

2011 ABA/IPT
ADVANCED
TAX SEMINARS

MARCH 21-25, 2011
THE RITZ-CARLTON
NEW ORLEANS, LA

Preliminary Program
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**ADVANCED
INCOME TAX SEMINAR**

MARCH 21-22

**ADVANCED
SALES/USE TAX SEMINAR**

MARCH 22-23

**ADVANCED
PROPERTY TAX SEMINAR**

MARCH 24-25



ABA/IPT Advanced Income, Sales/Use & Property Tax Seminars

The Ritz-Carlton, New Orleans, Louisiana
March 21 – March 25, 2011

Sponsors:

American Bar Association Section of Taxation and the Institute for Professionals in Taxation

Please join us! The American Bar Association Section of Taxation and the Institute for Professionals in Taxation have joined forces again to present another key opportunity for continuing professional education in one of America's most vibrant cities.

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Charles H. Egerton, Esq.

Dean, Mead, Egerton, Bloodworth, Capouano & Bozarth, P.A., Orlando, FL

President, Institute for Professionals in Taxation:

Robert D. Butterbaugh, CMI

Ernst & Young LLP, Philadelphia, PA

ABA State & Local Taxes Committee Chairperson:

Stewart M. Weintraub, Esq.

Chamberlain, Hrdlicka, White, Williams & Martin West Conshohocken, PA

Local Host:

William M. Backstrom, Jr., Esq.

Jones Walker LLP, New Orleans, LA

ADVANCED INCOME TAX SEMINAR COMMITTEE

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June Summers Haas, Esq.

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[IPT Co-Chairs](#)

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Stewart M. Weintraub, Esq.,

Chamberlain, Hrdlicka, White, Williams & Martin

SCOPE AND PURPOSE

The ABA/IPT Advanced Income, Advanced Sales/Use, and Advanced Property Tax Seminars are designed for attorneys, accountants, tax directors, state and local tax managers, government tax officials, appraisers, property tax managers, commercial and industrial property managers, and others interested in state and local income, sales, use, ad valorem taxation.

The increasing burden of state and local income, sales, use, and property taxes throughout the country requires an increasingly greater knowledge and understanding by those professionals who are responsible for managing and minimizing this burden. In addition, businesses must now focus more on the process for evaluating and selecting professionals who are needed to contest state and local tax matters. Over the course of three seminars, a distinguished and multidisciplinary faculty, including appraisers, government and private sector tax officials, tax managers, and state and local tax attorneys, will lead you in the practical examination of current state and local tax issues facing different businesses and industries. These programs devote substantial time to current issues in the field and to practical solutions to recurring difficulties in handling and winning a state and local tax appeal.

REGISTRATION (VIA ABA SECTION OF TAXATION)

Registration fee includes admission to the program, written materials, reception, lunches, and continental breakfasts. Register early and save!

Early-Bird Tuition (Deadline January 14, 2011): \$495 per seminar, \$825 for two seminars, and \$1,240 for all three seminars

Advance Tuition (Deadline March 11, 2011): \$525 per seminar, \$895 for two seminars, and \$1,340 for all three seminars

On-site Tuition: \$545 per seminar, \$925 for two seminars, and \$1,390 for all three seminars

You may: **MAIL** the registration form found at the back of this brochure to ABA/IPT Tax Seminars, ABA Section of Taxation, 740 15th Street, NW, Washington, DC 20005; **FAX FORM TO** ABA Section of Taxation, (202) 662-8682; or **REGISTER ONLINE AT** <http://meetings.abanet.org/meeting/tax/IPT11/>

To protect your credit card security, we are accepting credit card payments only through online registration. Faxed and mailed

registrations must be accompanied by payment in the form of a check. All seminar registrations must be sent to ABA by **March 15, 2011**. Please note that registrations are limited and will be granted on a first-come, first-served basis.

All cancellations and requests for refunds or substitutions must be received in writing by **March 15, 2011**. No refunds will be approved after that date; however, substitute registrants are welcome. All refund requests will incur a \$50 cancellation fee. **Absolutely no refunds will be granted after the March 15 deadline.** To request a refund or a substitution, please send your written request to the ABA Registrar by fax to 202-662-8682 or e-mail bradyt@staff.abanet.org.

HOTEL ACCOMMODATIONS

A block of sleeping rooms has been reserved for the ABA/IPT program at [The Ritz-Carlton](#), 921 Canal Street, New Orleans; Louisiana's only AAA Five Diamond Luxury hotel. Reservations should be made by individuals either by calling the hotel directly at **504-524-1331** or **1-800-826-8987** and referring to the ABA Section of Taxation or IPT (Institute for Professionals in Taxation) or on the internet at www.ritzcarlton.com/neworleans by entering the **unique group code** as supplied by the Hotel (please see below). *The reservation cut-off date is **February 21, 2011**.*

- Group Name: **ABA/IPT Tax Seminars**
- Group Code: **BIWBIWA** (Deluxe Accommodations)
- Group Link: [Reservations CLICK HERE](#)
- Group Dates: Sunday, March 20 – Saturday, March 26, 2011
- Rates: Single/Double - \$195 + applicable taxes
- Group rate shall apply for two days prior and two days after the official meeting dates.
- All reservations must be accompanied by a first night deposit or guaranteed by the individual's credit card or check
- Individuals with guaranteed reservations must cancel their reservations at least 24 hours prior to the scheduled day of arrival to avoid a one-night cancellation charge
- Check-in is no earlier than 4:00pm and check-out is 12:00pm

Reservations requested after the room block is filled or beyond the **February 21, 2011** cut-off date, whichever comes first, are subject to availability. Rooms may still be available after the room block is filled or after the cut-off date, but not necessarily at the negotiated rate. Requests for accommodations after that date, or sooner if the block sells out, cannot be ensured.

COURSE MATERIALS

Written course materials will be available to registrants through the meeting website. In addition, all attendees will have access to hard copies of PowerPoint slides onsite. Those who are interested in the materials, but who are unable to attend the meeting, will be able to purchase access to the materials on the meeting website.

CONTINUING EDUCATION CREDIT

Continuing education credit for this program is available for tax professionals, attorneys, accountants, and appraisers who register and attend.

CLE: CLE accreditation will be requested for this program from every state with Mandatory Continuing Legal Education (MCLE) requirements for attorneys. Questions concerning CLE credit for attendance at this or any ABA program should be directed to the ABA Section of Taxation at 740 15th Street NW, Washington, DC 20005, telephone (202) 662-8670.

CPE: Questions concerning continuing professional education (CPE) credit should be directed to IPT, telephone (404) 240-2300.

Registrants attending the Income Tax Seminar will receive approximately 12 continuing education credits; those attending the Sales and Use Tax Seminar will receive approximately 14 and those attending the Property Tax Seminar will receive approximately 12 continuing education credits for full attendance based on a 50-minute credit hour.

Each of the Seminars has 60 minutes of ethics equal to 1 CE credit. These ethics credits are applicable for the CMI Continuing Education requirement and may be applicable for other continuing education requirements.

The Institute's designated members (CMIs) will receive hour-for-hour continuing education credits towards their requirements for actual session attendance (based on a 50-minute credit hour).

As required by regulatory agencies, IPT must verify individual attendance at sessions in order to grant Continuing Education Credits. Each attendee's name badge has a unique barcode that identifies that individual. In order to obtain CE credit, the individual must have his or her bar-coded badge scanned during the first 15 minutes of each session. No credit for the session will be given to un-scanned attendees.

The Institute is also registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be addressed to the National Registry of CPE Sponsors, 150 Fourth Avenue North, Suite 700, Nashville, TN 37219-2417. Website: www.nasba.org.

Prerequisites: None
Program Level: Update
Field of Study: Taxation
Instructional Method: Group Live
Advanced Preparation Required: None

AGENDA FOR ABA/IPT ADVANCED INCOME TAX SEMINAR

Monday, March 21, 2011

7:30am-8:30am **Registration & Continental Breakfast**

8:30am-9:00am **Welcome and Introduction:**

President, Institute for Professionals in Taxation:

Robert D. Butterbaugh, CMI
Ernst & Young, LLP
Philadelphia, PA

ABA SALT Committee Chairperson:

Stewart M. Weintraub, Esq.
Chamberlain, Hrdlicka, White, Williams & Martin
West Conshohocken, PA

Local Host:

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

9:00am-9:50am

Alternative Apportionment – The Next Great Frontier

As states expand their nexus standards, a possibility exists for an increased need of an alternative apportionment formula. This session will address such questions as: How does one identify when alternative apportionment is appropriate? What are reasonable alternatives to the standard, three-factor apportionment formula? How does one present an alternative apportionment case to a taxing authority?

Learning Objectives:

- ▶ Assess the importance of alternative apportionment in light of the increased use by taxing authorities of economic nexus
- ▶ Identify situations or scenarios in which alternative apportionment is appropriate
- ▶ Formulate a reasonable alternative apportionment methodology
- ▶ Present an alternative apportionment methodology to a taxing authority

Moderator/Speaker:

Erica L. Horn, Esq., CPA
Partner
Stites & Harbison, PLLC
Frankfort, KY

Speakers:

Kurt Lamp, Esq.
State and Local Tax Director
Amazon.com
Seattle, WA

Arthur R. Rosen, Esq.

Partner
McDermott Will & Emery LLP
New York, NY

9:50am-10:00am **Break**

10:00am-10:50am

Constitutionality and Policy Implications of Throwback/Throwout Provisions

This session will examine the various throwout and throwback provisions that have been enacted and will discuss the constitutionality of those provisions under the Due Process and Commerce Clauses of the United States Constitution. This session also will discuss and analyze the constitutional challenges to New Jersey's throwback rule raised in the Pfizer/Whirlpool cases and the speakers will prognosticate on the correct outcome of those cases as well as examine the options open to taxpayers based on the various possible outcomes of those cases.

Learning Objectives:

- ▶ Examine and distinguish the operation of throwback and throwout rules
- ▶ Distinguish the variations of throwback and throwout rules that have been enacted
- ▶ Analyze the policies for and against enactment of a throwback and throwout rule
- ▶ Examine the Constitutional theories of fair apportionment under the Commerce and Due Process Clauses
- ▶ Assess the strengths and weaknesses of the arguments regarding the constitutionality of New Jersey's throwout rule

Moderator/Speaker:

Stewart M. Weintraub, Esq.
Shareholder
Chamberlain, Hrdlicka, White, Williams & Martin
West Conshohocken, PA

Speakers:

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

David J. Shipley, CMI, Esq.

Partner
McCarter & English, LLP
Philadelphia, PA

10:50am-11:10am **Break**

11:10am-12 Noon

Apportionment vs. Allocation

This session presents recent developments in business/nonbusiness issues under state statutory requirements and the states' recent applications of tests under the U.S. Constitution.

Learning Objectives:

- ▶ Define business and non-business income according to the Multistate Tax Compact
- ▶ Explain how states are applying those tests and other selected statutory tests adopted by non-Compact states
- ▶ Determine how to apportion a taxpayer's multistate income according to those tests
- ▶ Explain how the state courts have been interpreting the U.S. Constitutional tests that all states must meet in order to fairly apportion a taxpayer's multistate non-business income under the 2008 U.S. Supreme Court decision in *MeadWestvaco v. Illinois Department of Revenue*, 553 U.S. 1498 (2008)

Moderator/Speaker:

Janette M. Lohman, Esq., CMI, CPA

Partner
Thompson Coburn LLP
St. Louis, MO

Speakers:

David A. Hughes, Esq.

Partner
Horwood Marcus & Berk Chartered
Chicago, IL

Jane Wells May, Esq.

Partner
McDermott Will & Emery LLP
Chicago, IL

12:00 Noon-12:30pm Lunch

12:30pm-1:30pm

Update: Hot Issues Pending Before the Multistate Tax Commission

Executive Director Joe Huddleston will provide his insight into numerous income tax related issues from the Multistate Tax Commission's perspective.

Learning Objectives:

- ▶ Recognize state income tax issues addressed by the Commission
- ▶ Discuss state tax consequences of Internal Revenue Service disclosures
- ▶ Examine current applications of the economic nexus standard
- ▶ Discuss other pending hot topics.

Introduction by:

Janette M. Lohman, Esq., CMI, CPA

Partner
Thompson Coburn LLP
St. Louis, MO

Speaker:

Joe B. Huddleston, Esq., LL.D.

Executive Director
Multistate Tax Commission
Washington, DC

1:30pm-2:00pm Break

2:00pm-2:50pm

Sales Factor – Shifting to Multiple Weighted or Single Factor Sales Apportionment Factors and Shifting from Cost of Performance Sourcing to Market-Based Sourcing

State apportionment formulas are now widely divergent as states move towards a single sales factor. This panel will discuss the opportunities presented by differing sales factor weighting, differing standards for sourcing of intangibles and services and how these differences can work to the advantage of taxpayers.

Learning Objectives:

- ▶ Explain the reasoning behind shifts to heavily weighted and single sales factor apportionment
- ▶ Determine the basis for move to market-based sourcing for intangibles and services
- ▶ Differentiate between state sourcing rules for market-based sourcing and planning opportunities that arise from differences in state sales factor apportionment

Moderator/Speaker:

June Summers Haas, Esq.

Partner
Honigman Miller Schwartz and Cohn LLP
Lansing, MI

Speakers:

Adam Morra, Esq., CPA

Director of State and Local Income Tax
Viacom Inc.
New York, NY

Philip M. Tatarowicz, Esq., CPA

Partner, National Director of State & Local Tax
Technical Services
Ernst & Young LLP
Washington, DC

2:50pm-3:00pm Break

3:00pm-3:50pm

Intercompany Transactions and State Transfer Pricing

Tax administrators continue to scrutinize intercompany transactions in state tax audits. One line of attack used by tax administrators is to assert that intercompany transactions are not "arm's length" and should not be recognized for state tax purposes. What is a state's authority for attacking intercompany transactions? What defenses are available to taxpayers in response to a state's attack? When is a transfer pricing study helpful? Required? The panel will address this topic from both the legal perspective and the technical, transfer pricing study perspective.

Learning Objectives:

- ▶ Establish legal grounds for attacking intercompany transactions for state tax purposes
- ▶ Determine incidents when a transfer pricing study is helpful or necessary
- ▶ Explain how to properly prepare an effective intercompany pricing study
- ▶ Explain how to defend an effective intercompany pricing study

Moderator/Speaker:

William M. Backstrom, Jr., Esq.

Partner
Jones Walker LLP
New Orleans, LA

Speakers:

Dan Peters

Partner
Peters Advisors LLC
Mendham, NJ

Margaret C. Wilson, CMI, Esq.

Partner
McDermott Will & Emery LLP
New York, NY

3:50pm-4:10pm Break

4:10pm-5:00pm

Economic Presence Nexus and the Revenge of King Midas: When Even Things You *Don't* Touch Turn to Gold

Economic presence nexus is being codified for business activity taxes in more states. This panel will discuss the constitutional arguments for and against economic presence nexus. Panelists will also compare and contrast economic nexus standards both as applied and proposed. Panelists will also discuss current nexus litigation pending in courts.

Learning Objectives:

- ▶ Compare arguments for and against economic nexus as a constitutional standard
- ▶ Determine which states have adopted economic presence nexus
- ▶ Examine differences in economic presence nexus standards

Moderator/Speaker:

June Summers Haas, Esq.

Partner
Honigman Miller Schwartz and Cohn LLP
Lansing, MI

Speakers:

Jaye A. Calhoun, Esq.

Member
McGlinchey Stafford PLLC
New Orleans, LA

Richard C. Handel, Esq.

General Counsel for Policy
South Carolina Department of Revenue
Columbia, SC

5:00pm-6:00pm Reception for Attendees

**Income Tax Seminar, Continued
Tuesday, March 22, 2011**

7:00am-8:00am Registration & Continental Breakfast

8:00am-8:50am

Business Purpose and Economic Substance

Even when a transaction or reorganization satisfies the letter of the law, state taxing authorities may attack the tax savings that result based on a purported lack of business purpose or economic substance. This panel will explore what these doctrines require and how they should (or should not) impact state tax planning. Other issues include the HMN Financial decision and the effect of the federal codification of economic substance on state taxes.

Learning Objectives:

- ▶ Determine the current jurisprudence on business purpose and economic substance in state income taxation
- ▶ Evaluate the impact of these doctrines on state tax planning

Moderator/Speaker:

Margaret C. Wilson, CMI, Esq.

Partner
McDermott Will & Emery LLP
New York, NY

Speakers:

David A. Agosto, Esq.

Assistant General Counsel –
Tax Matters
Verizon
Basking Ridge, NJ

Kimberley M. Reeder, Esq.

Partner
Morgan, Lewis & Bockius LLP
Palo Alto, CA

8:50am-9:00am Break

9:00am-9:50am

Amnesty and Voluntary Disclosure Programs

Almost half of the states have offered some type of amnesty program over the last year. At the same time, nearly all the states have voluntary disclosure programs in which taxpayers may participate. What are the pros and cons of each type of program? What are the pitfalls that taxpayers should avoid? Are there other ways to approach taxing authorities? These and similar questions will be addressed in this session.

Learning Objectives:

- ▶ Identify the taxing jurisdictions in which amnesty is currently available or is upcoming.

- ▶ Determine whether to participate in an amnesty or voluntary disclosure program.
- ▶ Explain the pitfalls of amnesty and voluntary disclosure programs.

Moderator/Speaker:

Erica L. Horn, Esq., CPA

Partner
Stites & Harbison, PLLC
Frankfort, KY

Speakers:

Michael W. McLoughlin, Esq.

Partner
Reed Smith LLP
New York, NY

Marilyn Wethekam, Esq.

Partner
Horwood Marcus & Berk Chartered
Chicago, IL

9:50am-10:10am Break

10:10am-11:40am

Update on Unclaimed Property Issues

Moderator/Speaker:

Stephanie Anne Lipinski Galland, Esq.

Partner
Lipinski Galland & Associates LLP
Arlington, VA

Speakers:

John A. Biek, Esq.

Partner
Neal, Gerber & Eisenberg LLP
Chicago, IL

Second Speaker TBA

11:40am-12 Noon Break

12:00 Noon-12:30pm

Joint Luncheon: Income Tax & Sales/Use Tax

12:30pm-1:30pm

Ethics for the State and Local Tax Practitioner

The panelists will give their perspectives on the various codes of ethics that apply to tax professions and how to apply them in daily business transactions.

Learning Objectives:

- ▶ Recognize various codes of ethics that apply to, guide and protect SALT practitioners, their employers and our profession.
- ▶ Discuss case studies that illustrate how to apply these various codes of ethics in a practical way.

Introduction by:

Janette M. Lohman, Esq., CMI, CPA

Partner

Thompson Coburn LLP

St. Louis, MO

Speakers:

Glenn C. McCoy, Jr., Esq.

Principal in Charge State and Local Tax Group

Holtz Rubenstein Reminick LLP

New York, NY

Cass D. Vickers, CMI, Esq.

Deputy Executive Director and State Tax Counsel

Institute for Professionals in Taxation

Atlanta, GA

1:30pm **Adjourn**

AGENDA FOR ABA/IPT ADVANCED SALES/USE TAX SEMINAR

Tuesday, March 22, 2011

11:00am-12:00 Noon Registration

12:00 Noon-12:30pm
Joint Luncheon: Income Tax & Sales/Use Tax

12:30pm-1:30pm

Ethics for the State and Local Tax Practitioner

The panelists will give their perspectives on the various codes of ethics that apply to tax professions and how to apply them in daily business transactions.

Learning Objectives:

- ▶ Recognize various codes of ethics that apply to, guide and protect SALT practitioners, their employers and our profession.
- ▶ Discuss case studies that illustrate how to apply these various codes of ethics in a practical way.

Introduction by:

Janette M. Lohman, Esq., CMI, CPA

Partner
Thompson Coburn LLP
St. Louis, MO

Speakers:

Glenn C. McCoy, Jr., Esq.

Principal in Charge State and Local Tax Group
Holtz Rubenstein Reminick LLP
New York, NY

Cass D. Vickers, CMI, Esq.

Deputy Executive Director and State Tax Counsel
Institute for Professionals in Taxation
Atlanta, GA

1:30pm-1:45pm Welcome & Introduction

President, Institute for Professionals in Taxation:

Robert D. Butterbaugh, CMI

Ernst & Young, LLP
Philadelphia, PA

ABA SALT Committee Chairperson:

Stewart M. Weintraub, Esq.

Chamberlain, Hrdlicka, White, Williams & Martin
West Conshohocken, PA

Local Host:

William M. Backstrom, Jr., Esq.

Jones Walker LLP
New Orleans, LA

1:45pm-2:30pm

VAT and Sales Taxes in Canada and Provinces

The panel will discuss current developments involving federal and provincial VAT and sales taxes in Canada that affect companies doing business in Canada or having business relationships with Canadian companies.

Learning Objectives:

- ▶ Identify and examine federal and provincial taxes in Canada
- ▶ Differentiate between a value added tax and sales and use taxes
- ▶ Explain how to comply with the new laws to avoid overpaying taxes or incurring interest or penalties

Moderator:

J. Whitney Compton, Esq.

Director
Compton & Associates, LLP
Marietta, GA

Speakers:

Stephanie Anne Lipinski Galland, Esq.

Partner
Lipinski Galland & Associates LLP
Arlington, VA

David D. Robertson, Esq.

Partner
Fasken Martineau
Vancouver, BC

Michael J. Willis, CA

Director of Indirect Taxes -North America
Lafarge Canada Inc.
Mississauga, ON

2:30pm-3:30pm

Sales and Use Tax Sourcing: Applying Old Rules to New Business Models

With advances in technology, taxpayers are faced with the challenge of applying outdated sourcing rules to ever changing business models. This session will focus on the application of sourcing rules to non-traditional tangible personal property, digital products and services. Current developments and trends will be discussed, as well as methods of apportioning or allocating the tax base that will withstand audit scrutiny.

Learning Objectives:

- ▶ Recognize trends in the sourcing of non-traditional tangible personal property, digital products and services

- ▶ Explore current developments impacting the sourcing of tangible personal property, digital products and services; and
- ▶ Identify alternative methods for sourcing purchases to more than one state

Moderator:

Stewart M. Weintraub, Esq.

Shareholder
Chamberlain, Hrdlicka, White, Williams & Martin
West Conshohocken, PA

Speakers:

Loren L. Chumley

Principal
KPMG LLP
Nashville, TN

Carolynn S. Iafate, Esq., CPA

Chief Operating Officer
Industry Sales Tax Solutions, LLC
Washington, DC

3:30pm-3:45pm Break

3:45pm-4:30pm

Click-through Nexus: An Examination of Recent Developments

A growing number of states have enacted or are considering new laws aimed at establishing sales tax nexus based on the activities of in-state affiliates (so-called "Amazon-laws"). An even greater number of states have asserted that existing laws already provide "click-through nexus" without the need for new legislation. This session examines recent judicial, administrative, and legislative developments in states asserting attributional nexus or creating reporting obligations for Internet sellers. The panel's discussion will include the MTC's proposed model Sales & Use Tax Notice and Reporting Statute, as well as possible constitutional objections to such measures.

Learning Objectives:

- ▶ Discover the latest developments in the expansion of states' taxing scope
- ▶ Define the new nexus terms: Click-through nexus, affiliate nexus, economic nexus, etc.
- ▶ Demonstrate how to comply with the newest state statutes, regulations and cases affecting foreign companies doing business in the states

Moderator:

Alexandra P. E. Sampson, Esq.

Associate
Reed Smith LLP
Washington, DC

Speakers:

Michael A. Jacobs, Esq.

Partner
Reed Smith LLP
Philadelphia, PA

Shirley K. Sicilian, Esq.

General Counsel
Multistate Tax Commission
Washington, DC

4:30pm-5:15pm

Jeopardy Assessments and Taxpayers' Rights Advocates

The purpose of this session is (1) to examine the increasingly common practice of departments of revenue issuing jeopardy assessments and (2) to gain an understanding of the role of Taxpayers' Advocates, who they are, and how they can help mid- and large-size businesses. We will analyze the grounds upon which jeopardy assessments may be issued and the grounds upon which they often are issued. We will also discuss the practice and procedure for challenging the issuance of jeopardy assessments and protesting the assessments on the merits. In addition, we will talk about the powers and duties of Taxpayers' Advocates and the practical considerations in using them.

Learning Objectives:

- ▶ Recognize the circumstances in which jeopardy assessments are typically issued
- ▶ Scrutinize the issuance of a jeopardy assessment and identify the considerations for determining whether to challenge such issuance
- ▶ Examine the best practices for challenging a jeopardy assessment
- ▶ Survey the procedural rules for protesting a jeopardy assessment on the merits of the assessment
- ▶ Determine who Taxpayers' Advocates are and the powers and duties they have
- ▶ Evaluate the practical considerations for using Taxpayers' Advocates and determine when engaging their services is best for the taxpayer

Moderator:

Cass D. Vickers, CMI, Esq.

Deputy Executive Director and State Tax Counsel
Institute for Professionals in Taxation
Atlanta, GA

Speakers:

Richard C. Handel, Esq.

General Counsel for Policy
South Carolina Department of Revenue
Columbia, SC

Stephen P. Kranz, Esq.

Partner
Sutherland Asbill & Brennan LLP
Washington, DC

5:15pm-6:15pm Reception for Attendees

SALES AND USE TAX SEMINAR CONTINUED
Wednesday, March 23, 2011

8:00am-8:30am Continental Breakfast

8:30am-9:45am

Sales Tax Litigation Strategies

This session will evaluate the success or failure of various sales tax litigation strategies and best practices for favorably resolving sales tax disputes.

Learning Objectives:

- ▶ Explain how tax attorneys prepare a case for trial in the administrative arena and in the courts
- ▶ Discuss how the most important issues arise during a tax audit
- ▶ Discover how to preserve and present those issues during the trial

Moderator:

Alexandra P. E. Sampson, Esq.

Associate
Reed Smith LLP
Washington, DC

Speakers:

Marty Dakessian, Esq.

Partner
Reed Smith LLP
Los Angeles, CA

Jordan M. Goodman, Esq., CPA

Partner
Horwood Marcus & Berk Chartered
Chicago, IL

9:45am-10:30am

Administration of State & Local Taxes: How the Economic Malaise Has Changed Things

Are tax officials more aggressively interpreting the laws they administer? Are there more audits, higher assessments, penalties that are more difficult to negotiate away? Our speakers, with experience on both sides of the table, look at the pressures state tax collectors are under and the ways in which those forces may be affecting the execution of sales and use tax statutes and regulations.

Learning Objectives:

- ▶ Assess the magnitude of the impact of the economic downturn on state and local governments
- ▶ Identify the types of administrative approaches states and localities have adopted to cope with the declining revenues and to close the budget gaps; and
- ▶ Evaluate the impact of such measures on the tax administration and compliance environment in which the participant operates

Moderator:

Cass D. Vickers, CMI, Esq.

Deputy Executive Director and State Tax Counsel
Institute for Professionals in Taxation
Atlanta, GA

Speakers:

Harley T. Duncan

Tax Managing Director
KPMG LLP
Washington, DC

Sheriff Newell D. Normand

Ex-Officio Tax Collector
The Bureau of Revenue and Taxation
Jefferson Parish Louisiana
Harvey, LA

10:30am-10:45am Break

10:45am-12:00 Noon

A Dialogue: Hot Topics and Current Developments

This session will be a spirited dialogue and debate covering the most recent topics and developments in state tax laws. The panelists are two leading state tax practitioners who bring a unique perspective to the topic.

Learning Objectives:

- ▶ Discuss recent topics and current developments in state tax laws
- ▶ Examine the unique perspective into those topics and developments
- ▶ Explain how the most recent cases and state laws affect state tax practice

Moderator:

William B. Prugh, Esq.

Senior Partner
Polsinelli Shughart, P.C.
Kansas City, MO

Speakers:

Paul H. Frankel, Esq.

Partner
Morrison & Foerster LLP
New York, NY

Richard D. Pomp, Esq.

Alva P. Loisel Professor of Law
University of Connecticut Law School
Hartford, CT

12:00 Noon-12:30pm Luncheon

12:30pm-1:00pm

State Tax Policy and Examination of State Responses to Quill

Economic nexus/affiliate nexus vs. physical presence nexus. As a matter of tax policy, should remote sellers be compelled to collect sales and use taxes? This presentation will focus upon the policy behind the legal issues. Why should constitutional nexus be found absent actual physical presence?

Learning Objectives:

- ▶ Comprehend current issues affecting state tax policies
- ▶ Determine whether remote sellers should be required to collect taxes from their customers
- ▶ Analyze constitutional issues involving physical presence in a state

Moderator:

William B. Prugh, Esq.
Senior Partner
Polsinelli Shughart, P.C.
Kansas City, MO

Speaker:

Stewart M. Weintraub, Esq.
Shareholder
Chamberlain, Hrdlicka, White, Williams & Martin
West Conshohocken, PA

1:15pm-2:15pm

Taxation of Digital Products, ASP/Cloud Computing Services, and Electronic Information Services

This session will explore recent developments and important unresolved issues in the world of electronic commerce, focusing on the principal concerns that are facing sellers and buyers of digital goods and electronic services. Topics to be discussed include nexus for sellers (and for buyers who use remote service providers), the taxability of various digital products, the states' attempt at transforming services into the remote use of software, and the sourcing of sales. Although the focus will be on sales tax concerns, overlaps with income tax apportionment issues will also be covered.

Learning Objectives:

- ▶ Determine the complexity involved in the taxation of electronic commerce
- ▶ Explain the sales tax application to "digital goods"
- ▶ Demonstrate the ability to identify issues and fact patterns that may implicate the taxation of electronic commerce
- ▶ Explain the nature of some states' attempt to tax online services as sales of software

Moderator:

Cass D. Vickers, CMI, Esq.
Deputy Executive Director and State Tax Counsel
Institute for Professionals in Taxation
Atlanta, GA

Speakers:

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

Arthur R. Rosen, Esq.

Partner
McDermott Will & Emery LLP
New York, NY

2:15pm-3:15pm

Current Developments in the States

In this always-popular session, the latest legislative, administrative, and judicial developments will be organized by topic, such as nexus, streamlined sales tax, exemptions, and specialized industries.

Learning Objectives:

- ▶ Identify national trends in leading-edge sales and use tax issues, such as nexus, streamlined sales tax
- ▶ Recognize how recent legislative, administrative, and judicial developments in sales tax law could affect your company or clients
- ▶ Compare differing approaches to, and outcomes of, similar issues in different states
- ▶ Formulate strategies and arguments for your company or clients based on recent developments in the law

Moderator:

H. Michael Madsen, Esq.
Partner
Madsen Goldman & Holcomb, LLP
Tallahassee, FL

Speakers:

Philip M. Tatarowicz, Esq., CPA
Partner, National Director of State & Local Tax
Technical Services
Ernst & Young LLP
Washington, DC

Daniel L. Thompson, CMI, CPA
President
Thompson Tax & Associates, LLC
Sacramento, CA

3:15pm-3:30pm Break

3:30pm-4:30pm

Using TPP to Provide Services – What is Taxable and What is Not Bundled vs. Mixed Transactions

This session will analyze the sales and use taxation of mixed transactions, with emphasis on the use of tangible personal property to provide services. The presentation will evaluate the various tests adopted by different states to determine whether a transaction should be treated as the provision of tangible personal property or services, and the sales and use tax consequences of that treatment. The session will conclude by exploring how the sales and use taxation of a mixed transaction may be affected by changes to the form and substance of the transaction.

Learning Objectives:

- ▶ Analyze and apply various state tests to determine the taxability of mixed transactions
- ▶ Recognize and identify key elements in evaluating the taxability of mixed transactions
- ▶ Assess the impact of changes to form and substance on the taxability of mixed transactions

Moderator:

Cass D. Vickers, CMI, Esq.

Deputy Executive Director and State Tax Counsel
Institute for Professionals in Taxation
Atlanta, GA

Speakers:

Mark E. Holcomb, Esq.

Partner
Madsen Goldman & Holcomb, LLP
Tallahassee, FL

Doug Sigel, Esq.

Partner
Scott, Douglass & McConnico, L.L.P.
Austin, TX

4:30pm-5:30pm

**FIN 48, FAS 5, and Uncertain Tax Positions –
What must be Disclosed to IRS and States
About Tax Liabilities**

The panelist will discuss recent FASB and IRS requirements to disclose positions taken on tax returns. The topic will include FIN 48 and FAS 5 and how those accounting and disclosure requirements affect the preparation of tax returns and schedules. The topic will also include a review of the recent IRS requirement to disclose Uncertain Tax Positions. The topic will include a discussion of how those requirements affect federal tax returns as well as state and local tax returns from the standpoint of taxpayers, tax return preparers and tax advice and opinions.

Learning Objectives:

- ▶ Discuss recent changes in FIN 48 and FAS 5 requirements related to financial statement reporting of uncertain tax positions
- ▶ Recognize recent changes in the Internal Revenue Service requirements related to tax return reporting of uncertain tax positions on Schedule UTP
- ▶ Anticipate how the uncertain tax position reporting requirements for financial statements and federal tax returns may impact state tax audits, controversies and reporting

Moderator:

William B. Prugh, Esq.

Senior Partner
Polsinelli Shughart, P.C.
Kansas City, MO

Speaker:

John M. Allan, Esq.

Partner
Jones Day
Atlanta, GA

5:30pm

Adjourn

AGENDA FOR ABA/IPT ADVANCED PROPERTY TAX SEMINAR

Thursday, March 24, 2011

7:30am-8:00am Registration & Continental Breakfast

8:00am-8:15am Welcome and Introduction

President, Institute for Professionals in Taxation:

Robert D. Butterbaugh, CMI

Ernst & Young, LLP
Philadelphia, PA

ABA SALT Committee Chairperson:

Stewart M. Weintraub, Esq.

Chamberlain, Hrdlicka, White, Williams & Martin
West Conshohocken, PA

Local Host:

William M. Backstrom, Jr., Esq.

Jones Walker LLP
New Orleans, LA

8:15am-9:45am

Economic Obsolescence

Nationally renowned valuation experts will discuss the key indicia of external obsolescence and the most credible techniques for estimating economic obsolescence consistent with generally accepted appraisal practice and in compliance with the Uniform Standards of Professional Appraisal Practice.

Learning Objectives:

- ▶ Identify market factors signaling the presence of external obsolescence
- ▶ Recognize the generally accepted appraisal practices for estimating external obsolescence
- ▶ Support estimates of external obsolescence using objective data from the subject property and the relevant market place
- ▶ Generate market-derived depreciation studies as a test of depreciation and obsolescence from all causes, and thereby objectively quantify the loss in value under the cost approach due to identified causes of external obsolescence

Moderator:

Thomas R. Wilhelmy, Esq.

Attorney
Fredrikson & Byron, P.A.
Minneapolis, MN

Speakers:

David C. Lennhoff, MAI, CRE, FRICS

President
PGH Consulting LLC
Rockville, MD

Jim Robinson, CFE, RPA

Chief Appraiser
Harris County Appraisal District
Houston, TX

Kenneth Voss, MAI, SRA, CAE

Principal
Kenneth Voss & Associates LLC
Atlanta, GA

9:45am-10:00am Break

10:00am-11:00am

Current Update – Colorado, Illinois and Minnesota

This session is designed to bring attendees up to date on important property tax developments in some of the key property tax states.

Learning Objectives:

- ▶ Recognize the latest judicial, statutory and administrative developments in these key states
- ▶ Advise their clients more effectively regarding recent property tax developments
- ▶ Recognize the potential impact of these developments in other states

Moderator:

Mark A. Engel, Esq.

Partner
Bricker & Eckler LLP
West Chester, OH

Speakers:

Jeffery J. McNaught, Esq.

Attorney
Lindquist & Venum PLLP
Minneapolis, MN

Robert Alan Poe, Esq.

Partner
Holland & Hart LLP
Greenwood Village, CO

Robert M. Sarnoff, CMI, Esq.

President
Sarnoff & Baccash
Chicago, IL

11:00am-12:00pm

Practical Property Tax Litigation Issues, Pointers and Tips

Seasoned property tax litigators will discuss issues arising in litigating property tax disputes.

Learning Objectives:

- ▶ Develop strategies for playing defense when tax jurisdictions fight back
- ▶ Address multiple years during protracted litigation

- ▶ Recognize the use of appraisals performed for other purposes

Moderator:

Mark A. Loyd, Esq.

Attorney
Greenebaum Doll & McDonald PLLC
Louisville, KY

Speakers:

Maureen A. McGinnity

Partner
Foley & Lardner LLP
Milwaukee, WI

Thomas R. Wilhelmy, Esq.

Attorney
Fredrikson & Byron, P.A.
Minneapolis, MN

12:15pm-1:00pm Lunch

1:00pm-1:30pm Luncheon Speaker

Tax Increment Financing: Policy and Politics

Policy considerations and consequences from tax increment financing in the development process will be examined in this session.

Learning Objectives:

- ▶ Examine the policy considerations behind the use of tax increment financing
- ▶ Discover whether tax increment financing achieves its policy goals
- ▶ Explore other consequences of using tax increment financing for economic development purposes

Introduction by:

Stewart M. Weintraub, Esq.

Shareholder
Chamberlain, Hrdlicka, White, Williams & Martin
West Conshohocken, PA

Speaker:

Joan M. Youngman, Esq.

Senior Fellow and Chair
Department of Valuation and Taxation
Lincoln Institute of Land Policy
Cambridge, MA

1:30pm-1:45pm Break

1:45pm-2:45pm

Value in Use vs. Value in Exchange: Do the Courts Know the Difference?

Although many states require a value-in-exchange standard for property valuation, court decisions don't always seem to follow that standard. This session will examine the increasing number of cases that blur the line between value-in-use and value-in-exchange concepts.

Learning Objectives:

- ▶ Define and differentiate the concepts of value in use and value in exchange
- ▶ Explain how the courts apply the concepts in property valuation disputes
- ▶ Recognize practical ways in which to avoid value-in-use rulings

Moderator:

Charles J. Moll, III, Esq.

Partner
Winston & Strawn LLP
San Francisco, CA

Speakers:

Elliott B. Pollack, Esq.

Partner
Pullman & Comley, LLC
Hartford, CT

John W. VanSanten, MAI

Director
Huron Consulting Group
Chicago, Illinois

2:45pm-3:00pm Break

3:00pm-4:15pm

Exemptions

In this session, common property tax exemptions will be reviewed in depth.

Learning Objectives:

- ▶ Recognize the types of exemptions that may be available
- ▶ Examine some of the issues that can arise in obtaining the exemptions
- ▶ Apply practical steps to address those issues

Moderator:

J. Elaine Bialczak, Esq.

Director
Compton & Associates, LLP
Marietta, GA

Speakers:

Ronald L. Bueing, Esq., CPA

Member
Pivotal Law Group
Seattle, WA

J. Whitney Compton, Esq.

Director
Compton & Associates, LLP
Marietta, GA

Joseph A. Vinatieri, Esq.

Attorney/Partner
Bewley, Lassleben & Miller, LLP
Whittier, CA

4:15pm-4:30pm Break

4:30pm-5:30pm

Tax Jurisdiction Challenges to Assessments

Tax jurisdictions are becoming more aggressive in participating in property tax disputes.

Learning Objectives:

- ▶ Determine which jurisdictions, besides the assessor, may become involved in your appeal
- ▶ Explain how the participation of jurisdictions may impact the presentation of your appeal
- ▶ Develop strategies to combat third party efforts to contest the value of your property

Moderator:

Edward Kliewer III, Esq.
Senior Counsel
Fulbright & Jaworski L.L.P.
San Antonio, TX

Speakers:

M. Janet Burkardt, Esq.
Associate
The Law Offices of Ira Weiss
Pittsburgh, PA

Robert Mott, Esq.
Partner
Perdue Brandon Fielder Collins & Mott LLP
Houston, TX

Nicholas M.J. Ray, Esq., CPA
Of Counsel
Vorys, Sater, Seymour and Pease LLP
Columbus, OH

5:30pm-6:30pm Reception for Attendees

**Property Tax Seminar Continued
Friday, March 25, 2011**

7:30am-8:00am Continental Breakfast

8:30am-9:30am

PILOTS, Incentives and Assessments

This session is designed to provide an overview of economic development programs offered by federal, state and local authorities designed to encourage businesses to locate or expand operations in given locations. These incentives are designed to partially assist development of public infrastructure projects.

Learning Objectives:

- ▶ Access these programs
- ▶ Recognize the qualifications, conditions and restrictions required to participate in the programs
- ▶ Explain the use of payments in lieu of taxes (PILOT) agreements

Moderator:

Stewart M. Weintraub, Esq.

Shareholder
Chamberlain, Hrdlicka, White, Williams & Martin
West Conshohocken, PA

Speakers:

Christine T. Bak, Esq.

Senior Attorney
City of Philadelphia Law Department
Philadelphia, PA

Janette M. Lohman, Esq., CMI, CPA

Partner
Thompson Coburn LLP
St. Louis, MO

9:30am-9:45am Break

9:45am-10:45am

Ethics

This session will explore common ethical dilemmas that occur in a property tax practice.

Learning Objectives:

- ▶ Identify ethical issues
- ▶ Respond to those issues in an ethical manner

Moderator:

J. Elaine Bialczak, Esq.

Director
Compton & Associates, LLP
Marietta, GA

Speakers:

Randy J. Curato, Esq.

Loss Prevention Counsel
ALAS, Inc.
Chicago, IL

Alvin E. Mathews, Jr., Esq.

Of Counsel
Bricker & Eckler LLP
Columbus, OH

10:45am-12:00 Noon

Current Update – California, Florida, New York and Texas

This session is designed to bring attendees up to date on important property tax developments in some of the key property tax states.

Learning Objectives:

- ▶ Explore the latest judicial, statutory and administrative developments in these key states
- ▶ Advise their clients more effectively
- ▶ Recognize the potential impact of these developments in other states

Moderator:

Mark A. Loyd., Esq.

Attorney
Greenebaum Doll & McDonald PLLC
Louisville, KY

Speakers:

Mark S. Hutcheson, CMI, Esq.

Partner
Popp, Gray & Hutcheson, LLP
Austin, TX

H. Michael Madsen, Esq.

Partner
Madsen Goldman & Holcomb, LLP
Tallahassee, FL

Charles J. Moll, III, Esq.

Partner
Winston & Strawn LLP
San Francisco, CA

Michael J. Scarpa, Esq.

Associate
Schroder & Strom, LLP
Mineola, NY

12:00 Noon Seminar concludes

REGISTRATION FORM
ABA/IPT ADVANCED INCOME, SALES/USE & PROPERTY TAX SEMINARS
The Ritz-Carlton, New Orleans, Louisiana ~ March 21 – 25, 2011

PLEASE COMPLETE THIS FORM & RETURN TO THE ABA

- **MAIL:** ABA/IPT Tax Seminars, ABA Section of Taxation, 740 15th Street, NW, Washington, DC 20005
(Make check payable to the ABA Section of Taxation)
- **FAX:** ABA Section of Taxation, (202) 662-8682.
- **REGISTER ONLINE USING CREDIT CARD AT:** <http://meetings.abanet.org/meeting/tax/IPT11/>

Early-Bird Tuition (By Jan. 14, 2011): \$495 per seminar, \$825 for two seminars, \$1,240 for all three seminars
Advance Tuition (By Mar. 15, 2011): \$525 per seminar, \$895 for two seminars, \$1,340 for all three seminars
On-site Tuition: \$545 per seminar, \$925 for two seminars, \$1,390 for all three seminars

Please register for one or more of the following (**check one or more**):

- Income Tax Seminar, March 21-22**
- Sales/Use Tax Seminar, March 22-23**
- Property Tax Seminar, March 24-25**

Please check the appropriate box if you will be attending the following events (included in registration fee):

Income Tax Seminar:

- Monday, March 21:** Continental Breakfast Luncheon Reception
Tuesday, March 22: Continental Breakfast Joint Luncheon with Sales Tax Seminar

Sales/Use Tax Seminar:

- Tuesday, March 22:** Joint Luncheon with Income Tax Seminar Reception
Wednesday, March 23: Continental Breakfast Luncheon

Property Tax Seminar:

- Thursday, March 24:** Continental Breakfast Luncheon Reception
Friday, March 25: Continental Breakfast

Please Type or Print Clearly:

Full Name: _____ Badge Nickname: _____

Title: _____ ABA ID No. (if applicable): _____

Designation (s): CMI _____ Esq. _____ CPA _____ Other _____

Firm/Company: _____

Address/Suite: _____

City/State/Zip: _____

Phone: _____ Fax: _____ E-mail*: _____ *Confirmation will be sent by email

Affiliation (please check all that apply): ABA Member IPT Member

Other affiliation: _____

Texas property tax consultant license number (if applicable): _____

State Bar/Attorney number & state where licensed: _____

Other organizations where certified or licensed: _____

PAYMENT INFORMATION*

Included is my check made payable to the ABA Section of Taxation in the amount of \$ _____

*To protect your credit card security, we are accepting credit cards only through [online registration](#). Fax and mail registrations must be accompanied by tuition payment in the form of a check. All cancellation and refund requests must be received in writing and postmarked or faxed by March 15, 2011. All refund requests will incur a \$50 cancellation fee. **Absolutely no refunds will be granted at the meeting.** To request a refund or a substitution, please send your written request to the ABA Registrar by fax to 202-662-8682 or e-mail at bradyt@staff.abanet.org.

Signature: _____