

40TH INSTITUTE ON STATE AND LOCAL TAXATION

DECEMBER 13-15, 2021

LOCATION: ONLINE

FINANCE AND LAW PROGRAMS

Monday, December 13th

12:30-12:45pm

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: **John L. Coalson, Jr., Esq.**, *Partner, Alston & Bird, Atlanta, GA*

12:45-1:45pm

SALES & USE 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, sourcing, of cloud computing and other technologies, uniformity challenges after Wayfair and other nexus developments, marketplace facilitator legislative developments and more.

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

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

Grace E. Kyne, Esq., *Senior Manager, EY, Waterford, CT*

1:45-2:45pm

APPORTIONMENT ISSUES AND DEVELOPMENTS

This panel introduces this topic by considering the extent to which the pandemic may have exacerbated historic apportionment issues, including potential factor distortion, unrepresentative factors, alternative apportionment and controversy over the treatment of large gains. The panel then reviews recent statutory, regulatory and case law developments addressing the application of market-based sourcing, along with the sales factor treatment of foreign source income, intangibles and other items.

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

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

Nicole L. Johnson, Esq., *Partner, Blank Rome, New York, NY*

2:45-3:15pm **BREAK**

3:15-4pm

TAXATION OF DIGITAL INFORMATION AND PRODUCTS

An overview of new state taxes on information and advertising focusing on recent Maryland tax.

Kirsten Gulotta, Esq., *Principal, Deloitte Tax, New York, NY*

Michele Borens, Esq., *Partner, Eversheds Sutherland US, Washington, DC*

Shirley K. Sicilian, Esq., *National Director for SALT Controversy, KPMG, Washington, DC*

4-4:45pm

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*

4:45-5:30pm

DAY ONE WRAP UP

Hosted by Eversheds Sutherland US

EVERSHEDS
SUTHERLAND

Tuesday, December 14th

12:30-1:30pm

PRACTICAL WAYS TO AVOID QUI TAM/WHISTLEBLOWER LAWSUITS

This panel provides insights into why businesses should be concerned with Qui Tam lawsuits; how to respond to a complaint to avoid litigation and to come up with a plan to respond to a complaint to avoid litigation.

Alysse McLoughlin, Esq., *Partner, Jones Walker, New York, NY*

Marc A. Simonetti, Esq., *Partner, Pillsbury Winthrop Shaw Pittman, New York, NY*

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

1:30-2:30pm

FEDERAL TAX REFORM'S IMPACT ON STATE TAXATION

The impact of the OECD's global tax reform on state tax policy; recent (TCJA/CARES/ARPA) and proposed (Biden administration) federal tax reform and its impact on state tax policy.

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

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

Benjamin Bacon, Esq., *Partner, PricewaterhouseCoopers, New York, NY*

2:30-3pm **BREAK**

3-3:30pm

DEVELOPMENTS IN NY, NJ AND SURROUNDING AREAS

An overview of the latest developments in NY, NJ and surrounding areas.

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

David J. Gutowski, Esq., *Partner, Reed Smith, Philadelphia, PA*

3:30-4:15pm

LOCAL TAXES

An update on local taxes hosted by Doug Lindholm of COST with Nikki Dobay, Eversheds covering west coast development and Fred Nicely, COST covering Ohio and the east coast. Harley Duncan, KPMG reporting the outlier local taxes for lodging and services.

Douglas L. Lindholm, Esq., *President and Executive Director, Council On State Taxation, Washington, DC*

Nikki E. Dobay, Esq., *Partner, Eversheds Sutherland US, Sacramento, CA*

Fred J. Nicely, Jr., Esq., *Senior Tax Counsel, Council On State Taxation, Wooster, OH*

Harley T. Duncan, *Managing Director, KPMG, Washington, DC*

4:15-5:15pm

ETHICAL CHALLENGES IN THE POST PANDEMIC VIRTUAL AND ACTUAL WORKPLACE

Focus on ethical issues associated with email, video conferencing, and working from home (especially attorney / client privilege issues).

Glenn C. McCoy, Jr., CMI, Esq., *Principal, Client Services, Ryan, New York, NY*

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

Dan De Jong, Esq., *Managing Director, KPMG, Washington, DC*

Wednesday, December 15th

12:30-1:30pm

NOTABLE DEVELOPMENTS AFFECTING THE MULTISTATE INCOME TAXATION OF PASS-THROUGH ENTITIES

Despite the burdens imposed by the pandemic, major legislative, administrative and judicial developments affecting the state taxation of pass-through entities occurred over the past two years. This panel addresses the rise and multistate challenges of the new and surprisingly different state PTE taxes enacted throughout the US to offset the effects of the federal SALT deduction limitation. Likewise, several recent conflicting state court rulings seem to question the method of sourcing the gain from the sale of ownerships interests in PTEs. The panel also provides an update on the significant project the Multistate Tax Commission has undertaken, whose stated goal is to establish uniform principles for the state taxation of partnerships. The presentation includes several other notable legislative enactments, decisions, and rulings.

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

Helen Hecht, Esq., *Uniformity Counsel, Multistate Tax Commission, Albuquerque, NM*

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

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

1:30-2:30pm

INCOME TAX CONSEQUENCES FROM WAYFAIR

This panel explores the impact of Wayfair on income tax nexus standards, addresses constitutional nexus questions that remain unanswered, reviews economic nexus statutes, rules and regulations, and discusses the application of P.L. 86-272 to businesses that engage in activities via the Internet.

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

Jack Trachtenberg, Esq., *Principal, Deloitte Tax, New York, NY*

Matthew P. Hedstrom, Esq., *Partner, Alston & Bird, New York, NY*

Brian A. Hamer, Esq., *Counsel, Multistate Tax Commission, Washington, DC*

2:30-3pm **BREAK**

3-4pm

HOW TO TAX A MOVING TARGET: THE COMPLEXITIES OF A MOBILE WORKFORCE

This panel covers the intricacies of taxation and reporting for a mobile workforce including personal income tax / residency topic/ convenience of the employer/ sales and use tax and property tax issues. Has COVID made remote work a permanent feature of state tax complexity?

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

Donald R. Roveto, CPA, *Partner, Deloitte Tax, New York, NY*

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

4-4:45pm

DAY THREE WRAP UP

Hosted by Deloitte

Deloitte.