

36th Institute on State and Local Taxation

Preliminary Agenda

DAY 1: MONDAY, DECEMBER 4

Moderator: Bruce P. Ely, Esq., *Partner, Bradley Arant Boult Cummings, Birmingham, AL*

8 A.M.

REGISTRATION AND DISTRIBUTION OF MATERIALS CONTINENTAL BREAKFAST

8:25 A.M. **WELCOMING REMARKS**

Kathleen Costello, CMP, *Assistant Director, NYU School of Professional Studies, New York, NY*

8:30 A.M. **NEXUS: A REVIEW OF WHERE WE ARE AND WHERE WE'RE GOING**

As states continue to seek expansion of their taxing jurisdiction, our nexus panel reviews 2017 developments, including court decisions, administrative releases, legislation, and proposed policies.

Maryann B. Gall, Esq., *MBGallTax, Columbus, OH*

June Summers Haas, Esq., *Partner, Honigman Miller Schwartz and Cohn, Lansing, MI*

Arthur R. Rosen, Esq., *Partner, McDermott Will & Emery, New York, NY and Miami, FL*

9:25 A.M. **STATE TAXATION OF PARTNERSHIPS, LLCs, AND THEIR OWNERS AND AN OVERVIEW
OF THE NEW FEDERAL PARTNERSHIP AUDIT/ASSESSMENT RULES**

The most popular form of business entity selected these days is a pass-through entity (PTE), and none more so than the limited liability company. There are 50 different ways the states impose taxes on PTEs, and in most states the rules are not clearly defined and even still evolving. New federal partnership audit rules enacted in late 2015 and expected to be fully implemented in 2018 will have their state corollaries as state tax administrators, the MTC, and a task force representing tax professionals struggle to address the state complications that the federal rules do not begin to touch. The panel also provides the latest update on state legislation, judicial decisions, and administrative rulings that have a significant impact on PTEs.

Bruce P. Ely, Esq., *Partner, Bradley Arant Boult Cummings, Birmingham, AL*

Jonathan M. Horn, CPA, CGMA, *Senior Manager, Tax Policy & Advocacy, AICPA, Washington, DC*

Todd A. Hyman, CPA, *Partner, Deloitte Tax, Philadelphia, PA*

Steven N.J. Wlodychak, Esq., *Principal, Indirect Tax, EY, Washington, DC*

10:20 A.M. **REFRESHMENT BREAK**

10:35 A.M. **REVIEW AND PREVIEW OF FEDERAL CONSTITUTIONAL ISSUES**

The most significant constitutional cases in state taxation over the past year, both in the US Supreme Court and in the state courts, are surveyed.

Jeffrey A. Friedman, Esq., *Partner, Eversheds Sutherland (US), Washington, DC*

Richard D. Pomp, Esq., *Professor of Law, University of Connecticut, Hartford, CT; Adjunct Professor of Law, New York University School of Law*

11:25 A.M. **MODERN TRANSACTIONS: STATE TAX IMPLICATIONS OF HOW WE DO BUSINESS**

Technology has completely disrupted traditional business models—from retail, consumer and manufacturing, to services, and hospitality; all businesses face change. Since tax laws don't always keep pace, businesses are left with making tax decisions and hoping for the best. In this session the panelists describe new business models and products for retailers, consumer products, manufacturing, and service providers; discuss the sales tax and state income tax consequences of the new models; provide legislative, regulatory, and other guidance related to these unique transactions; and provide insight/practical experiences with audits and how they handle these issues.

Mary T. Benton, Esq., *Partner, Alston & Bird, Atlanta, GA*

Susan K. Haffield, CPA, *Partner, PricewaterhouseCoopers, Minneapolis, MN*

Brian J. Kirkell, Esq., *Principal, Washington National Tax, RSM US, Washington, DC*

12 Noon – 12:40 p.m.

NETWORKING LUNCHEON

Lunch Served

12:40 p.m.

TRIBUTE

After lunch, please be our guest as we honor the life and distinguished career of the late Paul H. Frankel, Chairman Emeritus of the NYU Institute on State and Local Taxation.

Tribute led by:

Hollis L. Hyans, Esq., *Partner, Morrison & Foerster, New York, NY*

Douglas L. Lindholm, Esq., *Executive Director, Council On State Taxation, Washington, DC*

Please also join us as the annual NYU School of Professional Studies Paul H. Frankel Award for Outstanding Achievement in State and Local Taxation is presented to this year's recipient, Craig B. Fields, Esq., of Morrison & Foerster.

NYU SCHOOL OF PROFESSIONAL STUDIES PAUL H. FRANKEL OUTSTANDING ACHIEVEMENT IN STATE AND LOCAL TAXATION AWARD RECIPIENT

Craig B. Fields, Esq., *Partner, Morrison & Foerster, New York, NY*

1:25 P.M. **UNIFORMITY NEEDED TO REPORT FEDERAL TAX ADJUSTMENTS**

Interested Parties have been working earnestly for more than a year to improve the process the states use for taxpayers to report federal tax adjustments. While the MTC published a proposed model statute back in 2003, it has not been widely adopted and it needs updating to clarify when a taxpayer needs to report federal tax changes to the states and also to address the new federal partnership audit procedures. This session discusses those efforts and explains the model legislation the Interested Parties are asking the states' legislatures to enact.

Deborah R. Bierbaum, MST, *Assistant Vice President, External Tax Policy, AT&T Services, Bedminster, NJ*

Pilar Mata, Esq., *State Tax Counsel, Tax Executives Institute, Washington, DC*

Fred J. Nicely, Esq., *Tax Counsel, Council On State Taxation, Washington, DC*

2:10 P.M. **WHAT YOUR MOTHER DIDN'T TEACH YOU ABOUT APPORTIONMENT**

Come to this lively session on income tax apportionment! Learn about the latest developments in market-based sourcing, alternative apportionment methods, and the issues the panelists have been seeing in states where market sourcing audits are underway, as well as in states dealing with ongoing cost of performance positions.

David E. Brunori, Esq., *Partner, Quarles & Brady, Washington, DC*

Hollis L. Hyans, Esq., *Partner, Morrison & Foerster, New York, NY*

Jamie C. Yesnowitz, Esq., *Principal, Grant Thornton, Washington, DC*

3 P.M. **REFRESHMENT BREAK**

3:15 P.M. **LIGHTNING ROUND OF HOT TOPICS**

This session provides three installments of hot topics currently impacting state and local taxes. Each installment is designed to give the audience a quick update on what is happening and why they should be following these current developments.

- **STATE TAX ISSUES ASSOCIATED WITH ASSET MANAGEMENT COMPANIES:** State and local governments have increased their focus on asset managers and the private funds they manage. Given that most asset managers and their funds are set up as flow-throughs, unique state and local tax issues are encountered including economic nexus, sourcing of fees and intangibles, and tiering of state information. The discussion focuses on the challenges and opportunities for asset managers with their state and local tax filing obligations and positions.

Brian J. Rebhun, Esq., *US Asset Management Tax Leader, PricewaterhouseCoopers, New York, NY*

- **FALSE CLAIMS ACT AND CLASS ACTION LAWSUITS:** This presentation covers recent cases involving qui tam lawsuits and state False Claims Act proceedings and offers practical advice for planning to avoid problems and for contesting state attorney general and court proceedings.

Peter L. Faber, Esq., *Partner, McDermott Will & Emery, New York, NY*

- **MOBILE WORKFORCE BILL UPDATE:** The modern workforce isn't stationary, with many people traveling all over the country to do their jobs. But the current patchwork of state nonresident income tax laws is an onerous burden for employees who travel and the businesses that employ them. This presentation provides a brief overview of the Mobile Workforce State Simplification Act, addresses why a federal solution is the right answer, and discusses the legislative progress the Mobile Workforce Coalition has made in the last few years, including where the Coalition left off in the 114th Congress, and the plan for moving the bill across the finish line in the 115th.

Liz Malm, MA, *Senior Policy Analyst & Economist, MultiState Associates, Alexandria, VA*

4 P.M. **ETHICAL CHALLENGES FOR STATE TAX PROFESSIONALS IN AN ERA OF TRANSPARENCY**

The panel tests the audience to determine who possesses the best working knowledge of the ethical rules (or are just good guessers). Taking the form of a game show, this ethics test examines everyday occurrences in the state tax world and applies the different ethical standards. The session covers the ethical rules for CPAs and attorneys whether they are private practitioners, in-house professionals, or government employees working in the tax field. Changes to IRS Circular 230, federal whistleblower and False Claims Act rules, and the application of governing ABA and AICPA rules are explored and then applied to several scenarios using interactive technology to involve registrants in the session.

William M. Backstrom, Jr., Esq., *Partner, Jones Walker, New Orleans, LA*

Jordan M. Goodman, CPA, Esq., *Partner, Horwood Marcus & Berk Chartered, Chicago, IL*

Glenn C. McCoy, Jr., Esq., *Director, KPMG, New York, NY*

5 P.M. **DAY 1 WRAP UP**

5:15 P.M. **NETWORKING RECEPTION**

Join your fellow attendees for an opportunity to meet the speakers and to network with tax practitioners from around the country.

DAY 2: TUESDAY, DECEMBER 5

Moderator: *Carolynn S. Kranz, Esq., Managing Member, Industry Sales Tax Solutions, Washington, DC*

8 A.M. **CONTINENTAL BREAKFAST**

8:30 A.M. **DUE PROCESS—SIGNIFICANT CURRENT ISSUES**

While there have been many advances in Due Process protections over the past several years, many significant issues still need to be addressed. This panel reviews some of the more significant recent developments and issues arising under the Due Process Clause. The issues addressed include Due Process limits on retroactive legislation, the expansion of independent tax tribunals, as well as substantive Due Process issues.

Lila D. Disque, Esq., Deputy General Counsel, Multistate Tax Commission, Washington, DC

Craig B. Fields, Esq., Partner, Morrison & Foerster, New York, NY

Karl A. Frieden, Esq., Vice President and General Counsel, Council On State Taxation, Washington, DC

9:20 A.M. **STATE TAX ASPECTS OF CROSS-BORDER TRANSACTIONS AND FEDERAL LEGISLATION**

Multistate companies with offshore operations or foreign entities with US operations have to navigate a complex array of intersecting and competing international and state tax rules. This session explores some of the ways in which states tax foreign source income of domestic entities and US source income of aliens. The panel considers federal and state conformity issues, state impact of proposed and recently enacted federal legislation, related-party transactions, worldwide combined reporting, tax havens, and nexus implications.

Jack R. Kramer, MBA, JD, LL.M., Principal, PricewaterhouseCoopers, New York, NY

Jorge Rodriguez, Esq., Principal, Rodriguez Law Firm, New York, NY

Maria M. Todorova, Esq., Partner, Eversheds Sutherland (US), Atlanta, GA

10:10 A.M. **REFRESHMENT BREAK**

10:25 A.M. **TAX RESERVES—PRACTICAL APPLICATIONS OF ASC 450 AND ASC 740**

This session provides an overview of the fundamentals of ASC 450 and ASC 740 requirements, and analyzes case studies and examples of contingent liability treatment. In addition, it covers the distinction between US GAAP, ASC 450/ASC 740 and IFRS; direct and indirect state tax issues that should be considered under ASC 450/ASC 740; and various estimation methodologies for creating, documenting, and removing direct and indirect state tax reserves under ASC 450/ASC 740. It also covers strategies for practically managing communication around state tax reserves and being prepared to navigate external auditor reviews of ASC 450/ASC 740.

Stephanie Csan, CMI, Managing Director, US Indirect Tax Services, Deloitte Tax, Parsippany, NJ

Maureen Pechacek, CPA, Partner, PricewaterhouseCoopers, Minneapolis, MN

Leah S. Robinson, Esq., Partner, Mayer Brown, New York, NY

11:15 A.M. **CURRENT AUDIT ISSUES—A PRACTICAL GUIDE FOR CONTROVERSY RESOLUTION**

Every interaction with auditors, supervisors, and hearing officers either helps to bring divergent interests together or tear them apart. State revenue demands, restrictive corporate budgets, and ever changing tax regimes make audit management increasingly complicated and challenging. This session provides practical procedural and substantive tips that will pay dividends during audits. Whether the matter is resolved before assessment, after assessment, or is definitely headed to litigation, this session explores strategies from both the company and practitioner perspectives, as well as the dynamics at state revenue agencies that must be understood. The panel also incorporates hot audit trends into the discussion.

Carolynn S. Kranz, Esq., Managing Member, Industry Sales Tax Solutions, Washington, DC

Christopher J. Sullivan, Esq., Shareholder, Rath, Young and Pignatelli, PC, Concord, NH

12:05 P.M. **LUNCH RECESS**

1:15 P.M. **WHAT'S HAPPENING EVERYWHERE TODAY?**

Get ready for a jam-packed show! It's hard to cover the ever changing state and local tax landscape, but an all-star team of "special reporters" provides a rundown of what you need to know about the most important SALT developments affecting taxpayers today, including the latest developments in Unclaimed Property. Included in this year's "Hardball" segment is a discussion of gross receipts tax proposals that have popped up in several states this year, typically as part of a comprehensive tax reform initiative. The "Hardball" panelists explore the reasons for the resurgence in their popularity, and discuss why such taxes should never be part of a responsible program of tax reform. Then, stick around for "Meet the Press", a panel discussion of important new developments in the New York/New Jersey region.

Moderator: Ginny Buckner Kissling, Chief Operating Officer, Ryan, Dallas, TX

Moderator: Douglas L. Lindholm, Esq., Executive Director, Council On State Taxation, Washington, DC

Moderator: Fred O. Marcus, Esq., Principal, Horwood Marcus & Berk Chartered, Chicago, IL

Moderator: J. William McArthur, Jr., Esq., VP Tax Planning, TE Connectivity, Berwyn, PA

SPECIAL REPORTERS:

Edwin P. Antolin, Esq., Partner, Antolin Agarwal, Walnut Creek, CA

Jaye A. Calhoun, Esq., Partner, Kean Miller, New Orleans, LA

John L. Coalson, Jr., Esq., Partner, Alston & Bird, Atlanta, GA

Harley T. Duncan, Managing Director, KPMG, Washington, DC

Mark W. Eidman, Esq., Senior Partner, Ryan Law Firm, Austin, TX

Richard W. Genetelli, CPA, Managing Director, Genetelli Consulting Group, New York, NY

Mitchell A. Newmark, Esq., Partner, Morrison & Foerster, New York, NY

David J. Shipley, Esq., Partner, McCarter & English, Newark, NJ

Diann L. Smith, Esq., Counsel, McDermott Will & Emery, Washington, DC

Mark F. Sommer, Esq., Member, Frost Brown Todd, Louisville, KY

Jason R. Wyman, CPA, Partner, Deloitte Tax, Chicago, IL

Jason M. Zorfias, Esq., Executive Director, EY, Boston, MA

Producer: Michael Garcia, Director, Ryan, Dallas, TX

4:30 P.M. **CONFERENCE CONCLUDES**