

**COUNCIL OF TAXATION SECTION
MINUTES OF REGULAR MEETING**

A regular meeting of the Taxation Council of the State Bar of Michigan Taxation Section was held on May 12, 2005 at 9:00 AM. The meeting was held at the offices of Raymond & Prokop, PC in Southfield, Michigan. Eric Nemeth, Chairperson of the Taxation Section, presided:

COUNCIL MEMBERS PRESENT

Eric M. Nemeth	Charles M. Lax	Aaron H. Sherbin
Jay A. Kennedy	Gina M. Torielli	Ronald T. Charlebois
Joan R. Dindoffer	Paul R. Jackson	Thomas J. Kenny
Paul R. Jackson	Alvin L. Storrs	Sherill Siebert

COMMITTEE CHAIRPERSONS PRESENT

Warren J. Widmayer, Employee Benefits
Wayne D. Roberts, State & Local

COUNCIL MEMBERS ABSENT

Jeffrey A. DeVree
Henry P. Lee
Jess A. Bahs

COMMITTEE CHAIRPERSONS ABSENT

Eric Carver, Business Entities
Fred Hoops, Estates & Trusts
James Mauro, Practice & Procedure

OTHERS PRESENT

Mary Hiniker, ICLE Representative
Deb Michaelian, Program Facilitator

The meeting was called to order at 9:04 A.M. by Council Chairperson, Eric Nemeth.

A. **MINUTES.**

The minutes of the last meeting of the Council had been previously distributed. No comments were received pertaining to those minutes. There being no comments, on

motion duly made by Gina Torielli and seconded by Tom Kenny to accept the minutes, the motion was unanimously carried.

B. TREASURER'S REPORT.

Aaron Sherbin submitted a Report for the period 10/1/04 to 3/31/05. Aaron mentioned that the Tax Court Luncheons have been successful, and the costs have therefore exceeded the budgeted amounts. He also mentioned that the Conference income is down somewhat due to the lower fees and other factors. Eric Nemeth pointed out that additional Conference participants have signed up since the 3/31/05 date of the Treasurer's Report. Chuck Lax mentioned that he believes that the Conference will make some money. A motion to approve the Treasurer's Report was made by Gina Torielli, and seconded by Sherill Siebert, was unanimously approved.

C. COUNCIL ACTIVITIES.

Eric Nemeth asked for reports and was advised of the following:

1. After Hours Tax Law Series. Alvin Storrs reported that he and Mary Hinicker are reviewing possible topics for upcoming programs, which are described on a written report. These topics include Asset Protection Planning, Hot Topics in Nonprofit Taxation, IRS Audits and Hot Topics in Estate and Gift Tax. He and Mary are expected to finalize and topics and dates by May 26, 2005.

2. 2005 Tax Conference. Jess Bahs was unable to attend the meeting, and submitted a written report on the status of the May 26th Tax Conference. The report indicates that the Section will receive approximately \$1,000 from four accounting firms, and \$7,000 of revenue from Standard Federal Bank and Stout Risius Ross. One hundred fifty attendees are expected. The Probate and Business Law Sections are assisting with marketing for the Conference. Gina Torielli indicated that she will finalize plans for next year's Conference after reviewing the evaluation forms from the 2005 Conference.

3. Tax Court Luncheon. Ron Charlebois reported that the next luncheon is scheduled for Wednesday, June 8, 2005 with Judge Robert A. Wherry, Jr. beginning at 12:00 noon. The luncheon will be held at the Detroit Club on Cass Ave. in Detroit. Ron indicated that 28 attendees have signed up so far, and he expects over 30 attendees.

4. Directory. Joan R. Dindoffer indicated that the Directory has gone out to listserv members. She has also asked Jeff DeVries to add a notice of the new directory on the Taxation Section website.

5. Michigan Bar Journal. Ron Charlebois mentioned that next tax theme issue is expected for December, 2006. Ron also mentioned that a summary of the Tax Conference will appear in the June issue of the Michigan Bar Journal.

6. Michigan Tax Lawyer. Tom Kenny indicated that the current issue went to the publisher in April, and went to the mailer on May 11. The articles for the next issue are due next month.

7. Internet. Jeffrey DeVree was not present and did not submit a report.

8. Federal and State Tax Legislation. Paul Jackson circulated a handout from the Michigan Chamber of Commerce regarding Governor Granholm's tax restructuring proposals. He also circulated an email from Alan Valade regarding a proposed sales tax on legal services. There was discussion regarding this proposal. Paul mentioned that Ohio has a tax on services, but not legal services. Florida has repealed its sales tax on legal services. The Taxation Section has been asked by the State Bar of Michigan to adopt a position in opposition to the proposed sales tax on legal services, and to possibly provide testimony at an upcoming hearing on tax restructuring to be held in Kalamazoo. There was agreement that other sections of the State Bar of Michigan should share the cost of opposing the proposed sales tax. Aaron Sherbin made a motion that (i) The Taxation Section send out a communiqué regarding the proposed sales tax on legal services; (ii) The Section adopt the State Bar of Michigan policy opposing the proposed tax, as described in the Position Statement included with Paul Jackson's handout; (iii) The Paul Jackson and Eric Nemeth, or their designees, be appointed to represent the Taxation Section in this matter; and (iv) That other sections of the State Bar of Michigan be requested to provide a proportionate contribution towards the cost of opposing the proposed tax. This motion was seconded by Alvin Storrs, and unanimously adopted. Eric Nemeth indicated that he will add comments regarding the proposed sales tax to his opening remarks at the upcoming hearing. He will also contact Elizabeth Lyons, the State Bar's section liaison, to assist with the coordination of the opposition to the proposed sales tax.

9. Membership Outreach. Joan Dindoffer reported that a "meet and greet" session at the University of Michigan Law School was held on March 16. U-M Law School will provide the next law school article for the Michigan Tax Lawyer. Henry Lee was unable to attend the meeting. Chuck Lax indicated that at a recent luncheon with Henry that Henry suggested that the Section consider developing a program on tax practice basics. This would perhaps be coordinated with the assistance of the Young Lawyer's Section.

D. COMMITTEE REPORTS.

1. Business Entities. Eric Carver was not present, but reported that a meeting was held on April 7 at Dykema Gossett's Oakland Hills office on valuing business entities. There were 15 attendees at this meeting.

2. Employee Benefits. Warren Widmayer reported that an upcoming meeting will be held at the Lansing Clarion Hotel on July 26. The topic will be issues with Holding Real Estate in IRAs. Another meeting is scheduled for September featuring Sal Tripoti. This meeting is expected to be held at the Sheraton Hotel in Detroit.

3. Estates & Trusts. Fred Hoops submitted a written report that indicated that a meeting was held on April 20 which included two valuation experts from Stout Risius. Eric Nemeth mentioned that Committee Chairpersons should consider diversifying the speakers and topics in light of the apparent duplication of topics and speakers at the most recent Business Entities and Estates & Trusts meetings.

4. Practice & Procedure. James Mauro was unable to attend the meeting, and did not submit a written report.

5. State & Local. Wayne D. Roberts reported that a meeting was held on May 9 regarding proposed new Michigan Tax Tribunal rules. There were approximately 30 attendees. These proposed rules include a mandatory exchange of appraisals. Wayne pointed out that this mandatory exchange could adversely affect the ability of the parties to settle these matters. Eric Nemeth praised the State and Local Tax Committee's meeting as an example of the Taxation Sections rapid response to significant issues affecting tax practitioners.

6. Probate and Estate Planning Section Liaison. Shirley Kaigler was not present. Eric Nemeth reported that the Probate and Estate Planning Section's seminar brochures will be handed out at the Tax Conference.

7. Report of the State Bar of Michigan Liaison. Roger Young was not present and did not submit a report.

E. OLD BUSINESS.

Gina Torielli reported that she is working on a speaker for the upcoming Past Chairperson's Dinner, to be held on September 8th or 9th.

G. NEW BUSINESS.

Eric Nemeth circulated a Memorandum from the Michigan Tax Tribunal that described the establishment of a Commission. The purpose of the Commission, as stated in the Memorandum is "To review discuss the 1969 task force report that created the Tax Tribunal and propose the best model for tax adjudication at the Tribunal." Eric mentioned that one of the goals of Jack Van Coevering of the Michigan Tax Tribunal is to make the MTT more like a true tax court. The Section has been asked to assist with the funding of the Commission.

The Memorandum indicates that the proposed Commission members would include judges, professors and other legal experts. The Memorandum indicates that potential appointees should not include attorneys who have recently litigated matters before the MTT, or "persons that are regarded as partisan within the SALT (state and local tax) community." Tom Kenny pointed out that practitioners should be included in

makeup of the Commission. He suggested that a retired practitioner with practical experience before the MTT, such as Ben Schwendener, may be an appropriate selection.

Sherill Siebert made a motion for the approval of the funding of up to 2 members of the Commission providing there is satisfactory input in the selection process. This motion was seconded by Tom Kenny. This motion was unanimously approved.

Aaron Sherbin suggested that the Section contact the Real Property Section to determine whether that Section would be willing to contribute towards the funding of members of the Commission.

Another new matter raised by Eric Nemeth was a possible increase in the membership dues. After some discussion it was agreed to keep the dues at their current level.

Eric also mentioned that IRS Chief Counsel head Bob Heitmeyer was receptive to having an IRS Liaison attend Council meetings. Eric will follow up with Mr. Heitmeyer.

Chuck Lax circulated copies of the latest draft of the Policies and Procedures Manual, and asked for comments within the next two weeks. Chuck hopes to have the final draft of the Manual ready for the next meeting. Chuck mentioned that Jess Bahs will complete the section of the Manual regarding the Tax Conference after this year's Conference.

There being no further business, a motion to adjourn was made by Gina Torielli and seconded by Jay Kennedy. After unanimous consent, the meeting was adjourned at 10:30 A.M.

Respectfully submitted,

Jay A. Kennedy
Secretary