

COUNCIL OF TAXATION SECTION  
MINUTES OF REGULAR MEETING  
April 2, 2009

A regular meeting of the Council of the State Bar of Michigan Taxation Section was held on April 2, 2009 at 9:00 AM at the offices of Jaffe Raitt, Southfield, Michigan. Jess A. Bahs, Chairperson of the Taxation Section, presided.

COUNCIL MEMBERS PRESENT

Jess A. Bahs	Ronald T. Charlebois
Warren J. Widmayer	Jay A. Kennedy
Gina M. Torielli	Jack Van Coevering (by telephone)
John M. O'Hara	Marjorie B. Gell (by telephone)
Frederick H. Hoops, III	Michael W. Domanski
David B. Walters	Paul V. McCord

COMMITTEE CHAIRPERSONS PRESENT

Marko Belej, Business Entities  
Lisa Zimmer, Employee Benefits  
George V. Cassar, Estates and Trusts  
Marla S. Carew, State and Local

COUNCIL MEMBERS ABSENT

Lynn M. Gandhi  
Wayne Roberts

COMMITTEE CHAIRPERSON ABSENT

James Mauro, Practice and Procedure

OTHERS PRESENT

Robert D. Heitmeyer, IRS Area Counsel Liaison  
Eric Skinner, IRS Area Counsel Liaison  
Lorraine New, Probate and Estate Planning Section Liaison  
Mary Hiniker, ICLE  
Deb Michaelian, Program Facilitator

Council Chairperson, Jess A. Bahs, called the meeting to order at approximately 9:06 AM.

A. MINUTES.

The minutes of the February 26, 2009 meeting of the Council had been previously distributed. John O'Hara noted that the minutes showed him as being present when he was actually absent from the February 26, 2009 meeting. Subject to this correction, the minutes were accepted by

unanimous vote, after the motion of Gina M. Torielli and seconded by Ronald T. Charlebois.

B. TREASURER'S REPORT

Gina M. Torielli presented the Treasurer's report.

Gina noted that only one of the Annual Tax Conference sponsors had paid the sponsorship fee of \$5,000 to date.

Expenses to date are in line with budget except Tax Court Luncheon, but given additional revenue from the recent luncheon that is not yet reflected in the report, the Tax Court Luncheon net expenses are expected to be under budget.

All Section Membership dues expected to be received are collected. We expect to be down approximately \$1,400 in dues from the amount budgeted for the year.

The Annual Tax Conference appears to be on budget; expenses should not exceed revenue by more than \$7,000.

Ronald T. Charlebois moved that the Treasurer's report be accepted as presented. John M. O'Hara seconded the motion, and it was unanimously approved.

C. COUNCIL ACTIVITIES.

Jess A. Bahs asked for reports and was advised of the following:

1. Continuing Professional Education - Mary Hiniker

Mary Hiniker reported that ICLE conducted a survey of Section members in March regarding interest in potential topics for the 2009-2010 After Hours Tax Law Series. Based on the survey results, she presented five potential topics with several sub-topics, and explained that the four best choices needed to be determined by April 24, 2009 in order to meet the July, 2009 Series flyer publication deadline.

Following discussion, it appeared that the top four choices were:

- \* Successfully Dealing with Real Estate Tax Issues (possibly including property tax appeals)
- \* Answering Your Clients' Michigan Business Tax Questions
- \* Hot Topics in Estate and Gift Tax
- \* How Recent Federal Legislation Affects Your Clients

The consensus seemed to be that recent federal legislation should be the first topic, covered in October.

2. After-Hours Tax Law Seminars - Paul V. McCord. Paul had nothing to add to Mary's report.

3. a. 2009 Tax Conference - Marjorie B. Gell.

Marjorie B. Gell reported that speakers for the conference are all lined up and confirmed. The tax policy speaker will be Joe Mikrut, a lobbyist in Washington, D.C. who frequently speaks on tax legislation issues, and is chair of the Tax Policy committee for the ABA Tax Section.

Marjorie stated that whatever written materials have not yet been submitted are expected to be submitted by the end of the week.

Deb Michaelian indicated that the deadline for the State Bar to print the materials is April 13th.

Marjorie is adding a tab to the materials regarding the Taxation Section's activities, the leadership structure, the Section's mission, and brief biographies of members of the Taxation Section Council.

Marjorie raised the issue of payment of a stipend for the academic speakers who agreed to speak without charge. In keeping with established past practice, Marjorie B. Gell moved that the Taxation Section pay a stipend of \$1,000 to each of the professors who are speakers at the conference, other than Jeffrey Pennel (who is charging a fixed fee being split with the Estates and Trusts Committee). The motion was seconded by Warren J. Widmayer and approved.

Current registration is 80, which is at or above the level we have been at previously at this stage.

Marjorie stated that lunch will be a buffet this year. She also encouraged everyone to please make a point of expressing appreciation to the sponsors.

Gina Torielli reminded everyone that expense reimbursements and checks for speakers need appropriate documentation, including I-9's for speakers.

On a related topic, Jess Bahs reported that his attempts to contact the Michigan Association of Certified Public Accountants (MACPA) and enlist its cooperation in promoting the Annual Tax Conference to its members met with frustration. After several attempts, MACPA did include a small blurb mixed into another communication to its members. Jess was disappointed in their failure to respond and help promote the Annual Tax Conference, especially in light of the co-sponsorship by the Taxation Section of the Michigan Tax Conference in recent years.

b. 2010 Tax Conference - John M. O'Hara

John O'Hara reported that based on his investigation to date, Rock Financial Center is the front-runner for the conference location in 2010. He expressed hope that attendees from the western part of the state would find this more convenient than St. John's.

Regarding the date of the conference, the recent survey of the section indicated a preference for a spring date, and a preference for updates as the primary reason for attending.

4. Tax Court Luncheon - Jack Van Coevering

Jack Van Coevering reported that approximately 13 students and 23 other attendees attended the luncheon held at the Cadillac Hotel on March 19 with Judge Vasquez in addition to the judge, his spouse and the Tax Court Clerk. This event was a bit more expensive than the October luncheon. The next calendar is scheduled for the week of October 19, 2009. Jack will try to schedule the luncheon for the date of the small claims session so anyone coming from the law schools will not be required to travel downtown twice.

5. Directory and Internet - Frederick H. Hoops, III

Frederick H. Hoops reported that the directory was sent out and posted online. He noted that there were some comments regarding corrections to the directory after it was sent out. Deb Michaelian has those changes in process. The directory is online and available either in pdf format or web format.

The web site has been updated with suggestions received from Gina M. Torielli. Fred says the process of updating is fairly straightforward and went smoothly.

Mary Hiniker suggested that a link to the ICLE Top Tips presentations produced jointly by ICLE and the Section be added to the website.

Jess Bahs and John O'Hara added that the next edition of the E-newsletter will have embedded links to the website and that they are considering having committee heads be responsible for providing content for each edition on a rotating basis.

6. Michigan Bar Journal Liaison - Paul V. McCord

Paul solicited updates for the State Bar Journal briefs.

7. Michigan Tax Lawyer - Lynn M. Gandhi

Lynn Gandhi was absent and did not provide a report. Deb Michaelian indicated that the latest edition of the Michigan Tax Lawyer has been forwarded to Lexis and should be posted there by now. Deadline for the next issue is this month. The State and Local Tax Committee and Estates and Trusts Committee will be featured in this issue.

8. Federal and State Legislation and Public Policy Liaison - Wayne Roberts

Wayne Roberts was absent but submitted a written report. He indicated that with respect to the Offer in Compromise legislation, HB 4555 was recently introduced by Representative Green's office. Wayne has asked the MACPA for formal support and met with State of Michigan Treasurer Kleine to review the proposal in Lansing on Tuesday, March 17, 2009. Reportedly, Treasurer Kleine is skeptical, but agreed to review our materials and seemed interested that more than 40 other states are using an offer-in-compromise process.

Wayne also met with Representative Kowall, a new member of the House Tax Policy Committee, and gave her a copy of the Taxation Section's materials (memorandum, position statement, list of other state statutes and federal Offer In Compromise publication). Finally, an e-mail was sent to the entire Taxation Section to inform members of the Taxation Section's position statement and of the introduction of HB 4555.

9. Membership Outreach Coordinator - David Walters

David Walters reported that of the law schools, Wayne State University, Ave Maria, Michigan State, and Thomas M. Cooley Law School all nominated two students each for the student awards. University of Detroit Mercy School of Law and University of Michigan Law School each declined to nominate students for this year's awards.

Marjorie B. Gell agreed to contact the students who will be recognized for writing articles for the Michigan Tax Lawyer.

University of Detroit Mercy School of Law and Wayne State University Law School are the target schools for "Meet and Greet" with students, but they have not yet responded to David Walters' attempts to make arrangements.

10. Annual Meeting/Past Chairperson's Dinner - Jack Van Coevering

Jack Van Coevering reported on options for holding the Annual Meeting and Past Presidents' Dinner at the Hyatt Regency in Dearborn in conjunction with the State Bar Annual Meeting.

The Hyatt offers a buffet and entrée options. Entrée options are quite expensive. Jack also is investigating dinner at the Henry Ford Estate, but that is unlikely to be less expensive. He is still lining up a speaker.

#### 11. Grant Program - David Walters

David Walters reported that the Grant Committee met on April 1 to review the grant requests submitted by various organizations providing assistance to low income taxpayers. Requests for proposals were circulated to seven organizations. Six proposals were received, and a last-minute request was received from Legal Services of Eastern Michigan after they received federal funding sufficient to run a program.

After considerable discussion, Warren J. Widmayer made the following motion:

RESOLVED, that after careful consideration of the recommendation of the Grant Committee of the State Bar of Michigan Taxation Section, Council does hereby approve grants for 2009 to the following agencies and clinics serving low income taxpayers in the State of Michigan, subject to fulfillment of the conditions stated, if any:

Legal Defender Association, Inc. - \$1,000; Conditions: None

University of Michigan Low Income Tax Clinic - \$2,000; Conditions: None

Michigan Poverty Law Program - \$500; Conditions: None

Michigan State University Tax Clinic - \$2,500; Conditions: None

Baxter Clinic - \$2,000; Conditions: None

Legal Services of Eastern Michigan - \$2,000; Conditions: contingent on submission of a written grant proposal acceptable in form and substance to the Grant Committee of the State Bar of Michigan Taxation Section no later than April 20, 2009.

Accounting Aid Society - \$2,000; Conditions: this grant is awarded only if Legal Services of Eastern Michigan fails to submit a written grant proposal acceptable in form and substance to the Grant Committee of the State Bar of Michigan Taxation Section no later than April 20, 2009. This grant is in addition to the 2009 \$2,000 emergency grant previously approved by Council.

RESOVED FURTHER, that the Treasurer of the Taxation Section, Gina M. Torielli, is authorized to coordinate the prompt distribution of these funds through the Access for Justice Campaign of the State Bar of Michigan to the aforesaid organizations.

Gina M. Torielli seconded the motion and after further discussion, it was approved.

D. PROBATE AND ESTATE PLANNING SECTION LIAISON REPORT .

Lorraine New reported that the draft Michigan Trust Code has been reintroduced in this session with some minor changes submitted by probate judges and bankers, and is expected to pass in some form this year.

E. STATE BAR OF MICHIGAN LIAISON REPORT

No report was submitted.

F. IRS AREA COUNSEL LIAISON REPORT

Robert Heitmeyer reported that the IRS Chief Counsel's office is hiring an additional attorney. His office has been particularly busy with a high number of fraud cases. The IRS is planning to hire 600 new exam personnel in the next year and possibly the same in the following year. This increase in exam activity is likely to increase Chief Counsel's inventory of cases. Enforcement emphasis is likely to be on flow-through entities and international transactions.

Robert Heitmeyer, Eric Skinner and Jay A. Kennedy then excused themselves from the meeting.

G. PROGRAM FACILITATOR REPORT

Deb Michaelian was present and indicated she had nothing to report.

H. COMMITTEE ACTIVITIES

Jess A. Bahs then asked for Committee reports and was advised of the following:

1. Business Entities - Marko Belej.

Marko Belej is publicizing his breakout session for the annual conference and has added new email addresses from the recent survey to his committee mailing list.

2. Employee Benefits - Lisa Zimmer.

Lisa Zimmer stated that a quickly arranged meeting was held on the new COBRA subsidy rules. 18 people attended.

Lisa also indicated that her Annual Tax Conference breakout speakers are lined up and most of the materials are in.

3. Estates & Trusts - George Cassar.

George Cassar stated that he had nothing new to report. He had recent contact with Jeffrey Pennell confirming his presentations for the Annual Tax Conference.

4. Practice and Procedure - James Mauro.

James Mauro was absent and did not provide a report.

5. State and Local - Marla S. Carew.

Marla Carew reported that she has been communicating with her committee members regarding the Annual Tax Conference and soliciting articles for the Michigan Tax Lawyer. She also is trying to connect with the head of the Administrative Law Committee of the State Bar to discuss possible collaborative meetings.

#### 6. International Law - Michael Domanski.

Michael Domanski reported that he is working on an article regarding changes to the Canadian-US tax treaty.

He also reported that there is an upcoming event involving the chair of FASB and the controversy surrounding possible switches to the international financial accounting standards.

He added that there is a lot of activity currently regarding proposals to close the international tax gap relating to multinational entities' income and the timing of taxation of their income under US tax laws.

#### I. OLD BUSINESS.

##### 1. June event at Cooley and sponsorship

Gina M. Torielli indicated that the panel presentation that the Taxation Section previously agreed to co-sponsor, titled "If Your Client's a Criminal - A Tax Fraud Panel," will be held at the Auburn Hills campus of the Thomas M. Cooley Law School following the next meeting of the Taxation Section Council on Thursday, June 4, 2009. First will be a reception, and then a presentation on when civil tax matters might be considered to have crossed the line into potential criminal liability issues, featuring attorneys from IRS Chief Counsel's office, a private practitioner and an IRS investigator.

##### 2. Index of Articles on Website

Gina M. Torielli reported that a Thomas M. Cooley Law School student has been identified to work on this project after the Annual Tax Conference.

##### 3. Task Force for State Transfer Tax Amendment

No new developments have occurred on this initiative.

#### J. NEW BUSINESS.

##### 1. Survey Responses

Jess A. Bahs distributed summaries of the recent Taxation Section Membership Survey, in which almost 200 members of the Section participated. He noted the following:

\* The majority of respondents indicated that their strongest preference was for information about new laws or trends to be presented at the Annual Tax Conference, and preferred a spring date, after tax season ends.

\* With respect to the Michigan Tax Lawyer, 69% of respondents read it regularly, and 87% prefer the mailed published edition to an e-mailed electronic edition.

\* Less than half of respondents had visited the Section's web site in the last year. More than half of the respondents had not visited the password-protected area of the web site because they did not know that it existed. During discussion, it was suggested that a separate email be sent to the Section members with just a password and reminder that the password-protected area exists.

\* Respondents overwhelmingly approved of the Section being involved in the legislative process. Over 1/3 of respondents approved of the Section becoming involved on any tax-related issue, while others expressed preference for a more limited role, but only 1/3 of respondents would

support an increase in Section dues to pay for the services of a lobbyist.

\* 61% said they or their firm would purchase or subscribe to an ICLE publication regarding Michigan tax law and procedure.

\* The results of the "ultimate question," a measure of the value of the Taxation Section to members, overwhelmingly reflected "promotes" as opposed to "detracts."

## 2. ICLE Proposal for Services Relating to Annual Tax Conference

Mary Hiniker presented a proposal for ICLE to share some of the work relating to the Annual Conference planning. The proposal involves ICLE doing "planner support" and the Section Program Facilitator continuing to handle the facility planning. The planner support would consist of activity designed to keep speakers and committee chairs on schedule, marketing and taking registrations. ICLE would charge the Section \$6,000 for these services. (See the attached Proposed Agreement.) Mary was asked to leave so the Taxation Section Council could discuss the proposal.

Marjorie Gell commented that from her perspective as chairperson of this year's event, this would be a good combination. She noted that handling the conference planning is extremely time-intensive and having the Program Facilitator and a full-time practitioner doing all of the planning can be very burdensome. Ronald Charlebois noted that the timelines proposed by ICLE are aggressive and would provide a rhythm for the conference planning that would ensure a high-quality conference on a consistent basis.

Deb Michaelian commented that although she enjoys the role she has played in planning and presenting the annual conference, she is supportive of any contribution ICLE could make that would make the process smoother. She expressed some concern that ICLE could eventually turn this into an ICLE program and less of a Taxation Section conference. Deb was then asked to leave to allow the Taxation Section Council to discuss the proposal.

Considerable discussion followed. Primary concerns voiced by Council members were that the Annual Tax Conference remain a Taxation Section event, particularly with regard to programming of content and identification primarily as the Taxation Section's conference in all materials. The After Hours Tax Series has become primarily identified as an ICLE presentation, and the consensus was that this event should still be "branded" with the Taxation Section as the prominent sponsor of the event. The major benefits of collaborating with ICLE seem to be adding a degree of discipline and scheduling rigor that might not always be consistent from year to year if the Taxation Section Council continues to handle the conference. After lengthy discussion, it was agreed to table the proposal for further consideration at the next Council meeting.

There being no further business, upon motion by Gina M. Torielli, seconded by David Walters and unanimously approved, the meeting was adjourned at approximately 11:58 A.M.

Respectfully submitted,

Warren J. Widmayer  
Secretary