. Commissioner*, in which the value of interest in the stock of a closely held corporation was at issue, as well as whether the sales proceeds represented a separate asset of the estate or merely replaced an asset that was constructively sold before death
- *Carlingswitch v. Commissioner*, in which the reasonable compensation of a corporate executive was at issue
- *Ginsburg v. Commissioner*, focusing on the proper interplay of valourous statute of limitations provisions between TEFRA partnership matters and non-TEFRA matters
- *Coggin Automotive Group v. Commissioner*, focusing on the business purpose of a transaction and the aggregate versus entity theory for inventory of a partnership
- *Clark Equipment Company v. Commissioner*, in which the validity of DISC regulation was at issue
- *McNamara v. Commissioner*, involving an investment tax credit

Teaching and Speaking Experience

In addition to being a frequent speaker to many professional groups and organizations, Shelly taught classes at several institutions and universities, including: Taxation of Accounting Methods: both Basic and Corporate Taxation; Litigation Cases before the U.S. Tax Court; Advanced Trial Advocacy; Discovery in the Tax Court; Tax Practice and Procedure; Tax Research and Writing; and various accounting classes for the National Institute of Trial Advocacy; Office of Chief Counsel; Washington University; DePaul University; Georgia State University and other schools.

Professional and Community Involvement

- Board of Directors, section of Taxation, Atlanta Bar Association
- Member, Association of Former Internal Revenue Executives (AFIRE) (2005-present)

- Member, “Adopt-a-Base” program to help military personal learn about special tax provisions for their VITA program
- Board Member, Children’s Community Board, Children’s Healthcare of Atlanta (2005-present)
- Board Member, Lekotek of Georgia, Inc. (2005-present)
- Trustee, Advisory Committee, Low-Income Tax Clinic, Georgia State University Law School (2005-present)
- Fellow, American College of Tax Counsel
- Member, American Institute of CPAs
- Member, Georgia Society of CPAs
- Member, American Bar Association
- Member, Atlanta Bar Association

Licensure

- Member of the Bar for the states of Georgia, Missouri, Illinois, Wisconsin and District of Columbia
- Certified Public Accountant in the state of Georgia