

**2016 ABA/IPT
ADVANCED
TAX SEMINARS**

**February 29 - March 4
The Ritz-Carlton
New Orleans, LA**

Preliminary Program

**Advanced
Income Tax Seminar
February 29 - March 1**

**Advanced
Sales/Use Tax Seminar
March 1 - 2**

**Advanced
Property Tax Seminar
March 3 - 4**



TAXATION

A Section of the American Bar Association



American Bar Association Section of Taxation

1050 Connecticut Ave. NW, Suite 400
Washington, DC 20036
<http://www.americanbar.org/tax>

The mission of the ABA Section of Taxation is to serve our members and the public by providing education about taxes and tax systems, and by providing leadership to support the development of an equitable, efficient and workable tax system.

The Section of Taxation provides education and analysis on the latest administrative, judicial and legislative developments concerning federal, state and international taxes. Its publications, continuing legal education programs and expert advice help you understand the constantly changing landscape of tax law. To join the Section of Taxation, please visit:
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Institute for Professionals in Taxation®

1200 Abernathy Road NE, Bldg. 600, Suite L-2
Atlanta, GA 30328
www.ipt.org

The Institute for Professionals in Taxation®, founded in 1976, is a 501(c)(3) nonprofit professional association serving over 4,300 members representing approximately 1,450 corporations, firms and taxpayers throughout the United States and Canada. The Institute provides outstanding educational opportunities for its members tailored to their professional needs. Professional designation programs in income, property and sales tax leading to the CMI designation (Certified Member of the Institute) and in credits and incentives leading to the CCIP (Certified Credits and Incentives Professional) are also available to members who satisfy the educational, experience and examination requirements. The Institute is dedicated to uniform and equitable administration of income, ad valorem and sales & use taxes, to minimizing the cost of tax administration and compliance, and to a high degree of professionalism. More information about IPT is available at www.ipt.org.

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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 sales, use, ad valorem taxation of property, and income.

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.

REGISTRATION (VIA ABA SECTION OF TAXATION)

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

- **Early-Bird Tuition (Deadline January 14, 2016):** \$520 per seminar, \$870 for two seminars, and \$1,300 for all three seminars
- **Advance Tuition (Deadline February 25, 2016):** \$570 per seminar, \$940 for two seminars, and \$1,400 for all three seminars
- **On-site Tuition:** \$575 per seminar, \$970 for two seminars, and \$1,460 for all three seminars

You may: **MAIL** the **REGISTRATION FORM** to ABA/IPT Tax Seminars, ABA Section of Taxation, 1050 Connecticut Avenue NW, Suite 400, Washington, DC 20036; **FAX FORM TO ABA** Section of Taxation, (202) 662-8682; or **REGISTER ONLINE USING A CREDIT CARD AT** <http://shopaba.org/16taxipt>.

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 February 25, 2016. Please note that registrations are limited and will be granted on a first-come, first-served basis.

GENERAL INFORMATION

All cancellations and requests for refunds or substitutions must be received in writing by **February 25, 2016**. 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 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 thomas.blandi@americanbar.org.

HOTEL ACCOMODATIONS

A block of sleeping rooms has been reserved for the ABA/IPT program at The Ritz-Carlton, 921 Canal Street, New Orleans, LA 70112; Louisiana's only AAA Five Diamond Luxury hotel. Reservations can be made through central reservations by calling 1-800-826-8987 or online as indicated below. The reservation cut-off date is February 5, 2016.

- Group Name: ABA/IPT Tax Seminars
- Group Codes: TOWTOWA
- Group Link: <https://reservations.ritzcarlton.com/ritz/reservation/availability.mi?propertyCode=MSYRZ&groupCode=TOWTOWA>
- Group Dates: Sunday, February 28, 2016 – Saturday, March 5, 2016
- Rate: \$219 + applicable taxes
- 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.

Reservations requested after the room block is filled or beyond the February 5, 2016 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.

GENERAL INFORMATION

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: The ABA directly applies for and ordinarily receives CLE credit for ABA programs in AK, AL, AR, AZ, CA, CO, DE, GA, GU, HI, IA, IL, IN, KS, KY, LA, MN, MS, MO, MT, NH, NM, NV, NY, NC, ND, OH, OK, OR, PA, PR, SC, TN, TX, UT, VT, VA, VI, WA, WI, and WV. These states sometimes do not approve a program for credit before the program occurs. This transitional program is approved for both newly admitted and experienced attorneys in NY. Attorneys may be eligible to receive CLE credit through reciprocity or attorney self-submission in other states. For more information about CLE accreditation in your state, visit http://www.americanbar.org/groups/taxation/events_cle/fall_cle.html or email tim.brady@americanbar.org.

Scholarship Information: Scholarships to defray tuition expense for this program are available upon application on a case-by-case basis. To request a scholarship application, please contact Thomas Blandi (thomas.blandi@americanbar.org).

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 13 and those attending the Property Tax Seminar will receive approximately 13.5 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, attendees must have their bar-coded badge scanned during the first 15 minutes of each session. A lost name badge should be reported immediately to the registration desk in order to obtain a replacement. If any attendee does not participate in the barcode scanning, IPT will not be able to verify their attendance or award any credit in the future.

The Institute is 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. Concerns regarding registered sponsors may be submitted to the National Registry of CPE Sponsors through its website: www.learningmarket.org. For more information regarding administrative policies such as concerns and refund, please contact our office at (404) 240-2300.

IPT also files for credit for the attendees of the Property Tax Seminar, with the Texas Department of Licensing and Regulation.

Prerequisites: None • Program Level: Update • Recommended Field of Study: Taxation & Regulatory Ethics • Instructional Method: Group Live •

Advanced Preparation Required: None

Consent to Use of Photographic Images: Photos will be taken at this event, which may be used in ABA or IPT publications, multimedia presentations, or on the ABA or IPT websites, LinkedIn and Facebook pages and other ABA or IPT-related social media websites. Registration and attendance at, or participation in, the ABA/IPT Advanced Tax Seminars constitutes an agreement by the registrant to the ABA's or IPT's use and distribution of the registrant speaker or attendee's image in photographs, videotapes, and electronic reproductions of the ABA/IPT Advanced Tax Seminars for educational and promotional purposes.

Tape recording of sessions is not permitted.

ADVANCED INCOME TAX SEMINAR

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

8:30 – 9:00 am **Welcome and Introductions:**

President, Institute for Professionals in Taxation®:

Margaret C. Wilson, CMI, Wilson Agosto LLP, Somerville, NJ

ABA SALT Committee Chair:

Jaye A. Calhoun, Esq., McGlinchey Stafford, PLLC, New Orleans, LA

ABA/IPT Advanced Tax Seminars Overall Chair:

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

Local Host:

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

9:00 – 9:50 am

How New Unitary States are Administering & Interpreting the Process

While the concept of a unitary group has been around for some time, the concept is being renewed in a number of states. This session will discuss the differing standards among the states and how to successfully navigate them.

Learning Objectives

By attending this session, the participant will be able to:

- Define the U.S. Supreme Court's version of unitary
- Recognize the standards various departments of revenue are applying, with a key focus on how those standards differ from the U.S. Supreme Court's version
- Identify factors that may influence various taxpayer outcomes
- Recognize the documentation a taxpayer should prepare or retain for future audits

Moderator/Speaker:

Leah Robinson, Esq., Partner, Sutherland Asbill & Brennan LLP, New York, NY

Speakers:

Steven N.J. Wlodychak, Esq., Principal, Ernst & Young LLP, Washington, DC

Michael J. Wynne, Esq., Partner, Reed Smith LLP, Chicago, IL

9:50 – 10:00 am Break

10:00 – 10:50 am

Preparing A Case for Trial – What Do I Do?

In this session, participants will be guided through the litigation process beginning with the notice of audit and concluding with oral argument at the appellate court. The session's primary objective is to guide participants through the entire process and provide helpful tips on how to prepare for litigation.

Learning Objectives

By attending this session, the participant will be able to:

- Prepare for all levels of the appeal process
- Identify documentation that should be preserved for trial
- Effectively prepare for discovery requests and depositions
- Participate in and assist counsel with preparation before and during the trial
- Define the standard of review and process used by appellate courts

Moderator:

Stewart M. Weintraub, Esq., SALT Practice Chair, Chamberlain, Hrdlicka, White, Williams & Aughtry, West Conshohocken, PA

Speakers:

Erica L. Horn, CPA, Esq., Counsel to the Firm, Stoll Keenon Ogden PLLC
Lexington, KY

David A. Hughes, Esq., Partner, Horwood Marcus & Berk Chartered, Chicago, IL

Matthew J. Landwehr, Esq., Partner, Thompson Coburn LLP, St. Louis, MO

10:50 – 11:10 am Break

11:10 – 12:00 pm

General Counsel's Round Table Discussion

During this session, the audience gets the opportunity to hear from revenue department counsel, as well as an individual attorney practicing in the state and local tax arena. The focus of the discussion will be on the interaction between taxpayers and revenue department legal staffs and how to successfully maneuver through difficult situations. The panel will explore the most frustrating issues encountered by both taxpayers and revenue department legal staffs in the midst of litigation.

Learning Objectives

By attending this session, the participant will be able to:

- Identify frustrating issues and behaviors encountered by revenue departments when dealing with taxpayers
- Acquire strategies for overcoming the most frustrating behaviors encountered by taxpayers when litigating with revenue departments.

Moderator:

S. Lucky DeFries Esq., Partner, Coffman, DeFries & Nothorn, P.A., Topeka, KS

Speakers:

Antonio C. Ferachi, Esq., Director, Litigation Division, Louisiana Department of Revenue, Baton Rouge, LA

Joe W. Garrett, Jr., Esq., Deputy Co-Commissioner of Revenue, Alabama Department of Revenue, Montgomery, AL

George "Tony" Hamm, Esq., Deputy General Counsel, Office of the General Counsel, Florida Department of Revenue, Tallahassee, FL

12:00 – 12:30 pm Lunch

12:30 – 1:30 pm

Vive la Difference – The Roles of the Multistate Tax Commission and the Federation of Tax Administrators in Tax Administration

This session will introduce the Executive Directors of the MTC and the FTA. They will provide perspective, insight and will define the purpose, mission and value associated with these two SALT organizations.

Learning Objectives

By attending this session, the participant will be able to:

- Describe the role and various functions of the MTC

- Identify the role and various functions of the FTA
- Summarize the purpose of each organization and clarify the responsibilities of each organization's Executive Director

Moderator:

Janette M. Lohman, Esq., CMI, CPA, CCIP, Partner, Thompson Coburn LLP, St. Louis, MO

Speakers:

Gale Garriott, Esq., Executive Director, Federation of Tax Administrators, Washington, DC

Gregory S. Matson, Esq., Executive Director, Multistate Tax Commission, Washington, DC

1:30 – 2:00 pm Break

2:00 – 2:50 pm

On the Way to Market: Mapping Out How to Source Income from Intangibles and Services

Learn details and get updates on developments in cost of performance sourcing and the various states that have enacted market-based sourcing. In addition, we will compare and contrast the various states' approaches to identifying the market. Further, the presenters will highlight common methodologies and unique approaches defining the market that are being implemented by the various states.

Learning Objectives

By attending this session, the participant will be able to:

- Distinguish developments in cost of performance sourcing and identify the state and local jurisdictions that have implemented market-based sourcing
- Discuss the challenges in determining the location of the market or where a benefit is received
- Compare and contrast different state methodologies for determining the market or where the benefit is received
- Evaluate how market-based sourcing rules may conflict with traditional sourcing rules and the potential for multiple sourcing of the same transaction
- Analyze planning opportunities under the new market based sourcing regimes

Moderator:

Raymond J. Freda, Esq., Managing Director, Andersen Tax LLC, New York, NY

Speakers:

Gregg D. Barton, Esq., Partner, Perkins Coie LLP, Seattle, WA

Maria Eberle, Partner, Baker & McKenzie LLP, New York, NY

2:50 – 3:00 pm Break

3:00 – 3:50 pm

Section 18 and the Constitutional Parameters of Alternative Apportionment

This presentation will involve a detailed discussion of the current state of the law and state trends regarding the states' and taxpayers' uses of alternative apportionment formulas under UDITPA section 18 (and states' versions of it) and Federal Constitutional principles limiting the states' ability to tax multistate businesses.

Learning Objectives

By attending this session, the participant will be able to:

- Develop an understanding of legal theories behind states' attempts to avoid use of standard statutory apportionment formulas (e.g., COP) under UDITPA Section 18 state statutes
- Comprehend how taxpayers may defend or proactively respond to such attempts under Section 18 and federal Constitutional principles such as the Due Process and Commerce Clauses

Moderator:

Eric J. Coffill, Esq., Senior Counsel, Sutherland Asbill & Brennan LLP, Sacramento, CA

Speakers:

Michael Bryan, CPA, Director | Washington National Tax Multistate Practice, Deloitte Tax, LLP, Philadelphia, PA

Camilla K. Heard, Esq., Director - Income Tax Controversy and State Compliance, The Home Depot, Atlanta, GA

Michael D. Sontag, Esq., Member, Bass, Berry & Sims PLC, Nashville, TN

3:50 – 4:10 pm Break

4:10 – 5:00 pm

Transfer Pricing Issues

As state tax administrators seek to optimize tax revenue, the battle over the transfer pricing of intercompany transactions has escalated, with some states hiring mercenaries and other states engaging in guerrilla warfare by disguising their transfer pricing adjustments through various means. This topic will explore the recent trends in the transfer pricing struggle and provide updates regarding the latest wins, losses, and strategies.

Learning Objectives

By attending this session, the participant will be able to:

- Identify when transfer pricing issues are likely to arise
- Explain basic principles of IRC 482
- Identify the various state approaches to transfer pricing
- Recognize the similarities and differences between federal and state transfer pricing issues
- Know what to expect from contingent fee audits
- Determine optimal strategies for minimizing audit issues, including advance pricing agreements

Speakers:

Scott L. Brandman, Esq., Partner, Baker & McKenzie LLP, New York, NY

Stephen P. Kranz, Esq., Partner, McDermott Will & Emery, Washington, DC

Jill Weise, Managing Director, Duff & Phelps Corp., Salem, MA

5:00 – 6:00 pm **Reception for Attendees**

7:30 – 8:00 am **Registration & Continental Breakfast**

8:00 – 8:50 am

Due Process and Retroactive Legislation: How Far Back is Too Far?

This session will discuss the application of the Due Process Clause of the U.S. Constitution to retroactive tax legislation. First, panelists will outline the principles and tests set forth by the U.S. Supreme Court. Second, the panelists will focus on state court applications of these principles to state tax cases. Finally, the panel will evaluate current retroactive tax legislation controversies focusing on Michigan *MTC 3-Factor* cases and *Washington In re Estate of Hambleton* case.

Learning Objectives

By attending this session, the participant will be able to:

- Recognize the Due Process principles and standards U.S. Supreme Court uses to test the constitutionality of retroactive tax legislation
- Evaluate whether Justice O'Connor's "modest period of retroactivity" standard establishes a separate constitutional test
- Critique the current state tax court decision applying due process to retroactive tax legislation
- Compare and contrast state decisions holding three to eight-year periods of retroactivity to be both constitutional and unconstitutional

Moderator:

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

Speakers:

Michael J. Bowen, Esq., Partner - Chair, State & Local Tax Practice, Akerman LLP, Jacksonville, FL

Margaret C. Wilson, Esq., CMI, Partner, Wilson Agosto LLP, Somerville, NJ

8:50 – 9:00 am Break

9:00 – 9:50 am

Federal and International Issues Affecting SALT, Both for Inbound and Outbound Taxpayers

This panel will address issues and developments at the international levels that can impact state and local tax. In addition to discussing varied issues affecting multinationals, such as treatment of dividends, subpart F income, and effectively connected and non-effectively connected income, the panel will discuss the OECD's BEPS initiative. The panel will also analyze the different state approaches to transfer pricing and the new "anti-avoidance legislation, including statutes addressing tax haven-corporations and inclusion of foreign companies with substantial intercompany transactions. The panel will also cover important opportunities that practitioners may miss, as well as potential pitfalls, in this area.

Learning Objectives

By attending this session, the participant will be able to:

- Consider issues related to foreign income
- Identify techniques related to tax havens and inclusions
- Explain the economic nexus concepts as they relate to international operations
- Utilize successful strategies for addressing direct, indirect and withholding taxes

Moderator:

Jaye A. Calhoun, Esq., Member, McGlinchey Stafford, PLLC, New Orleans, LA

Speakers:

Todd A. Lard, Esq., Partner, Sutherland Asbill & Brennan LLP, Washington, DC

Alyse McLoughlin, Esq., Partner, McDermott Will & Emery, New York, NY

Christopher J. Sullivan, Esq., Shareholder and Treasurer, Rath Young Pignatelli, P.C., Concord, NH

9:50 – 10:00 am Break

10:00 – 10:50 am

Top Ten Recent Legislative Enactments/Judicial Decisions Affecting Income Taxation

The purpose of this presentation is to discuss income tax topics not covered in other sections and ensure that attendees are informed of current items in the

upcoming 2016 legislative sessions as well as recent cases. As the NV Commerce Tax is new, this will include a debrief on what it means for taxpayers.

Learning Objectives

By attending this session, the participant will be able to:

- Identify states with significant legislative developments and how they might affect their practice
- Analyze the applicability of significant court cases and their impact
- Recognize the intent, ramifications and application of the NV Commerce Tax

Moderator:

Judith B. Vorndran, CPA, Esq., State and Local Tax Partner, TaxOps, LLC Lakewood, CO

Speakers:

Breen M. Schiller, Esq., Partner, Horwood Marcus & Berk Chartered, Chicago, IL

Doug Sigel, Esq., Partner, Ryan Law, LLP, Austin, TX

Jennifer Weidler Karpchuk, Esq., Associate, Chamberlain, Hrdlicka, White, Williams & Aughtry, West Conshohocken, PA

10:50 – 11:00 am Break

11:00 – 11:50 am

“Coming In Like Lions” – Professor Rick Pomp and Jordan Goodman, Esq. will Roar at Each Other Over Recent Income Tax Events and Related Policy Issues

Join in for this spirited debate that will provide an alternative analysis of current tax decisions and ruling letters. This presentation of alternative perspectives will allow the attendees to compare and contrast the positions of their company's/clients' fact patterns to provide guidance on how the company's/clients' facts may be applied to the relevant tax law and regulation that were at issue in the cases/rulings.

Learning Objectives

By attending this session, the participant will be able to:

- Explain the rationale behind the decisions/rulings and the application of the relevant law and regulations to similar real time facts

Moderator:

Stephanie Anne Lipinski Galland, Esq., Partner, Williams Mullen
Washington, DC

Speakers:

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

Professor Richard D. Pomp, JD, Alva P. Loiselle Professor of Law, University of
Connecticut School of Law, Hartford, CT

11:50 am – 12:30 pm Lunch

12:30 – 1:30 pm

Ethics and Social Media

This session will describe the ways that tax professionals are using the Internet and social media resources to network. It will identify and analyze potential ethical pitfalls with using these technology resources in the context of the ABA Model Rules of Professional Conduct and the IPT Code of Ethics. Participants will walk away with a framework to avoid ethical violations from using the Internet and social media.

Learning Objectives

By attending this session, the participant will be able to:

- Identify Internet and social media uses that may present ethical issues for tax professionals
- Analyze these ethical issues in the context of the IPT Code of Ethics
- Determine how a tax professional can use the Internet and social media in an effective and ethical manner

Introducer:

Glenn C. McCoy, Jr., Esq., Director - State and Local Tax, KPMG, LLP
New York, NY

Speakers:

Brett R. Carter, Esq., Partner, Bradley Arant Boult Cummings LLP, Nashville, TN

Mark E. Holcomb, Esq., Partner, Madsen Goldman & Holcomb, LLP
Tallahassee, FL

1:30 pm Seminar Adjourned

ADVANCED SALES AND USE TAX SEMINAR

11:00 - 11:50 am **Registration**

11:50 am – 12:30 pm **Lunch**

12:30 – 1:30 pm

Ethics and Social Media

This session will describe the ways that tax professionals are using the Internet and social media resources to network. It will identify and analyze potential ethical pitfalls with using these technology resources in the context of the ABA Model Rules of Professional Conduct and the IPT Code of Ethics. Participants will walk away with a framework to avoid ethical violations from using the Internet and social media.

Learning Objectives

By attending this session, the participant will be able to:

- Identify Internet and social media uses that may present ethical issues for tax professionals
- Analyze these ethical issues in the context of the IPT Code of Ethics
- Weigh these issues in determining how a tax professional can use the Internet and social media in an effective and ethical manner

Introducer:

Glenn C. McCoy, Jr., Esq., Director - State and Local Tax, KPMG, LLP
New York, NY

Speakers:

Brett R. Carter, Esq., Partner, Bradley Arant Boult Cummings LLP, Nashville, TN

Mark E. Holcomb, Esq., Partner, Madsen Goldman & Holcomb, LLP
Tallahassee, FL

1:30 – 1:45 pm

Welcome and Introductions:**President, Institute for Professionals in Taxation®:****Margaret C. Wilson, CMI**, Wilson Agosto LLP, Somerville, NJ**ABA SALT Committee Chair:****Jaye A. Calhoun, Esq.**, McGlinchey Stafford, PLLC, New Orleans, LA**ABA/IPT Advanced Tax Seminars Overall Chair:****Stewart M. Weintraub, Esq.**, Chamberlain, Hrdlicka, White, Williams & Aughtry West Conshohocken, PA**Local Host:****William M. Backstrom, Jr., Esq.**, Jones Walker LLP, New Orleans, LA

1:45 – 2:45 pm

The Annual Big Easy Brawl: Panelists Go Head-to-Head “Discussing” Current State and Local Tax Issues

This session is an annual bare-knuckles debate between two leading state tax practitioners who discuss and evaluate current state and local tax cases and developments. This is more than just a “hot topic” discussion. It is a chance to compare and contrast the tax policy views of the speakers who often find themselves on different sides of issues. The speakers provide an opportunity to learn about state tax policy in the process.

Learning Objectives

By attending this session, the participant will be able to:

- Evaluate state tax policy in the context of current cases and pending audits
- Understand how state tax policy is developed in terms of tax audits, appeals, and judicial decisions
- Comprehend the diverse perspectives on recent cases and decisions
- Determine how state tax cases directly affect your company’s business

Moderator:**Honorable Judge Cade R. Cole**, Vice-Chairman, Louisiana Board of Tax Appeals Lake Charles, LA**Speakers:****Professor Richard D. Pomp, JD**, Alva P. Loiselle Professor of Law, University of Connecticut Law School, Hartford, CT**Arthur R. Rosen, Esq.**, Partner, McDermott Will & Emery, Miami, FL

2:45 – 3:00 pm Break

3:00 – 4:00 pm

National Multistate Sales and Use Tax Update

This annual presentation by a panel of national experts is a rare opportunity to learn about state and local sales/use tax developments from across the country. The panel will cover the most pressing state and local sales/use tax issues facing tax professionals today, all in one session!

Learning Objectives

By attending this session, the participant will be able to:

- Recall current state and local sales/use tax developments
- Identify current legislative, administrative and judicial developments and trends involving state and local sales/use taxes

Moderator:**Janette M. Lohman, Esq., CMI, CPA, CCIP**, Partner, Thompson Coburn LLP, St. Louis, MO**Speaker:****Faranak Naghavi, CPA**, Partner, Ernst & Young LLP, Washington, DC

4:00 – 4:15 pm Break

4:15 – 5:15 pm

Merger and Acquisition Headaches: Transfer Taxes in the Purchase or Sale of a Business

While income tax considerations are often central to mergers and acquisitions, sales, use, and transfer taxes can materially impact purchases and sales of businesses in at least two critical respects. Speakers will first explore the sales and transfer taxes that can apply to the sale of assets and, in some cases, entities. Speakers will also explore issues related to the pre-existing sales and use tax liabilities of a target business, including nexus risks, exemption documentation, bulk sale notices, and successor liability issues.

Learning Objectives

By attending this session, the participant will be able to:

- Identify the sales, use, and transfer taxes applicable to entity transactions and asset transactions, including common exemptions
- Understand the transfer tax consequences of deemed asset sales (e.g., sales of single member LLCs and 338(h)(10) elections)
- Analyze pre-transaction sales and use tax risks
- Evaluate alternatives for mitigating pre-transaction liabilities and risks, including due diligence considerations, bulk sale notices, and successorship notices

Moderator:

Robert Lee Mahon, Esq., Partner, Perkins Coie LLP, Seattle, WA

Speakers:

Stephanie Anne Lipinski Galland, Esq., Partner, William Mullen, Washington, DC

Kathryn Pittman, Esq., Associate, McGlinchey Stafford PLLC, New Orleans, LA

5:15 – 6:15 pm **Reception for Attendees**

8:00 – 8:30 am **Continental Breakfast**

8:30 – 10:00 am

Even Cloud Transactions Can Have a Silver Lining: How to Present Digital Transactions as Sales Tax Exempt Services

State sales tax auditors often do not fully understand the various nuances of cloud/digital transactions so they will grasp onto words and concepts which are more familiar. For example a description of “remote access software” on an invoice may be filtered to be just “software” because they know how software is taxed. Therefore it is important how digital transactions are presented with emphasis on how and why these are different.

Learning Objectives

By attending this session, the participant will be able to:

- States’ evolution in how digital transactions are viewed and taxed;
- How various states are currently treating various types of digital transactions for sales tax purposes; and
- Techniques to present the transactions in documentation so it is more evident that they are not subject to sales tax.

Speaker/Moderator:

Darcy N. Kooiker, CPA, Principal, Sales and Use Tax, Ryan, LLC, Bellevue, WA

Speakers:

Carolynn S. Iafate Kranz, JD, CPA, Chief Operating Officer, Industry Sales Tax Solutions, LLC, Washington, DC

Leah Robinson, Esq., Partner, Sutherland Asbill & Brennan LLP, New York, NY

10:00 – 10:15 am **Break**

10:15 – 11:15 am

Let’s Mix It Up: Understanding Mixed and Bundled Transactions and the Application of the True Object Test

Whether a hybrid transaction is considered “mixed” or “bundled” can have significant tax consequences. In this session, the speakers will compare and contrast the various approaches that courts across the country have taken to characterize the nature and taxability of these transactions. Since courts have differed in their application of the true object test and its variants, the speakers

will explain how to anticipate tax consequences by determining when components of a transaction are separable. In addition, the speakers will explain how the true object test can be used to (1) distinguish between taxable and non-taxable components of a transaction, or (2) to protect services from taxation where there has been an incidental transfer of tangible personal property.

Learning Objectives

By attending this session, the participant will be able to:

- Distinguish between mixed and bundled transactions and understand how courts treat each
- Understand the several applications and limitations of the true object test and its variants
- Apply the true object test to protect services from tax where there has been an incidental transfer of tangible personal property
- Apply the true object test to distinguish between taxable and nontaxable components of a transaction
- Identify when components of a transaction are separable and understand the resulting tax consequences.
- Assess the tax consequences of grouping various types of property and services in a single transaction.

Moderator:

Debra S. Herman, Esq., Partner, Hodgson Russ LLP, New York, NY

Speakers:

Robert S. Goldman, Esq., CMI, Partner, Madsen Goldman Holcomb, LLP, Tallahassee, FL

Andres Vallejo, Esq., Tax Partner, Morrison & Foerster LLP, San Francisco, CA

11:15 – 11:30 am Break

11:30 am – 12:30 pm

Time for Spring Cleaning - Using Sales Tax Voluntary Disclosure Agreements, Voluntary Disclosure Statutes, Amnesties, and the Audit Lottery to Minimize and Resolve Outstanding Liabilities and Potential Exposure

This session will provide an overview of state voluntary disclosure programs

and statutory opportunities, amnesty programs and other disclosure options available to taxpayers. The speakers will discuss the mechanics of the various options, as well as best practices to utilize when considering implementation. The multistate tax commission will address its role in the multistate VDA process and how all the participants can work together to achieve maximum benefit.

Learning Objectives

By attending this session, the participant will be able to:

- Give participants an understanding of the various sales tax liability disclosure options across the various states
- Provide instruction as to the execution mechanisms for each option
- Advise as to the benefits and drawbacks of the different approaches
- Share best practices
- Understand the role that the MTC may play in the process

Moderator:

Brian S. Goldstein, Esq., Principal, PricewaterhouseCoopers LLP, New York, NY

Speakers:

Lynn A. Gandhi, Esq., LL.M., CPA, Partner, Honigman Miller Schwartz and Cohn LLP, Detroit, MI

Thomas K. E. Shimkin, Director, National Nexus Program, Multistate Tax Commission, Washington, DC

12:30 – 1:00 pm Lunch

1:00 – 2:00 pm

Broadening Horizons: Exemptions for Non-Traditional Manufacturers

In some states, manufacturing is defined broadly so that companies that are not traditionally considered manufacturers may qualify for certain exemptions. This session will explore some of these nontraditional manufacturing processes, such as retailing, oil and gas and telecommunications. During this session, attendees will learn how to effectively apply for manufacturing exemptions covering nontraditional industries and processes, with a focus on examples such as oil and gas wells, telecommunications switching equipment, and items used to refrigerate, bake, cook or package items.

Learning Objectives

By attending this session, the participant will be able to:

- Identify the states in which manufacturing activities are defined broadly and what exemptions may be applied.
- Determine if sales/use tax exemptions for manufacturing machinery & equipment applies to certain types of activities in various states.
- Comprehend the status of litigation of various manufacturing exemption issues and the opportunity to file protective refund claims.

Speaker/Moderator:

Doug Sigel, Esq., Partner, Ryan Law, LLP, Austin, TX

Speaker:

Bridget Kaigler, CPA/CGMA, CMA, MBA, U.S. Transaction and Property Tax Supervisor, Albemarle Corporation, Baton Rouge, LA

2:00 – 2:15 pm Break

2:15 – 3:15 pm

Administration, Litigation, and Legislation, Oh My! Ongoing and Emerging Issues within the Sale for Resale Exemption

The tax policy for the sale for resale exemption is, on its face, easy to understand: a company making a purchase intending to resell the item purchased should not face sales or use tax liability. But from a practical perspective, there are myriad challenges facing companies seeking the exemption. As the economy increasingly shifts to the sale of services, a growing number of states have been asked to determine whether purchases should be exempted for resale when the subsequent “product” being resold is a service. Does it matter if the item being purchased is itself a service? How do retailers balance customer convenience with maintaining solid documentation that may be required upon audit? This session will cover these issues and more through a discussion recent sale for resale exemption developments.

Learning Objectives

By attending this session, the participant will be able to:

- Identify trends and developments applicable to the resale exemption, such as the impact of the resale exemption on service transactions
- Evaluate different methodologies for maintaining adequate records to defend state sales and use tax audits that challenge the applicability of the resale exemption
- Recognize some of the key issues that companies face within the application of the resale exemption to their purchases and sales

Moderator:

Maria M., Todorova, Esq., Partner, Sutherland Asbill & Brennan LLP
Atlanta, GA

Speakers:

Chad Bailey, CPA, Group Manager – Sales Tax/Indirect Tax Strategy, Target,
Minneapolis, MN

Kyle M. Brehm, Esq., State and Local Tax Manager, PricewaterhouseCoopers LLP
Minneapolis, MN

3:15 – 3:30 pm Break

3:30 – 5:00 pm

Handling Difficult Audits and Preparing for Potential Litigation

This session will address the nuts and bolts of handling state tax controversies, starting with the audit announcement up through administrative hearings and preparing for litigation. The panelists will share their years of experience in defending audits and preparing a case for litigation, providing valuable insights and practical guidance to put you in the best position to defend audits and litigate state tax disputes.

Learning Objectives: By attending this session, the participant will be able to:

- Identify best practices, tactics and strategies for controversy matters from audit through litigation
- Learn how to manage and defend an audit while keeping an eye towards potential litigation
- Gain practical tips and guidance for successful audit preparation and defense
- Understand the different levels of appeal, at audit and beyond, and the goals and opportunities for a taxpayer at each level
- Gain insight into the preparation necessary to have a successful administrative and/or judicial action

Moderator:

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

Speakers:

Nicki N. Nelson, Esq., Senior Tax Counsel, CSX Transportation, Jacksonville, FL

Mark F. Sommer, Esq., Attorney, Frost Brown Todd LLC, Louisville, KY

5:00 pm Seminar Adjourned

ADVANCED PROPERTY TAX SEMINAR

7:30 – 8:00 am **Registration & Continental Breakfast**

8:00 – 8:15 am

Opening and Welcome:

President, Institute for Professionals in Taxation®:

Margaret C. Wilson, CMI, Wilson Agosto LLP, Somerville, NJ

ABA SALT Committee Chair:

Jaye A. Calhoun, Esq., McGlinchey Stafford, PLLC, New Orleans, LA

ABA/IPT Advanced Tax Seminars Overall Chair:

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

Local Host:

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

8:15 – 9:30 am

Valuation Issues Involving the Dark Store Theory: Build-to-Suit, Sale-Leaseback and Vacant Properties

The “Dark Store” Theory currently poses what is arguably the single most controversial issue in the valuation of real property for property tax purposes. Proponents and opponents of the Dark Store Theory have generated passionate, if not heated, comments in the print media. The decisions reached by tribunals have engendered special legislation designed to overturn those decisions. A panel of experts drawn from the front lines will square off to debate the fundamental appraisal and legal issues raised by this provocative issue.

Learning Objectives

By attending this session, the participant will be able to:

- Identify the fundamental appraisal principles and practices necessary to understand and properly value build-to-suit, sale-leaseback, and vacant retail properties
- Distinguish the critical legal concepts and doctrines, which may vary from state-to-state, that determine the fair and lawful valuation of build-to-suit,

- sale-leaseback, and vacant properties for property tax purposes
- Differentiate the conflicting views regarding what constitutes taxable market value and the “fair share” of a retail property for property tax purposes

Moderator:

Thomas R. Wilhelmy, Esq., Attorney, Fredrikson & Byron, P.A., Minneapolis, MN

Speakers:

Judy S. Engel, Esq., Shareholder, Fredrikson & Byron, P.A., Minneapolis, MN

David C. Lennhoff, MAI, CRE, FRICS, AI-GRS, Director, Altus Group, McLean, VA

Linda Terrill, Esq., Attorney, Property Tax Law Group, LLC, Kansas City, MO

Jack Van Coevering, Esq., Counsel, Bloom Sluggett Morgan, P.C., Grand Rapids, MI

9:30 – 9:45 am **Break**

9:45 – 10:45 am

Tax-Exempt Entities: Paying the Way for Tax Exemption

Charitable and public entities are coming under increasing scrutiny in obtaining and preserving property tax exemptions, with challenges coming from many sources. This session will discuss key factors driving these issues such as the requisite levels of “Charity care”; the existence of competition with for-profit entities; the use of third party managers and operators; and the practice of using payments in lieu of taxes.

Learning Objectives

By attending this session, the participant will be able to:

- Explain the obstacles facing public and charitable entities regarding property tax exemptions
- Identify current trends and areas of concern before problems arise
- Recognize operational issues that may jeopardize tax exempt status

Moderator:

Jaye A. Calhoun, Esq., Member, McGlinchey Stafford, PLLC, New Orleans, LA

Speakers:

Edward J. Bernert, Esq., Partner, Baker & Hostetler LLP, Columbus, OH

Sharon C. Lincoln, Esq., Counsel, Chair, Nonprofit Practice, Foley Hoag LLP, Boston, MA

Glenn Newman, Esq., Shareholder, Greenberg Traurig, LLP, New York, NY

Erroll G. Williams, CLA, Orleans Parish Assessor, New Orleans, LA

10:45 – 11:00 am Break

11:00 am – 12:00 pm

Property Classification and Valuation Issues

Proper classification of property comes into play when managing real estate and tangible personal property tax obligations. During this session, a panel of experts will discuss the approaches that various states have taken regarding issues of classification and their impact on valuation of real versus personal property, exemptions and favorable tax rates.

Learning Objectives

By attending this session, the participant will be able to:

- Identify if an item of property is properly classified as real property or personal property
- Interpret the current trends as to the classification of fixtures in California and other states
- Explain the various classifications of real and personal property, which may qualify for an exemption or favorable rates

Moderator:

Mark A. Loyd, Esq., Partner and Chair - Tax & Employee Benefits, Bingham Greenebaum Doll LLP, Louisville, KY

Speakers:

Wayne Hamilton, Senior Director, Property Tax, Wal-Mart Stores, Inc., Bentonville, AR

Bradley D. Hasler, Esq., Partner, Bingham Greenebaum Doll LLP, Indianapolis, IN

Michael D. Larson, CMI, ASA, Vice President of Property Tax, Simon Property Group, Indianapolis, IN

12:00 – 12:30 pm Lunch

12:30 – 1:15 pm

Fee Simple . . . It's Not So Complicated

Sales of leased income properties reflect leased-fee transactions and investor surveys reflect leased-fee expectations. The Band of Investment technique

usually reflects leased-fee assumptions. So, where do fee simple data for cap rates and prices come from? This session will provide the answers.

Learning Objectives

By attending this session, the participant will be able to:

- Determine the right fee simple-related questions to ask when verifying a comparable sale
- Explain what a fee simple proxy is
- Evaluate all comp sales to derive a fee simple cap rate and price conclusion
- Recognize how to use fee simple proxies to fine-tune your conclusion
- Discuss examples of extracting fee simple cap rates and prices per square foot from leased-fee data
- Identify the practical applications of qualitative and quantitative adjustment grids to derive fee simple conclusions

Speaker Introduction by:

Michele M. Whittington, Esq., Counsel, Stites & Harbison, PLLC, Frankfort, KY

Speaker:

Peter F. Korpacz, MAI, CRE, FRICS, Founder & President, Korpacz Realty Advisors, Inc., Mount Airy, MD

1:15 – 1:30 pm Break

1:30 – 3:30 pm

Roundtable – Property Tax Update on Key States

Join our panel of state tax practitioners from across the country for an in-depth discussion on important property tax developments in several key states including: Texas, California, Louisiana, New York, Michigan and Florida. This will be an interactive session where audience members will be encouraged to ask questions of the panelists.

Learning Objectives

By attending this session, the participant will be able to:

- Discuss the latest judicial, statutory and administrative developments in these key states
- Design strategies to advise clients and/or employers

- Recognize the potential impact of these developments in other states

Moderator:

Mark A. Engel, Esq., Partner, Bricker & Eckler LLP, West Chester, OH

Speakers:

Angela W. Adolph, Esq., Partner, Kean Miller LLP, Baton Rouge, LA

Jay M. Chadha, Esq., Sr. Counsel, Norton Rose Fulbright US LLP, Houston, TX

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

Marcy Jo Mandel, Esq., Of Counsel, Winston & Strawn LLP, Los Angeles, CA

Steven P. Schneider, Esq., Partner, Honigman Miller Schwartz and Cohn LLP, Detroit, MI

Karen Strom, Esq., Partner, Schroder & Strom LLP, Mineola, NY

3:30 – 3:45 pm Break

3:45 – 4:30 pm

Economic Development: Property Tax Incentives and PILOTS.

State and local governments continue to offer property tax incentives to spur economic development. This session will describe various types of and structures for real and personal property tax incentives offered, including how the amount of the incentives awarded can be regulated through use of payments in lieu of tax (“PILOTS”). It also will discuss pitfalls and other traps for the unwary that can occur at the successive stages of identifying, negotiating, winning and sustaining these incentives. It will include an overview of the current policy debate concerning incentives and exemptions.

Learning Objectives

By attending this session, the participant will be able to:

- Develop a process to identify and locate the state and local property tax incentives available in a particular jurisdiction
- Anticipate broader policy issues that may influence political decisions concerning exemptions and incentives
- Determine the role that payments in lieu of tax (“PILOTS”) could play

- Estimate adverse consequences that could occur before, during and after the incentives negotiation process

Moderator:

Charles J. Moll III, Esq., Partner, Winston & Strawn LLP, San Francisco, CA

Speakers:

Amanda J. Butler, Esq., Partner, Graffagnini, L.C., New Orleans, LA

Janette M. Lohman, Esq., CMI, CPA, CCIP, Partner, Thompson Coburn LLP, St. Louis, MO

Joan Youngman, Esq., Senior Fellow and Chair, Department of Valuation and Taxation, Lincoln Institute of Land Policy, Cambridge, MA

4:30 – 5:30 pm

Go Green! The Assessment of Solar, Wind, Geothermal, Co-Generation, Mini-Hydro and Other Alternative Energy Properties

Alternative energy properties present unique property tax valuation and assessment issues. With the rush to green energy, many states offer property tax incentives for such properties, including both stand-alone projects such as solar and wind farms, and ancillary projects such as rooftop solar panels or wind turbines on commercial buildings. Smaller projects may involve net metering, while larger projects usually involve long-term power purchase contracts. All of these arrangements have property tax valuation and assessment implications. Alternative energy property may also generate income tax credits that may be taken into account in valuing the property. This panel will address the key issues regarding the valuation and assessment of green energy property.

Learning Objectives

By attending this session, the participant will be able to:

- Identify the key issues that arise in valuing and assessing alternative energy property, including both stand-alone projects and ancillary facilities
- Evaluate the impact on value and valuation methods of adding alternative energy generating property to commercial or industrial property
- Recognize the range of property tax incentives available for alternative energy property
- Address strategies for valuation disputes regarding alternative energy property

Moderator:

John H. Gadon, Esq., Shareholder, Lane Powell PC, Portland, OR

Speaker:

Dr. Catherine Collins, Research Professor and Interim Associate Director, George Washington Institute for Public Policy, Washington, DC

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

7:30 – 8:00 am **Continental Breakfast**

8:00 – 9:00 am

**Managing Mischief and Mayhem:
The Valuation of Stigmatized Property**

Stigmatized property is property which buyers or tenants may shun for reasons that are unrelated to its physical condition or features. Building on last year's presentation, which covered types of stigmatized property, this session will describe the various approaches to valuing stigmatized property. For property tax purposes, the decline in value caused by mischief and mayhem can be managed to some extent by appropriate valuation to result in a decrease in property taxes.

Learning Objectives

By attending this session, the participant will be able to:

- Recognize the kinds of stigma that significantly affect property values
- Apply the various approaches to valuing stigmatized property
- Develop strategies to convince an assessor to recognize the value reduction attributable to the stigma

Moderator:

J. Elaine Bialczak, Esq., Director, Compton & Associates, LLP, Atlanta, GA

Speakers:

Randall Bell, Ph.D., MBA, MAI, Principal, Bell Anderson and Sanders, LLC, Laguna Beach, CA

Wade Ragas, PhD, MAI, SRA, President, Real Property Associates Inc., Metairie, LA

9:00 – 9:15 am **Break**

9:15 – 10:45 am

**Distinguishing the Value in Use vs. the Value in Exchange in the
Appraisal of Industrial and Commercial Property**

Some taxing jurisdictions require that ad valorem property tax assessments of industrial and commercial properties should be based on a "value in exchange" premise of value. Nonetheless, many industrial and commercial

property appraisals are based on a “value in use” premise of value. Such “value in use” appraisals may include the value of the commercial intangible assets of the business enterprise operating at that industrial or commercial property. Nonetheless, under the “value in exchange” statutory framework, only the industrial or commercial real estate and tangible personal property are subject to property taxation. This session will cover the difference between the two premises of value and strategies that best position the industrial and commercial property in the appraisal process.

Learning Objectives

By attending this session, the participant will be able to:

- Distinguish the various premises of value that can be applied in the appraisal of an industrial or commercial property
- Determine the difference between the property owner/operator business enterprise intangible assets and the industrial and commercial property intangible value influences
- Identify and value the business enterprise intangible assets that may be included in a “value in use” appraisal of an industrial or commercial property
- Apply the generally accepted valuation methods for extracting intangible asset value from the property “value in use”
- Explain the generally accepted valuation methods for directly appraising an industrial and commercial property on a “value in exchange” basis

Moderator:

Edward Kliewer III, Esq., Senior Counsel, Norton Rose Fulbright US, LLP, San Antonio, TX

Speakers:

D. Brent Eyre, ASA, Appraiser, Brent Eyre, Taylorsville, UT

Robert F. Reilly, CPA, CFA, Managing Director, Willamette Management Associates, Chicago, IL

Stewart M. Weintraub, Esq., SALT Practice Chair, Chamberlain, Hrdlicka, White, Williams & Aughtry, West Conshohocken, PA

10:45 – 11:00 am Break

11:00 am – 12:00 pm

Ethics in a Tax Practice

Tax firms will always be under scrutiny for their ethical practices, or lack thereof. This session will cover a number of examples of ethical situations that have occurred or could occur for state tax professionals and how they were handled. Participants will learn how to minimize and avoid falling into these situations as well as how to develop strategies to protect their employers, clients and themselves.

Learning Objectives

By attending this session, the participant will be able to:

- Recognize various codes of ethics that apply to guide and protect state tax practitioners, their employers and the tax profession
- Identify situations that may compromise ethical conduct

Moderator:

Mark A. Loyd, Esq., Partner and Chair - Tax & Employee Benefits, Bingham Greenebaum Doll LLP, Louisville, KY

Speakers:

Margaret Christensen, Esq., Partner, Bingham Greenebaum Doll LLP, Indianapolis, IN

Laurie L. Levenson, Esq., Professor of Law, David W. Burcham Chair in Ethical Advocacy, Loyola Law School, Los Angeles, CA

12:00 pm Seminar Adjourned

