

**COUNCIL OF TAXATION SECTION
MINUTES OF REGULAR MEETING
June 5, 2008 (as amended and approved 9/25/08)**

A regular meeting of the Council of the State Bar of Michigan Taxation Section was held on June 5, 2008 at 9:00 AM at the Auburn Hills, Michigan Campus of the Thomas M. Cooley Law School, with simultaneous video link to the Grand Rapids campus. Jay A. Kennedy, Chairperson of the Taxation Section, presided.

COUNCIL MEMBERS PRESENT

Jay A. Kennedy	Marjorie Gell (in Grand Rapids)
Jess A. Bahs	Warren Widmayer
Ronald T. Charlebois	Gina M. Torielli
Wayne Roberts (in Grand Rapids)	John O'Hara
Frederick H. Hoops III	Joan R. Dindoffer

COMMITTEE CHAIRPERSONS PRESENT

Marko Belej, Business Entities
Michael Domanski, International
Douglas Stein, Estates and Trusts

COUNCIL MEMBERS ABSENT

Lynn M. Gandhi
Aaron H. Sherbin
David Walters

COMMITTEE CHAIRPERSON ABSENT

Jeff Freeman, Practice and Procedure
Lisa Zimmer, Employee Benefits
Paul McCord, State & Local

OTHERS PRESENT

Deb Michaelian, Program Facilitator
Mary Hiniker, ICLE
Robert Heitmeyer, IRS Liaison
Lorraine New, Probate Section Liaison
Eric Skinner, IRS Liaison

Council Chairperson, Jay Kennedy, called the meeting to order at 9:00 AM. Associate Dean John Nussbaumer of Cooley welcomed attendees.

A. **MINUTES.**

The minutes of the last meeting of the Council had been previously distributed. The Minutes were accepted by unanimous vote, after the motion of Doug Stein, as seconded by Fred

Hoops.

B. TREASURER'S REPORT AND BUDGET.

Ron Charlebois submitted a Treasurer's report for the period from October 1, 2007 through April 30, 2008. He indicated the financial statements for next meeting will provide a fuller picture of the revenue and expenses for the Summer Tax Conference, although most of the revenue was reflected in the statements presented today. The report indicated cash of \$161,154.90 on hand at the end of period. Jay Kennedy encouraged committee chairs to use their budgets and consider informal meetings of the committee, such as those sponsored by the SALT and International Committees.

A motion to approve the Treasurer's report was made by Jess Bahs, seconded by Warren Widmayer, and unanimously approved.

C. COUNCIL ACTIVITIES.

Jay Kennedy asked for reports and was advised of the following:

1. After Hours Tax Law Series – John O'Hara. John was present and he and Mary Hiniker presented several written reports. They distributed the flyer for the After Hours Tax Series. Mary asked committee chairs to let her know if they want to work with ICLE on web casts of committee meetings. She also indicated that she planned to circulate a sample of the "10 Tips in 10 Minutes" Series prior to the August Officers' Conference Call.

2. 2008 Tax Conference – Frederick H. Hoops, III. Fred was present and made an oral report on the 2008 Tax Conference held May 28th. Feedback from conference participants was positive, especially with respect to the facility. There were 147 registered, along with 26 speakers and 10 or so students. Marko Belej asked if Fred would circulate survey results for the breakout sessions to the committee chairs and Fred agreed. Fifth Third Bank has already committed to sponsor the 2009 conference.

Motion by Jess Bahs, seconded by Warren Widmayer, to pay the non-governmental, national speakers (Ira Shepard, Sam Starr and Jordan Goodman) each a \$1,000 honorarium for their participation at the conference.

3. 2009 Tax Conference – Marjorie Gell. Marjorie was present. The date of the 2009 Annual Conference will be April 29th, at St. John's Conference Center. Margie is considering format changes, including a different breakout format, so attendees can attend multiple sessions. She will explore her ideas with committee chairs and make a recommendation to the Council.

4. Tax Court Luncheon – Warren Widmayer. Warren was present and reported that the next Tax Court luncheon will be held on June 24th in honor of Judge Diana Krupka. The Judge will discuss the new privacy rules and Tax Court nominees. Nothing has been scheduled with respect to the fall docket, but he will report on that at the next Council meeting.

5. Directory – David Walters. David was not present but sent a written report. He and Deb have made contacts and received partial responses to update the Section directory. That work continues, and they should have the directory completed shortly. Jay indicated he would like it done before the end of the year.
6. Michigan Bar Journal Liaison – John O’Hara. John was present and also sent a written report. He plans to insert something on behalf of the Section in every issue of the *Bar Journal*. He is also soliciting articles for, and will coordinate with, the State Bar regarding the December 2009 issue, which is the next tax-themed issue. He asked committee chairs to make announcements at their meetings to solicit articles.
7. Michigan Tax Lawyer – Lynn Gandhi. Lynn was not in attendance and Jay reported that she made a written report that the current issue was set and she is working on the fall 2008 issue.
8. Internet – David Walters. David was not present, but made a written report that there was nothing new to report in this area. Jay will speak to David about updating the tax-related *State Bar Journal* article postings.
9. Federal and State Legislation and Public Policy Liaison – Wayne Roberts. Wayne was present and made an oral report that there was nothing new since the last meeting.
10. Membership Outreach Coordinator – Joan Dindoffer. Joan was present and also submitted a written report. Two awards for Excellence in the Study of Taxation were awarded to students from each of the six Michigan law schools at the Annual Tax Conference. In addition, five Tax Student Writing Awards were awarded to students who published articles in the *Michigan Tax Lawyer* within the past year. The awards were enthusiastically received by the students and endorsed by the faculty of the respective schools. A student from the University of Michigan submitted an article for publication in the *Michigan Tax Lawyer* summer edition. A luncheon is scheduled at the Auburn Hills campus of Cooley Law School on June 5, 2008 following the Tax Council meeting. Invitations have been extended to the six Michigan law schools to have five students each attend the Tax Court Luncheon on June 24, 2008. Neither the U of M or MSU clinics are in session during the summer, so there will be no students assisting at the Tax Court this session.
11. Annual Meeting/Past Chairperson’s Dinner – Warren Widmayer. Warren was present and made an oral report. There isn’t anything new to report. The event will be held on September 25th at the Meadowbrook Country Club. Council will meet at 3pm, followed by the annual meeting, a cash bar and dinner with speaker. Council unanimously approved a nominal gift card honorarium for Tom Hoisington, the outside speaker.
12. Grant Program Joan Dindoffer. Joan was in attendance and submitted a written report. Letters congratulating award recipients were presented to grant recipients at the Annual Tax Court Luncheon. The Legal Aid and Defender Association, Legal Services

of Eastern Michigan, the Michigan Poverty Law Program, the Michigan State University College of Law Low-Income Taxpayer Clinic, and the University of Michigan Law School Low Income Taxpayer Clinic qualify for the Access to Justice Program, and checks will be issued in such a way so that the Taxation Section's grants to those organizations will also qualify for the Access To Justice Fund (ATJ). The Accounting Aid Society and the Baxter Community Clinic grants do not qualify for the ATJ, and checks are being processed separately for those organizations.

D. COMMITTEE ACTIVITIES.

Jay A. Kennedy then asked for reports and was advised of the following:

1. Business Entities – Marko Belej. Marko was present and made an oral report. The breakout session at the Annual Tax Conference went well. There is otherwise nothing new to report.

2. Employee Benefits – Lisa Zimmer. Lisa was not present and she did not submit written report. Warren Widmayer reported on the Employee Benefits Committee meeting held during the Annual Tax Conference. Helen Morrison, Attorney Advisor for the Office of Benefits Tax Counsel of the U.S. Department of Treasury, made an excellent presentation. She came to the IRS after a long career in private practice and she explained her role as compared with the Office of Chief Counsel. She also said there would be no more postponements of the 409A filing requirements.

3. Estates & Trusts – Douglas Stein. Doug was present and he made an oral report. Dennis M. Mitzel did a great job at the Estates and Trusts breakout session at the Annual Tax Conference. Turnout was good under the circumstances.

4. Practice and Procedure - Jeffrey Freeman. Jeff was not present and he previously indicated there was nothing to report. Fred Hoops reported the breakout session for the Practice and Procedure Committee seemed to go well. The speakers had different styles and that was well received.

5. State and Local – Paul V. McCord. Paul was not present, but he submitted a written report. On May 28, 2008 in conjunction with the Taxation Section's Annual Tax Conference, the Committee held a regular meeting. Wayne Roberts of Dykema Gossett's Grand Rapids office provided a quick update on recent Michigan tax developments, cases and legislation. The featured speaker, Jordan Goodman, of Horwood Marcus & Berk, Ltd. of Chicago, gave an outstanding presentation on the unitary business principal. Twenty-two committee members attended the meeting. The Committee has no meetings planned for the summer. Members are asked to save November 5 and 6, 2008, as the date for the second Michigan Tax Conference. This year's conference will be held at the Rock Financial Showplace in Novi. Jay commented that the SALT Committee reception in Lansing was well attended and well done.

6. International Committee – Michael Domanski. Mike was present and gave an oral report. Mike reported on the joint seminar in June with Automation Alley and the

International Law Section on international tax and business issues. About 25 people attended, as well as some law students. The Committee also held a joint session with the Business Entities Committee at the Annual Tax Conference. The Committee's strategy is to tag along with headliners, where practitioners would gather. Plans for the future may include a joint meeting with the Windsor or Ontario bar associations. The International Section of the State Bar would split the sponsorship bill for such an event.

E. PROBATE AND ESTATE PLANNING SECTION LIAISON REPORT.

Lorraine New was present and filed a written report on recent activities of the Probate and Estate Planning Section. The Probate and Estate Planning Section meets monthly on Saturday mornings at the University Club in Lansing; the last meeting was May 17. A major focus of the probate section is the uniform trust code (Mark Harder, Chair; mharder@wnj.com). The Section has finished its review and is preparing to seek endorsements and submission to the Legislature. Probate judges and other groups have some concerns, and the Committee is working to resolve those.

Subcommittees continue to consider the issues of Michigan Durable Power of Attorney Act, (Daniel Marsh, chair) and specialization of probate and estate planning practitioners (Shaheen Imami, chair).

Doug Stein commented that the Rule Against Perpetuities legislation passed last week and were signed into law with immediate effect.

The next meeting of the Probate Section will be June 14 at 8:30 a.m. in Lansing.

F. STATE BAR OF MICHIGAN LIAISON REPORT.

Lambro Niforos was unable to attend and sent no written report.

G. IRS AREA COUNSEL LIAISON REPORT.

Rob Heitmeyer and Eric Skinner were present as IRS Liaison and made oral reports describing the two upcoming Tax Court calendars in Detroit. They indicated they were busy with stimulus check issues. Eric talked about the phishing problems the United States Tax Court has been having with respect to its website. Also the Tax Court is updating its records for practitioners, and many practitioners are not responding to requests for updating information. This is resulting in issues for those practitioners who subsequently file pleading with the Court. He also reported the LMSB division's caseload is increasing as an outgrowth of its expanded programs relating to middle-market business taxpayers. Rob and Eric will participate, along with other Service personnel, in a presentation for the MACPA on preparer penalties.

Several Council members raised issues with IRS service centers that are contacting represented clients directly, without copying or notifying counsel of record. Eric and Rob will follow up on this.

H. PROGRAM FACILITATOR REPORT – DEBORAH L. MICHAELIAN.

Deb indicated that she had nothing to report at the present time.

I. OLD BUSINESS.

1. Michigan Tax Conference. Jay asked Wayne Roberts for an update on the November 5-6th Michigan Tax Conference jointly sponsored by the Section, the MACPA and State Treasury. There was a call regarding topics for this fall's conference. Jay would like Council to consider the Section's role in the conference at its September meeting.
2. e-Newsletter. John O'Hara circulated a prototype of a proposed Section e-Newsletter, based on the one established by the Business Law Section. The cost to produce the e-Newsletter is \$150 per issue and can be started anytime. The Council unanimously agreed to start with a quarterly publication and then see if more frequent publication is warranted.
3. Section Positions on RAB's and Pending Legislation. Jay Kennedy distributed a packet of materials including policies regarding legislation and lobbying from the Section, other sections of the State Bar, the New York Bar Association Tax Section and others. He also distributed the Section's mission statement, bylaws and conflicts of interest policy. In response to a question from Jay, Lorraine New discussed how the Probate Section handles conflicts of interest (members with conflicts abstain from voting). His purpose for this meeting was to inform the Council, which will discuss this issue at its September meeting.

J. NEW BUSINESS.

None.

There being no further business, upon motion by Warren Widmayer, seconded by Gina Torielli and unanimously approved, the meeting was adjourned at approximately 10:55 AM.

Respectfully submitted,

Gina M. Torielli
Secretary