

Millar Wyslobicky Krekiewetz

Firm 'microspecializes' in commodity tax matters

By Julius Melnitzer
For Law Times

TORONTO — Millar Wyslobicky Krekiewetz. It's hardly a household name. Unless, as is most likely the case, you or your enterprise have had or anticipate a problem with the GST or other pervasive transaction taxes.

Millar Wyslobicky Krekiewetz (MWK), after all, is a microspecialty four-lawyer Toronto tax law firm that's become a virtual brand name for commodity tax and related international trade work, specializing in the GST, PST, customs, and tariff classification and evaluation.

On three occasions, the International Tax Review has identified MWK as the top Canadian legal advisers in the commodity tax area, based on an annual survey of in-house tax experts and chief financial officers at 2,500 interna-

tional corporations and financial institutions.

Both Jack Millar and Dennis Wyslobicky have mega-firm roots, having practised at Blake Cassels' Toronto office before moving to the Toronto office of Vancouver-based tax firm Thorsteinssons in 1995.

"When we were at Blakes, lawyers told us that we'd get more referrals if we were at a stand-alone tax firm," says partner Jack Millar. "After four years at Thorsteinssons [Canada's largest pure tax firm], we got the same feedback."

Starting their own niche shop has "freed us up," Millar adds. "We get small clients, commodity tax clients and Fortune-500 clients. Large firms are no longer afraid to bring us in as consultants, because our narrow specialization poses no threat to the business of their own tax lawyers."

While some large law firms do

have people in their tax departments who do the same type of work as MWK, "those individuals don't tend to focus on commodity taxes as much as we do."

MWK has deliberately structured its practice to avoid the infrastructure and overheads of larger firms.

"You won't see us with a trail of juniors," Millar explains. "We've organized things so that we can work comfortably and efficiently without a slew of them."

Technology is a critical element of practice at MWK, where online communications are critical to keeping up to date with legislative changes.

"But this is an area where there's a paucity of secondary and tertiary materials," Millar says. "One becomes a practitioner in this specialty by doing it, because much of the time all you've got to go on is the raw legislation."

Still, MWK's lawyers must have a strong familiarity with their client's products and operations. "The taxes we deal with are all transaction-based taxes," Millar notes.

MWK provides tax litigation as well as tax planning and representation services.

"When a file comes in here, any of us can take it all the way through to the end, because we all have litigation experience and expertise in this area," Millar says.

Most recently, partner Robert Krekiewetz convinced the Ontario Court of Appeal that retail sales tax was not payable on contractual damages, a decision with huge implications for businesses involved in settlement negotiations or litigation (see: *Extendicare International Inc. v. Ontario (Minister of Revenue)*).

And by way of demonstrating just how esoteric MWK's practice is, *Extendicare* is only the tenth Ontario's top court in 40 years.

Millar is quick to add that the

lawyers at MWK have "very good relations" with provincial and federal Crown counsel, built on mutual respect in continuous dealings over the years.

Millar maintains that MWK has a "franchise" in its area of speciality. It's a franchise the firm maintains with constant speaking engagements, article-writing, and committee work with entities like the Canadian Customs and Revenue Agency (which took over November) and the Federal Tax Appeal Advisory Board.

"All in all, microspecialty legal work is very enjoyable," Millar says. "Especially because I never have to worry about ongoing clients calling me up about something about which I have no clue." E



The commodity tax "microspecialists" (from left to right): Robert G. Krekiewetz, W. Jack Millar, Dennis A. Wyslobicky. All are refugees from larger firms but now can work comfortably without a "slew of juniors."