



NEW YORK UNIVERSITY
SCHOOL OF CONTINUING
AND PROFESSIONAL STUDIES

2ND ANNUAL
TAX CONTROVERSY
FORUM



June 18, 2010
The Westin New York
at Times Square
New York, NY

Conference Chairs

Bryan C. Skarlatos, Esq., *partner*,
Kostelanetz & Fink, LLP, New York, NY

N. Jerold Cohen, Esq., *partner*,
Sutherland Asbill & Brennan LLP, Atlanta, GA

DIVISION OF PROGRAMS IN BUSINESS
DEPARTMENT OF ACCOUNTING, TAXATION, AND LEGAL PROGRAMS

2ND ANNUAL TAX CONTROVERSY FORUM

JUNE 18, 2010, THE WESTIN NEW YORK AT TIMES SQUARE

Co-Chairs: Bryan C. Skarlatos, Esq., *partner*, Kostelanetz & Fink, LLP, New York, NY
N. Jerold Cohen, Esq., *partner*, Sutherland Asbill & Brennan LLP, Atlanta, GA

LEARNING OBJECTIVES

New York University School of Continuing and Professional Studies is pleased to present the 2nd Annual Tax Controversy Forum. The NYU Tax Controversy Forum brings together representatives from the government and expert private practitioners to compare perspectives on a broad range of topics involving federal tax audits, appeals, and litigation. Coverage encompasses the entire scope of controversy work, from anticipating and planning for the examination of a return through resolution of all unagreed issues. A panoply of government attorneys and agents discuss current audit and enforcement priorities. Other panelists outline strategies for dealing with new return filing requirements, handling audits, and contesting the assertion of penalties. A distinguished panel of judges reveals what they look for in the courtroom. A panel of expert practitioners analyzes the willfulness requirement in criminal cases.

Enforcement is an essential part of our federal tax system. The Tax Controversy Forum is an opportunity to stay current as well as to exchange ideas and share practice tips, which can contribute to better functioning of the system. Participants qualify for CPE and CLE credits. As a premier educational institution, NYU is committed to providing the highest standard of professional enrichment.

WHO SHOULD ATTEND?

Tax professionals at all levels who prepare for or handle audits, appeals or tax litigation, as well as those involved in planning and transactional work who could benefit from a better understanding of the implications of their work for audit defense.

SCHOOL OF CONTINUING AND PROFESSIONAL STUDIES

Robert S. Lapiner, Ph.D., *dean*

DEPARTMENT OF ACCOUNTING, TAXATION, AND LEGAL PROGRAMS

Kathleen Costello, CMP, *assistant director*

PLANNING COMMITTEE

Planning Committee Chair

Charles P. Rettig, Esq., *partner*, Hochman, Salkin, Rettig, Toscher & Perez, P.C., Beverly Hills, CA

Planning Committee Members

Stuart E. Abrams, Esq., *member*, Frankel & Abrams, New York, NY

David D. Aughtry, Esq., *managing partner*, Chamberlain, Hrdlicka, White, Williams & Martin, Atlanta, GA

Sandra R. Brown, Esq., LL.M., *assistant United States attorney, chief, tax division*, The United States Attorney's Office, Central District of California, Los Angeles, CA

Deborah A. Butler, Esq., *associate chief counsel, procedure and administration, Office of Chief Counsel, Internal Revenue Service*, Washington, DC

Nancy Chassman, Esq., *director, tax controversy*, American International Group, Inc., New York, NY

Caroline D. Ciruolo, Esq., *partner*, Rosenberg Martin Greenberg LLP, Baltimore, MD

Ian M. Comisky, Esq., *partner*, Blank Rome LLP, Philadelphia, PA

Thomas A. Cullinan, Esq., *partner*, Sutherland Asbill & Brennan LLP, Atlanta, GA

Miriam L. Fisher, Esq., *partner*, Morgan, Lewis & Bockius LLP, Washington, DC

Gersham Goldstein, Esq., *Stoel Rives LLP*, Portland, OR

Lawrence M. Hill, Esq., *partner, chair of the tax controversy and litigation group*, Dewey & LeBoeuf LLP, New York, NY

Lawrence S. Horn, Esq., *partner, chair of the business crimes and tax litigation practice groups*, Sills Cummis & Gross P.C., Newark, NJ

Paula M. Junghans, Esq., *partner*, Zuckerman Spaeder LLP, Washington, DC

Sharon Katz-Pearlman, Esq., *national principal-in-charge, tax controversy services*, KPMG LLP, New York, NY

Sidney Kess, CPA, J.D., LL.M., *New York, NY*

Donald L. Korb, Esq., *partner*, Sullivan & Cromwell LLP, Washington, DC

Matthew Magnone, J.D., LL.M., *senior manager, tax controversy and risk management services*, Ernst & Young LLP, New York, NY

Gilda I. Mariani, Esq., *chief, money laundering and tax crimes unit*, New York County District Attorney's Office, New York, NY

Robert E. McKenzie, Esq., *partner*, Arnstein & Lebr LLP, Chicago, IL

Scott D. Michel, Esq., *member*, Caplin & Drysdale, Chartered, Washington, DC

Charles J. Muller, III, Esq., *partner*, Strasburger & Price, LLP, San Antonio, TX

Pamela F. Olson, Esq., *partner*, Skadden, Arps, Slate, Meagher & Flom LLP, Washington, DC

Kathleen M. Pakenham, Esq., *partner*, White & Case LLP, New York, NY

Ellis L. Reemer, Esq., *partner*, DLA Piper LLP (US), New York, NY

Martin A. Schainbaum, Esq., *principal*, Martin A. Schainbaum, P.L.C., San Francisco, CA

Steven R. Toscher, Esq., *partner*, Hochman, Salkin, Rettig, Toscher & Perez, P.C., Beverly Hills, CA

Josh O. Ungerman, Esq., *partner*, Meadows, Collier, Reed, Cousins, Crouch & Ungerman, L.L.P., Dallas, TX

- 7.30 a.m. **Registration and Distribution of Materials
Continental Breakfast**
- 8 a.m. **OPENING REMARKS**
- 8.15 a.m. **IRS AUDIT AND ENFORCEMENT: COMING ATTRACTIONS**
In today's economic and political environment, enforcement of tax laws and collection of taxes are more important than ever. The Internal Revenue Service is focusing on enforcement, and Congress has given them the budget to do so. Hear from senior people in Treasury, LMSB, and SB/SE about their current priorities and programs.
Moderator: Larry A. Campagna, Esq., *shareholder, Chamberlain, Hrdlicka, White, Williams & Martin, Houston, TX*
Bryon Christensen, Esq., *attorney-advisor, Office of Tax Policy, U.S. Department of the Treasury, Washington, DC*
Paul D. DeNard, *deputy commissioner (operations), Large and Mid-Size Business Division, Internal Revenue Service, Washington, DC*
Faris R. Fink, Esq., *deputy commissioner, Small Business/Self-Employed Division, Internal Revenue Service, Washington, DC*
- 9.30 a.m. **REPORTING UNCERTAIN TAX POSITIONS**
The IRS recently issued Announcement 2010-9 stating that it intends to require business taxpayers with more than \$10 million of assets to file a schedule with their tax returns disclosing uncertain tax positions. This is a dramatic shift in the self-assessment system that will require these larger taxpayers to report the weaknesses in their own returns. This panel of expert practitioners discusses issues that will arise from this new requirement.
Moderator: Diana L. Wollman, Esq., *partner, Sullivan & Cromwell LLP, New York, NY*
Eli J. Dicker, Esq., *chief tax counsel, Tax Executives Institute, Inc., Washington, DC*
John Gamino, Esq., CPA, *assistant professor, McCoy College of Business Administration, Texas State University, Dallas, TX*
Deborah M. Nolan, CPA, *partner, Ernst & Young LLP, Washington, DC*
- 10.30 a.m. **Refreshment Break**
- 10.45 a.m. **FOREIGN FINANCIAL ASSETS AND PAYMENTS TO FOREIGN PERSONS: ENFORCEMENT OF REPORTING AND WITHHOLDING OBLIGATIONS**
The IRS is in the midst of an unprecedented crackdown against foreign bank accounts and withholding on payments to foreign persons, which has been made a Tier I issue. Congress has gotten into the act too and has proposed new laws for reporting of foreign financial assets and withholding on payments to foreigners. This session reviews current and proposed rules relating to foreign assets and payments as well as the IRS's recent enforcement efforts.
Moderator: Fred F. Murray, Esq., *executive director, tax, Grant Thornton LLP, Washington, DC*
Peter H. Blessing, Esq., *partner, Shearman & Sterling LLP, New York, NY*
Michael J. Desmond, Esq., *partner, Bingham McCutchen LLP, Washington, DC*
Stuart Mann, *manager, foreign payments, Large and Mid-Size Business Division, Internal Revenue Service, Washington, DC*
Humberto M. Reboredo, Esq., *director, tax, Credit Suisse Securities (USA) LLC, New York, NY*
- 11.45 a.m. **STATE TAX CONSEQUENCES OF SETTLING A FEDERAL TAX CASE**
An assessment of federal income tax generally requires a recomputation of a corporation's state income tax liabilities. This recomputation can involve significant pitfalls and planning opportunities because of differences between federal and state rules and differences among states themselves. This session reviews the issues arising from conflicting rules relating to consolidated returns, allocation of income, statutes of limitations, and structuring an assessment to minimize adverse state tax consequences.
Moderator: Jeffrey S. Blum, Esq., *national leader, multistate tax controversy services, Deloitte Tax LLP, Miami, FL*
Peter L. Faber, Esq., *partner, McDermott Will & Emery LLP, New York, NY*
Jordan H. Mintz, Esq., *vice president and chief tax officer, Kinder Morgan, Inc. Houston, TX*
- 12.30–1.15 p.m. **LUNCHEON**
Buffet lunch served.

- 1.15 p.m. **LUNCHEON KEYNOTE ADDRESS: TAX ADMINISTRATION PRIORITIES FROM THE OFFICE OF CHIEF COUNSEL**
 The Chief Counsel addresses the day's high profile topics in tax administration, including the implementation of return preparer regulations, the proposed new schedule of uncertain tax positions, and Chief Counsel activity arising from recently enacted tax law changes.
William J. Wilkins, Esq., *chief counsel, Internal Revenue Service; assistant general counsel, U.S. Department of the Treasury, Washington, DC*
- 1.45 p.m. **STRAIGHT FROM THE BENCH: HOW TO PREPARE YOUR CASE FOR TAX COURT**
 The key to winning cases is preparation, preparation, and more preparation. Listen as a panel of U.S. Tax Court judges discusses how best to use the Tax Court discovery rules and the stipulation process to prepare and win your case in Tax Court.
Moderator: Christopher S. Rizek, Esq., *member, Caplin & Drysdale, Chartered, Washington, DC*
Mark D. Allison, Esq., *partner, Dewey & LeBoeuf LLP, New York, NY*
Roland Barral, Esq., *area counsel, financial services (LMSB), Office of Chief Counsel, Internal Revenue Service, New York, NY*
James S. Halpern, *judge, United States Tax Court, Washington, DC*
L. Paige Marvel, *judge, United States Tax Court, Washington, DC*
- 2.45 p.m. **Refreshment Break**
- 3 p.m. **ENFORCEMENT AND TAX PRACTITIONERS: A DISCUSSION WITH THE DIRECTOR OF THE OFFICE OF PROFESSIONAL RESPONSIBILITY**
 Tax practitioners play an important role in the determination and collection of the proper amount of tax from taxpayers. Tax practitioners' conduct is regulated by the Office of Professional Responsibility. Hear from the director of the Office of Professional Responsibility about what the office intends to focus on over the coming year and how tax practitioners may be affected.
M. Todd Welty, Esq., *partner, Sonnenschein Nath & Rosenthal LLP, Dallas, TX*
Karen L. Hawkins, Esq., *director, Internal Revenue Service Office of Professional Responsibility, Washington, DC*
- 3.30 p.m. **AVOIDING TAXPAYER PENALTIES: REASONABLE CAUSE AND RELIANCE ON PROFESSIONAL ADVICE**
 The IRS has become more diligent about asserting taxpayer penalties, and several recent cases have addressed taxpayers' ability to avoid penalties by relying on the advice of a professional. This panel of government attorneys and private practitioners reviews the current state of the law regarding the reasonable cause defense and explains when taxpayers may reasonably rely on the advice of a professional for purposes of avoiding penalties.
Moderator: Christopher B. Sterner, Esq., *deputy chief counsel, operations, Office of Chief Counsel, Internal Revenue Service, Washington, DC*
Christopher M. Ferguson, Esq., *associate, Kostelanetz & Fink, LLP, New York, NY*
Robert J. Higgins, Esq., *senior trial attorney, Court of Federal Claims Section, U.S. Department of Justice, Washington, DC*
Barbara T. Kaplan, Esq., *shareholder, Greenberg Traurig, LLP, New York, NY*
- 4.15 p.m. **TRENDS IN CRIMINAL TAX ENFORCEMENT: EXPLORING RECENT INVESTIGATIVE AND TRIAL ISSUES**
 Criminal tax prosecutions have been on the rise. This panel of government prosecutors and defense attorneys discusses some of the recent trends and recurring issues which have arisen in criminal tax enforcement. For example, how will the government prove a defendant willfully failed to report offshore income? Will the defense be successful in excluding key government exhibits? What evidence does the government consider in determining whether to proceed with criminal enforcement? How can you convince the government to not pursue criminal enforcement? These questions and more are answered as trial and investigative strategy from the view of the government and the defense are discussed.
Moderator: Kathryn Keneally, Esq., *partner, Fulbright & Jaworski L.L.P., New York, NY*
Frank Agostino, Esq., *president, Agostino & Associates, P.C., Hackensack, NJ*
Kevin M. Downing, Esq., *senior trial attorney, Tax Division, U.S. Department of Justice, Washington, DC*
Jeffrey A. Neiman, Esq., *assistant United States attorney, United States Attorney's Office, Southern District of Florida, Fort Lauderdale, FL*
- 5.15 p.m. **Conference Concludes**

GENERAL INFORMATION

CONFERENCE FEE

The conference fee of \$495 includes tuition, continental breakfast, lunch, refreshment breaks, and all written materials. If you are a full-time government official, the fee is \$295. You must provide proof of full-time government employment with registration. Full and partial scholarships based on financial need are available as well. To request an application, please call (212) 992-3320, fax (212) 992-3650, or e-mail your request to scps.atl@nyu.edu.

ELECTRONIC REGISTRATION CONFIRMATION

Confirmation of registrations submitted online, by mail, or fax is via e-mail. Please use an individual e-mail address for each registrant. If a confirmation is not received within one week of online registration submission (allow 2–3 weeks for registrations sent by mail/fax), please contact your firm's IT firewall administrator or e-mail scps.atl@nyu.edu to request a duplicate copy.

CONFERENCE LOCATION AND HOTEL ACCOMMODATIONS

The Westin New York at Times Square is located at 270 West 43rd Street, on the corner of Eighth Avenue. Hotel accommodations also are available at The Westin New York, which is easily accessible to Times Square, Broadway theaters, Radio City Music Hall, Carnegie Hall, Rockefeller Center, Central Park, and Fifth Avenue shopping. Single or double occupancy rooms are available at the NYU group rate of \$229 by calling (888) 627-7149 or (212) 201-2700 and referring to the NYU Tax Forum. Book your reservation in advance. Hotel rooms can sell out prior to cut-off date. These rooms will be held as a block, unless exhausted, until May 24, at which time they will be released to the general public.

BADGE AND MATERIAL PICK-UP

The NYU Registration Desk will open and materials will be available beginning at 7.30 a.m. on Friday, June 18.

CANCELLATION AND SUBSTITUTION POLICY

A written request for cancellation must be faxed to (212) 992-3650 or e-mailed to scps.atl@nyu.edu to the attention of: Conference Administration. Requests received by June 4 will receive a 100% tuition refund less a \$100 cancellation fee. Due to financial obligations incurred by NYU, there are no refunds available after June 4. If you cannot attend but would like to send a substitute, please fax written notification to (212) 992-3650 or e-mail scps.atl@nyu.edu no later than June 14.

SPECIAL NEEDS

Any participants having special needs, such as physical or dietary, are encouraged to e-mail scps.atl@nyu.edu or call the Department of Accounting, Taxation, and Legal Programs at (212) 992-3320 at **least two weeks prior** to the conference start date to indicate their particular requirement.

RECORDING DEVICES

The use of tape or digital recorders in meeting rooms is prohibited. Please switch off mobile-phones, e-mail devices, and pagers upon entering the meeting room.

SPONSORSHIP AND EXHIBIT OPPORTUNITIES

For information on becoming a Forum Sponsor or exhibiting at the conference, please contact Kathleen Costello at (212) 992-3320 or kathleen.costello@nyu.edu.

CONTINUING EDUCATION CREDIT

The School of Continuing and Professional Studies at New York University is a recognized leader in professional continuing education. The New York University Division of Programs in Business's Department of Accounting, Taxation, and Legal Programs has been certified by the New York State Continuing Legal Education Board as an Accredited Provider of continuing legal education in the State of New York. This conference meets the educational requirements of many organizations and agencies with mandatory CLE/CPE filing requirements. We urge you to contact our office in advance at **least 30 days prior** to the conference start date at (212) 992-3320 to ensure the availability of credit for a specific MCLE state, as we cannot guarantee that credit will be applied in all cases.

ESTIMATED CONTINUING EDUCATION CREDITS

7.75 based on a 60-minute hour, including 1.75 ethics credits

9.0 based on a 50-minute hour, including 2.0 ethics credits

Except where indicated, CLE credits are in the categories of Professional Practice/Practice Management. CLE boards define a credit hour as either 60 minutes or 50 minutes.

Recommended CPE credits are in the following NASBA Fields of Study: Taxes; Regulatory Ethics. In accordance with the Standards of the National Registry of CPE Sponsors, CPE credits are based on a 50-minute hour. Please note that not all state boards accept half credits.



NASBA

The New York University School of Continuing and Professional Studies Division of Programs in Business's Department of Accounting, Taxation, and Legal Programs is registered with the National Association of State Boards of Accountancy 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. Complaints regarding sponsors may be addressed to NASBA, 150 Fourth Avenue North, Suite 700, Nashville, TN 37219-2417. Web Site: www.nasba.org Program Level: Overview. Delivery Method: Group live. Fields of Study: Taxes; Regulatory Ethics. Prerequisites: No prerequisite. Advanced Preparation: No advanced preparation required.

New York and Texas require sponsors to individually register with their states as continuing professional education sponsors; The New York University School of Continuing and Professional Studies is a registered sponsor in the state of New York (Sponsor ID# 000493) and the State of Texas (Sponsor ID# 000439).



Internal Revenue Service

DEPARTMENT OF THE TREASURY

IRS CONTINUING PROFESSIONAL EDUCATION

The NYU School of Continuing and

Professional Studies is a qualified sponsor (Sponsor #673) of continuing professional education required for individuals enrolled to practice before the Internal Revenue Service (enrolled agents). We have entered into an agreement with the Office of Professional Responsibility, Internal Revenue Service, to meet the requirements of 31 Code of Federal Regulations, Section 10.6(g), covering maintenance of attendance records, retention of program outlines, qualifications of instructors, and length of class hours. This agreement does not constitute an endorsement by the Office of Professional Responsibility as to the quality of the program or its contribution to the professional competence of the enrolled individual.

A certificate of attendance is given to each registrant and validated upon completion.

For questions concerning credit hours or approvals, please call (212) 992-3320.

SPONSORS

New York University thanks the following organizations for their contribution to the enhancement and continued success of the Tax Controversy Forum:

Platinum Sponsor:



Gold Sponsors:



TAX CONTROVERSY FORUM REGISTRATION INSTRUCTIONS

You may photocopy the Registration Form. Please submit a separate form or complete a separate online registration session for each registrant. Registrations will not be processed unless accompanied by a check or credit card information. To ensure the accuracy of your information, it is imperative that you type or print clearly.

ELECTRONIC CONFIRMATION FOR ALL REGISTRATION METHODS

Your e-mail address is your registration ID. Confirmation of registrations submitted online, by mail, or fax will be sent via e-mail to the e-mail address provided to NYU. Please use an individual e-mail address for each registrant.

TO REGISTER ONLINE

By Internet: You may register for the Individual option online using your credit card at www.scps.nyu.edu/taxcontroversy. Please use one of the other registration methods to take advantage of the Full-Time Government Officials discount.

OTHER REGISTRATION OPTIONS

By Mail: To register by mail, fill out the registration form below and return it with a credit card authorization or check payable to New York University, to: Tax Controversy Forum, 25 West 4th Street, Room 203, New York, NY 10012.

By Fax: You may fax your credit card registration to us 24 hours a day at (212) 995-4677.

For further information regarding administrative policies, such as complaints and refunds, or if you need help registering, please call our Conference Administrators at (212) 992-3320.

2ND ANNUAL TAX CONTROVERSY FORUM CONFERENCE REGISTRATION FORM

- Individual Registration for \$495
 Full-Time Government Official Discount Registration for \$295
To qualify: Please enclose identification.

*Print or type clearly. This information will appear on the attendee list and your badge.
(E-mails will not be publicized.)*

Name _____

Firm _____

Address _____

City _____ State _____ Zip Code _____

E-mail* _____

*(*E-mail is required—registration confirmations are sent via e-mail.)*

Business Phone () _____

I am a CPA ATTORNEY EA OTHER

I require CLE CREDIT CPE CREDIT

FOR CLE ONLY: For which state(s) is CLE credit being requested: _____

Payment is enclosed or I authorize you to charge my credit card.

Discover® Card Visa® American Express® MasterCard®

Number _____ Expires / _____

Signature _____ Date / / _____



NEW YORK UNIVERSITY

School of Continuing and Professional Studies
Tax Controversy Forum
11 West 42nd Street, Suite 401B
New York, NY 10036

Nonprofit Org.
U.S. Postage
PAID
New York University

2ND ANNUAL TAX CONTROVERSY FORUM

JUNE 18, 2010

**THE WESTIN NEW YORK AT
TIMES SQUARE, NEW YORK, NY**

LOOK INSIDE FOR...

- **CLE/CPE HOURS**
- **NETWORKING LUNCHEON**
- **LUNCHEON ADDRESS BY
IRS CHIEF COUNSEL
WILLIAM J. WILKINS**

NYU SCPS
SCHOOL OF CONTINUING AND PROFESSIONAL STUDIES

www.scps.nyu.edu/taxcontroversy

Attention Mail Room:

If the individual whose name is on the label is no longer employed, please forward this material to the successor.