

39TH INSTITUTE ON STATE AND LOCAL TAXATION

DECEMBER 2-4, 2020
ONLINE

FINANCE AND LAW PROGRAMS

Wednesday, December 2nd

1:30-1:45pm

WELCOME ADDRESS AND PRESENTATION OF THE NYU SPS PAUL H. FRANKEL AWARD

Co-Chairs: **June S. Haas, Esq.**, *Haas Law, Cheboygan, MI*

J. William McArthur, Esq., *Former VP Planning, TE Connectivity, Berwyn, PA*

Award Recipient: **Hollis L. Hyans, Esq.**, *Partner, Blank Rome, New York, NY*

1:45-2:45pm

SALES TAX UPDATE

This session discusses hot sales/use tax issues and developments including efforts to expand the sales/use tax base, developments in the taxation and sourcing cloud computing and other technologies, uniformity challenges after Wayfair, marketplace facilitator legislative developments and more.

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

Joshua D. Cohen, CMI, *Principal, Ryan, Dallas, TX*

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

2:45-3:55pm

AUDITS AND CONTROVERSY RESOLUTION IN THE TIME OF COVID-19

Social distancing, staff reductions and the dearth of state call centers have made resolving tax audits and other controversies more challenging than ever. State revenue demands, restrictive corporate budgets, and ever-changing tax regimes make SALT audit management increasingly complicated and challenging. This practical session led by multi-state audit veterans with substantial private sector and government experience explores practical procedural and substantive tips to get through to the right people and find creative solutions to audits, hearings and litigation. Whether the matter is resolved prior to assessment, after assessment, or in litigation, this session explores strategies from both the company and practitioner perspectives as well as dynamics at state revenue agencies that must be understood.

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

John Paek, Esq., *Principal, Deloitte Tax, Atlanta, GA*

Damon N. Chronis, *President, US Operations, Ryan, Dallas, TX*

David W. Machermer, Esq., *Principal, Horwood Marcus & Berk, Chartered, Chicago, IL*

3:55-4:10pm **BREAK**

4:10-5:00pm

OVERVIEW AND PREVIEW OF FEDERAL CONSTITUTIONAL ISSUES

The most significant constitutional cases in state taxation over the past year, both in the US Supreme Court and in state courts, are surveyed. Our commentators also preview important cases to watch in the coming year.

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

Richard D. Pomp, Esq., *Professor of Law, University of Connecticut, Hartford, CT*

5:00-5:20pm

DAY ONE Q&A SESSION

Hosted and Moderated by Blank Rome

BLANKROME

Thursday, December 3rd

1:30-2:30pm

PASS-THROUGH ENTITIES—LATEST DEVELOPMENTS AFFECTING STATE TAXATION OF PARTNERSHIPS, LLCs, AND THEIR OWNERS

Even though the Tax Cuts and Jobs Act of 2017 (TCJA) significantly reduced the federal corporate tax rate below the top individual tax rates, IRS statistics continue to show that pass-through entities (PTEs) remain the overwhelming favorite form of business organization in the U.S. States struggle with whether to impose tax at the entity level or at the owner level, and with how to apportion or allocate income for multistate PTEs when their owners are located in one state but the PTEs are doing business in many. In response to the TCJA's annual cap on SALT deductions, more and more states (often at the urging of PTE owners and their advisors) amended their laws to impose tax at the entity level in hopes of allowing their residents to qualify for the perceived continued deduction of SALT by the PTE's individual owners. States likewise have provided guidance to navigate the unique issues facing PTEs and their owners as a result of the pandemic. Lastly, states are enacting major parts of the MTC's Model Uniform Statute for Reporting Adjustments to Federal Taxable Income and Federal Partnership Audit Adjustments, bringing some level of uniformity to an already complicated federal audit regime for PTEs and their owners. This panel provides an update on these developments and the latest key state tax cases and administrative rulings affecting Subchapter K entities and their owners.

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

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

Kelvin M. Lawrence, Esq., *Partner, Dinsmore & Shohl, Columbus, OH*

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

2:30-3:30pm

APPORTIONMENT ISSUES: RECENT DEVELOPMENTS

This panel will focus on market sourcing developments, including determination of ultimate destination of services, base calculations and the different interpretations of similar statutory language, including the interpretation of certain states of cost-of-performance sourcing to really mean marketing sourcing. The panel will also review the recent developments in alternative apportionment.

Hollis L. Hyans, Esq., *Partner, Blank Rome, New York, NY*

Lindsay LaCava, Esq., *Partner, Baker McKenzie, New York, NY*

Lynn A. Gandhi, Esq., *Partner, Foley & Lardner, Detroit, MI*

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

3:30-3:45pm **BREAK**

3:45-4:15pm

WHAT'S HAPPENING IN NY, NJ AND LOCAL TAXES

An overview of the latest developments in NY, NJ and city and local taxes around the country.

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

Kyle O. Sollie, Esq., *Partner, Reed Smith, Philadelphia, PA*

4:15-4:35pm

DAY TWO Q&A SESSION

Hosted and Moderated by EY



4:35-5:35pm

ETHICAL CHALLENGES FOR STATE TAX PROFESSIONALS FROM SOCIAL DISTANCING AND ELECTRONIC COMMUNICATIONS WITH CLIENTS AND COLLEAGUES

The panel reviews the implications of remote work sites, communication using email and internet video conferencing with co-workers and clients to discuss confidential issues and data. A discussion of responsibilities arising from use of electronic data exchange; electronic filing and data transfer methods to courts, governmental authorities, co-workers and clients. A review of the how changing standards and applications to new technologies affect private practitioners, in-house professionals and government employees working in the tax field. The application of governing ABA and AICPA rules are explored and then applied to several scenarios using interactive technology to involve registrants in the session.

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

Breen M. Schiller, Esq., *Partner, Eversheds Sutherland US, Chicago, IL*

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

Friday, December 4th

1:30-2:30pm

OECD INITIATIVES AND THE IMPACT OF STATE TAXATION ON THE DIGITAL ECONOMY

This panel explains the OECD tax initiatives to development of global uniform treatment and the changing international rules regarding the taxation of the digital economy. The session focuses on similarities and differences between the OECD Pillar One and Two proposals, TCJA provisions on foreign source income, and evolving state corporate income tax rules. The new OECD proposals could radically reshape the global taxation of corporate income in the digital era. The panelists explore the federal and state tax antecedents of some of the OECD solutions, and the potential convergence of international, federal and state approaches.

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

Barbara M. Angus, Esq., *Global Tax Policy Leader, EY, Washington, DC*

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

2:30-3:30pm

FEDERAL TAX REFORM'S IMPACT ON STATE TAXATION

Now that federal tax reform has been implemented, this panel identifies remaining reform issues that impact state taxation of businesses and the state-specific responses to federal tax reform. Issues addressed include state work-around to the limitation on the deductibility of interest expense, the changes on usage of net operating losses, the expensing provisions, the 199A deduction for partnerships, the limitation on the deductibility of FDIC fees, and the changed rules concerning capital contributions.

Mitchell A. Newmark, Esq., *Partner, Blank Rome, New York, NY*

Deborah Harrison, MS, *Director, US Income Tax Audits, Accenture, Walnut Creek, CA*

Alexis Morrison-Howe, Esq., *Tax Principal, Deloitte Tax, Boston, MA*

3:30-3:45pm BREAK

3:45-4:45pm

COVID-19 IMPACTS ON STATE TAXATION AND IMPLICATIONS OF THE REMOTE WORKFORCE

This panel looks at claw backs of business incentives based on investment or employment levels unable to be met during state quarantines and regulatory or legislative solutions. The national workforce has been limited to work from home, wherever that is. . . Employees and employers must now figure out how to pay the tax man. States (and localities) levy a welter of complicated and inconsistent standards for when employees are required to file personal income tax returns and when employers are required to withhold for their employees. Additionally, this panel explores the new tax policies and positions developed to deal with the impact of Covid-19 on state budgets and staffing. This session explores the issues, controversies, and potential solutions to the state and local tax issues facing our quarantined workforce.

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

Ulrich Schmidt, MS, *Principal, KPMG, Philadelphia, PA*

Robert Ozmun, CPA, *Partner, PricewaterhouseCoopers, Boston, MA*

4:45-5:05pm

DAY THREE Q&A SESSION

Hosted and Moderated by PWC





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