

**COUNCIL OF TAXATION SECTION
MINUTES OF REGULAR MEETING
April 19, 2007**

A regular meeting of the Taxation Council of the State Bar of Michigan Taxation Section was held on April 19, 2007 at 9:00 AM at the offices of Jaffe Raitt in Southfield, Michigan. Aaron H. Sherbin, Chairperson of the Taxation Section, presided.

COUNCIL MEMBERS PRESENT

Aaron H. Sherbin	Wayne Roberts
Jay A. Kennedy	Gina M. Torielli
Jess A. Bahs	Alvin L. Storrs
Ronald T. Charlebois	Marjorie Gell
Charles M. Lax	Joan R. Dindoffer
Paul R. Jackson	Frederick H. Hoops III

COMMITTEE CHAIRPERSONS PRESENT

David Walters, Employee Benefits
Douglas Stein, Estates and Trusts
Paul McCord, State & Local
Joseph Pia, Practice and Procedure

COUNCIL MEMBERS ABSENT

Warren Widmayer
Michael Domanski

COMMITTEE CHAIRPERSONS ABSENT

John O'Hara, Business Entities

OTHERS PRESENT

Eric Skinner, IRS Liaison
Deb Michaelian, Program Facilitator
Mary Hiniker, ICLE

Council Chairperson, Aaron H. Sherbin, called the meeting to order at 9:00 AM.

A. **MINUTES.**

The Minutes of the last meeting of the Council had been previously distributed. There

being no changes to the Minutes, the Minutes were accepted by unanimous vote, after the motion of Douglas Stein, as seconded by Wayne Roberts.

B. TREASURER'S REPORT.

Jess A. Bahs submitted a report for the period from October 1, 2006 to April 15, 2007. The report indicated cash of \$168,297 on hand at April 15, 2007. Jess reviewed his report with a comment that the amounts of the actual revenues and expenses for the Tax Conference have yet to be fully reported. Aaron further noted that the Lexis Nexis initial payment to the Section has not been received as yet but is expected any time. Aaron also pointed out the footnote to the Report indicating the inclusion of a prior period printing expense. In other areas of comparison to the budget report, Jess noted that by the end of the final year the reported differences are expected to approach the amounts budgeted. A motion to approve the Treasurer's report was made by Gina M. Torielli, seconded by Frederick H. Hoops, and unanimously approved.

C. COUNCIL ACTIVITIES.

Aaron Sherbin asked for reports and was advised of the following:

1. Continuing Professional Education – After Hours Tax Law Series – Alvin Storrs. Alvin Storrs and Mary Hiniker were both present. They submitted a report on the tentative plans for the 2007-2008 After Hours Tax Law Series. Their report also listed tentative topics under consideration for next year's Series but further input by Council was encouraged. Several members immediately suggested additional ideas and speakers. Reflecting on the success of the webcasts of last year's Tax Law Series, Mary and Al also expressed the possible desire of the Section to webcast certain Committee's meetings of the Section, especially those presentations with noted speakers.

2. 2007 Tax Conference – Warren Widmayer. Warren was not present but submitted a detailed status report on the upcoming Conference. Addressed in that report was the fact that registrations were somewhat lower this year. Warren's report also contained a proposed agenda for the Conference. Aaron stated that a few minor changes needed to be made to the agenda including the addition of Jay Kennedy's presentation on patenting of tax strategies. The report further indicated that the projected expenses of Conference will be under budget since speaker and technology costs are lower. Deb Michaelian requested that all printed materials for the Conference course book need to be submitted now. Finally, Aaron closed the discussion on the 2007 Conference by making an appeal to all Council members to assist in finding additional last minute registrants.

3. 2008 Tax Conference – Frederick H. Hoops, III. Fred was present and indicated that the 2008 Conference was somewhat committed to return to the Plymouth facility but that he has been contacted by a different resort willing to host next year's Conference. Discussions of alternate locations ensued. It was generally agreed that the evaluations from the attendees of this year's Conference may indicate whether location is a significant issue. Fred also mentioned his interest in seeking a fourth major sponsor for the 2008 Conference.

4. Tax Court Luncheon – Joan Dindoffer. Joan submitted a written report summarizing the very successful Tax Court luncheon honoring Judge Vasquez held March 28,

2007 at the Detroit Club. Raising the regular ticket price from \$20 to \$25 was mentioned by Joan and agreed to by Aaron. It was also decided that Joan should proceed with planning for the next Tax Court luncheon in October.

5. Directory and Internet – Gina Torielli. Gina reported that the directory project is completed for 2007. She also confirmed the distribution to all 2007 Section members of the new username and password for the Section’s website. An invitation to all members of the Section to join a Committee was prepared in draft by Gina and distributed to Council for comment. Gina also has reviewed the website to insure only current materials are posted and notified members of the new website features in her quarterly announcement. In a new development, Gina indicated that both the Michigan Tax Tribunal and Michigan Department of Treasury have expressed a desire to post on the website information of interest to members of the Section.

6. Michigan Bar Journal Liaison – Paul R. Jackson. Paul was present and indicated that the May issue of the *MBJ* will include a Tax Brief item highlighting the Section’s website. He also stated that it appears the next proposed Tax Theme Issue for the *MBJ* is tentatively scheduled to be published in December of 2008.

7. Michigan Tax Lawyer – Marjorie B. Gell. Marjorie reported that all articles have been received and she is set with the next publication. She also announced that due to the continued problems with the prior printer, the Section has selected Crest Printing, highly recommended by the State Bar of Michigan and competitively priced, as the new printer for the *MTL* starting with the next edition.

8. Federal and State Legislation and Public Policy Liaison – Wayne Roberts. Wayne and Paul McCord, Chair of the SALT Committee, have been tracking the legislative efforts in Lansing to replace the SBT. Proposals are numerous but changes occur almost daily. Wayne and Paul will continue to monitor all variations of proposed tax reform legislation as the state budget crisis worsens. Paul McCord was surprised at the lack of direction in Lansing at this late date and the inability to forecast what shape the final tax reform legislation will take.

9. Membership Outreach Coordinator – Michael W. Domanski. Michael was not present but did submit a written report. A listing of the law students nominated for Tax Conference scholarships was read by Aaron.

10. Annual Meeting/Past Chairpersons’ Dinner – Paul R. Jackson. Paul was present and indicated that he was looking for a speaker for the annual dinner to be held at Meadowbrook Country Club on September 19, 2007. Paul encouraged anyone with suggestions to contact him. A few suggestions were made for his consideration and he expressed hope to have a speaker secured by the next Tax Council meeting.

11. Grant Program – Jay A. Kennedy. Jay was present and submitted a report of 2007 Grant Committee to Tax Council evidencing the proposed allocations of the 2007 outreach grant funds. Jay provided Tax Council with a brief summary of the goals of the Grant Committee and how each of the proposed recipients was chosen. A motion to approve the Grant Committee’s report was made by Gina, seconded by Ronald T. Charlebois, and unanimously approved (with Council members Alvin L. Storrs and Frederick H. Hoops abstaining).

D. COMMITTEE ACTIVITIES.

Aaron Sherbin first mentioned that nominations are expected to be considered by the Nominating Committee in the following few week for positions on next year's Council and for successors to any outgoing Committee Chairs. Aaron asked for names and ideas as to successors as well as their thoughts and comment on the advisability to add associate/vice chair as a vehicle to create further Committee leadership involvement. Aaron Sherbin then asked for reports and was advised of the following:

1. Business Entities - John M. O'Hara. John was not present but did file a written report regarding the March 7, 2007 meeting at Edward Rose and Sons in which Eric Nemeth discussed increased enforcement efforts by the IRS. John is attempting to have the next meeting for his Committee in July or August with Richard Sobel of Honigman as the guest speaker.

2. Employee Benefits - David B. Walters. David stated that his Committee activities for the rest of the year are the same as submitted in his prior written report to Tax Council.

3. Estates & Trusts – Douglas Stein. In addition to the Committee's activities at this year's Annual Tax Conference session, George Gregory returns to address the Committee on June 4th in a continuation of his presentation on the tax impact of certain real estate transfers.

4. Practice and Procedure - Joseph Pia. Joe reported indicated that on the next Committee meeting would host Neal Nusholtz in either in mid-May or later in June.

5. State and Local – Paul V. McCord. Paul reported that in addition to the Committee activities associated with the Annual Tax Conference, some of his Committee members have been working with proposed revisions to the Tax Tribunal's procedural rules and he is attempting to schedule a presentation later in the summer on the any rule changes promulgated. Wayne Roberts then addressed Council regarding the status the proposed state tax conference to be sponsored by the Taxation Section, MACPA and the Michigan Department Treasury. The conference will be generally based upon the state tax conferences held annually in the State of Ohio. The agenda would be limited to Michigan and interstate taxes. The MACPA expects the format to draw large numbers and have national speakers attend. At the present time the MACPA has assumed the lead in making preliminary arrangements for an initial state tax conference to be held this November. Paul and Wayne indicated that the MACPA has requested that the Taxation Section formally adopt its sponsorship of this the new program. There is no financial or other commitments attached to the sponsorship. Associating the name of the Section with the new program for marketing purposes is primary reason for the request by the MACPA. A motion to approve the sponsorship by this Section for the initial Michigan state tax conference was then made by Wayne Robert, seconded by Paul McCord, and unanimously approved.

E. Probate and Estate Planning Section Liaison Report – Lorraine F. New.

Lorraine was present and presented a written report on recent activities of the Probate and Estate Planning Section. This included a status of the work by that Section regarding possible certification of certain practice areas, negotiation with courts covering uniformity of practice and forms, and continuation of work on the proposed Michigan Trust Code in anticipation of possible legislation.

F. State Bar of Michigan Liaison Report – Lambro Niforos

Lambro was unable to attend but she did file a written report. Her report mentioned that administrative orders have been issued by the State of Michigan to permit e-filing in state courts and that Janet Welch was selected to fill the position of Executive Director of the State Bar of Michigan.

G. IRS Area Counsel Liaison Report – Robert D. Heitmeyer

Rob was not at the meeting but Eric Skinner was present. Rob mentioned recent increases in unagreed audits and appeals were probably due to the unwillingness of the IRS to abate penalties. Audit work has also increased due to inclusion of those business taxpayers who may not have had any recent IRS oversight (i.e. no prior audits).

H. Program Facilitator Report – Deborah L. Michaelian.

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

J. OLD BUSINESS.

1. Patenting of Tax Strategies. Jay Kenney distributed a proposed letter from the Taxation Section addressed to Senators Obama, Levin and Coleman noting the Section's opposition to the patenting of tax strategies. The opposition is focused on both exempting tax advice as a subject that may be covered in a patent and eliminating remedies for any breach. Both Jay and Doug Stein reviewed the language of the proposed letter which was carefully drafted to avoid any implied endorsement to the Stop Tax Haven Act provisions since the Act is not limited solely to the anti-patenting language the Council supports. Nothing in the proposed letter is intended to deal with any other issues or endorsing any pending litigation in this area. A motion to approve the issuance by this Section of the proposed letter was then made by Paul Jackson, seconded by Alvin Storrs, and unanimously approved.

K. NEW BUSINESS.

1. Michigan Tax Lawyer. Gina raised an issue with Marjorie concerning language in the policy manual allowing for paid advertising in the *MTL*. No known paid advertising has ever been accepted by the *MTL*. The desirability of the *MTL* to accept any paid advertising was then discussed with the conclusion that the policy manual should be re-evaluated and the language regarding paid advertising to maintain the scholarly appear of the

publication. Aaron indicated that the paid advertising language in the manual should be addressed following a further review.

There being no further business, and after motion, second, and unanimous consent, the meeting was adjourned at approximately 11:15 AM.

Respectfully submitted,

Ronald T. Charlebois
Secretary