

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

**June 4, 2009**

A regular meeting of the Council of the State Bar of Michigan Taxation Section was held on June 4, 2009 at 3:00 PM at the Thomas M. Cooley Law School Auburn Hills, Michigan campus. Jess A. Bahs, Chairperson of the Taxation Section, presided.

**COUNCIL MEMBERS PRESENT**

Jess A. Bahs	Ronald T. Charlebois
Warren J. Widmayer (3:15)	Jay A. Kennedy
Gina M. Torielli	Jack Van Coevering (by videophone)
John M. O'Hara	Marjorie B. Gell (by videophone)
David B. Walters	Frederick H. Hoops, III (by videophone)
Paul V. McCord	Wayne Roberts (by videophone)

**COMMITTEE CHAIRPERSONS PRESENT**

Marko Belej, Business Entities  
George V. Cassar, Estates and Trusts  
James Mauro, Practice and Procedure

**COUNCIL MEMBERS ABSENT**

Lynn M. Gandhi  
Michael W. Domanski

**COMMITTEE CHAIRPERSON ABSENT**

Lisa Zimmer, Employee Benefits  
Marla S. Carew, State and Local

**OTHERS PRESENT**

Eric Skinner, IRS Area Counsel Liaison  
Mary Hiniker, ICLE  
Jeff Kirkey, ICLE  
Deb Michaelian, Program Facilitator

Council Chairperson, Jess A. Bahs, called the meeting to order at approximately 3:06 PM.

A. APPROVAL OF MINUTES

Jess A. Bahs noted that Mr. Widmayer was expected to attend but had not yet arrived and therefore postponed the first agenda item, consideration of the minutes of the April 2, 2009 meeting, until later in the agenda, and moved directly to the Treasurer's Report.

B. TREASURER'S REPORT

Gina M. Torielli presented the Treasurer's report, which was current through April 30, 2009.

Gina noted that overall revenue at this point is around \$6,000 less than budgeted and most, if not all, revenue for the year has been received. A significant portion of this is the \$3,230 shortfall in budgeted revenue from the Annual Tax Conference. She noted that the expenses for the Tax Conference were approximately \$4,000 less than budgeted, and the overall budgeted deficit (or subsidy) for the Tax Conference of \$7,000 actually came in at around \$6,000, so overall, the Tax Conference had a net cost of less than the budgeted amount.

Expenses to date are significantly less than budgeted. Committee expenses are significantly lower than the budget allows.

George Cassar moved that the Treasurer's report be accepted as presented. John O'Hara seconded the motion, and it was unanimously approved.

C. COUNCIL ACTIVITIES.

Jess A. Bahs asked for reports and was advised of the following:

1. Continuing Professional Education – Mary Hiniker and Jeff Kirkey

Jeff Kirkey reported that there is a high degree of interest in programs relating to coping with the economic downturn. ICLE tries to react quickly to recent developments and has already scheduled a program on Michigan's new foreclosure relief statute that became law two weeks ago, and over 200 practitioners have signed up to attend this program.

Mary Hiniker reported that the 2009-2010 After Hours Tax Law Series program schedule is set and that speakers are still being identified. The schedule is as follows:

- How Economic Stimulus and Other 2009 Legislation Impacts Your Tax Clients
- Winning Strategies for Handling Property Tax Appeals and Dealing with Current Real Estate Tax Issues
- Answering Your Clients' Michigan Business Tax Questions
- Hot Topics in Estate and Gift Tax

Mary said the series flyer first mailing will occur in July.

2. After-Hours Tax Law Seminars – Paul V. McCord. Paul had nothing to add to Mary's report.

3. a. 2009 Tax Conference – Marjorie B. Gell.

Marjorie Gell reported that overall feedback was positive on the speakers and mix of topics, the facility, luncheon and refreshments. Feedback was generally positive for all aspects of the conference.

Marjorie reported that final attendance was almost the same as the last two years, 140 paid registrants, which was better than expected considering the economic downturn and cutbacks made by many law firms in continuing legal education budgets.

Council commended Marjorie Gell on the success of the 2009 Annual Tax Conference.

b. 2010 Tax Conference – John M. O’Hara

John O’Hara reported that he has the evaluations from 2009 Conference attendees to take into account for the 2010 conference. Based on his investigation to date, Rock Financial Center is still the front-runner for the conference location in 2010. He noted that the projected expense for food is approximately \$2,000 higher than at St. John’s, but he is hoping that lower expenses in other parts of the conference budget will offset this increase such that the budget will be similar in 2010 to the actual expenses in 2009.

Discussion then turned to the final decision regarding whether to hire ICLE to assist with the 2010 Annual Tax Conference. Jeff Kirkey of ICLE expressed ICLE’s excitement at the possibility of involvement with the conference, since it will build more depth in ICLE’s tax education experience, which they feel currently is not at as high a level as ICLE’s service to other segments of the bar. He noted that ICLE will benefit by developing contacts with Taxation Section members who can be speakers in other ICLE programs, and obtaining materials from the conference to share with subscribing ICLE Partners.

Jeff noted that the advantages to the Taxation Section include allowing the Section to focus on program content. He noted that ICLE can relieve the Section of the burdens associated with all other logistics and marketing. ICLE has relationships with national speakers and is skilled in materials coordination and printing supervision. He emphasized ICLE’s in-house marketing staff expertise, which he believes will increase attendance significantly. He noted that when ICLE took on a similar role relating to the Intellectual Property Law Section, attendance doubled.

Jay Kennedy confirmed with Jeff that ICLE will wait 6 months before posting the conference materials on the ICLE Partner web site.

In response to concerns expressed by Council members regarding maintaining the Section’s identity as the most prominent sponsor of the conference, Jeff circulated copies of the marketing materials for the Litigation Section Conference, showing the section’s sponsorship as most prominent.

After additional questions and answers, Jeff Kirkey and Mary Hiniker were asked to step outside of the meeting room while the Council discussed the pending proposal.

The discussion focused primarily on timing issues relating to ICLE's involvement, and the fact that ICLE would bring a level of discipline and professional support to the conference coordinator that should help make what has been a very successful conference even more successful. Council members reiterated that it is very important that the Section continue to "own" the conference and control the quality of programming, as it is one of the most important services offered to the Section members.

After further discussion, a motion by Ronald Charlebois, seconded by John O'Hara to authorize execution of the proposed contract with ICLE for 2010 Annual Tax Conference planning, marketing and administrative support at a cost of \$6,000 was approved unanimously.

4. Minutes of April 2, 2009 Meeting

At this point, Jess Bahs asked for consideration of the minutes of the April 2, 2009 meeting, which had previously been postponed. After review and discussion, a motion by Gina Torielli, seconded by Ronald Charlebois to accept the minutes as submitted was approved.

5. Tax Court Luncheon – Jack Van Coevering

Jack Van Coevering stated that the next Tax Court calendar is scheduled for the week of October 19, 2009 and the next Tax Court Luncheon is expected to be held Tuesday, October 20 at the Book Cadillac Hotel in Detroit, with Judge Paris as the guest.

6. Directory and Internet – Frederick H. Hoops, III

Frederick H. Hoops reported that a few updates had been made to the directory but otherwise there was nothing new to report on the directory.

He then noted that the web site is getting out of date. He was particularly concerned about the calendar not reflecting the date of the Annual Meeting and the grant program application filing deadlines. Jess Bahs suggested that Fred communicate with Deb Michaelian regarding updating the calendar.

7. Michigan Bar Journal Liaison – Paul V. McCord

Paul reported that he had commitments for four articles for the upcoming December, 2009 Tax Issue of the Michigan Bar Journal. One article from Jay Kennedy and another article from Marla Carew and Jack Van Coevering are in editing now, and the other two articles are on track for meeting the deadline.

8. Michigan Tax Lawyer – Lynn M. Gandhi

Lynn Gandhi was absent but reported that the next edition of the Michigan Tax Lawyer is ready in all respects except missing committee reports. Jack Van Coevering agreed to get Lynn the date of the next Tax Court Luncheon.

9. Federal and State Legislation and Public Policy Liaison – Wayne Roberts

Wayne Roberts reported on the status of the Offer in Compromise legislation, HB 4555, recently introduced by Representative Green's office. The fact that it was introduced by a single Republican member may slow it down. Jess Bahs met with one representative to discuss the bill and Wayne will follow up. Wayne also is hoping to speak with the chair of the Tax Committee regarding this bill. Wayne has asked the MACPA for formal support and MACPA is reviewing the bill but seems unwilling to aggressively support the bill right now. Gina Torielli asked if anyone in Treasury has taken a position. Wayne reported that they have not done so yet. He is hoping that the fact that Michigan is in a minority of states without such legislation may help obtain support from the Treasury Department.

Gina Torielli noted that she has been asked to participate on the Business Tax Advisory Group representing “tax academia” and that she will be arguing for support of this bill in that role.

Wayne next mentioned the Tax Tribunal reform effort and Jess Bahs noted that this would be discussed under New Business.

10. Membership Outreach Coordinator – David Walters

David Walters reported that his efforts to schedule outreach sessions with law schools had not been successful. Jess asked Dave to get two outreach dates set for the fall, one with Wayne State University and one with University of Detroit Mercy School of Law.

11. Annual Meeting/Past Chairperson’s Dinner – Jack Van Coevering

Jack Van Coevering reported that the Annual Meeting date has been set for Thursday, September 17, 2009 at the Hyatt Regency in Dearborn in conjunction with the State Bar Annual Meeting. Dinner will be held on-site. The Taxation Section Council will meet at 3 p.m. and the Annual Meeting will be held at 5 pm, with cocktails and dinner afterward. Jack is still looking for a speaker and was considering a female sports coach from University of Michigan or Michigan State University.

12. Grant Program – David Walters

David Walters reported that all of the grants to low income taxpayer assistance clinics were paid out in accordance with the motion adopted at the previous Council meeting. He noted that the \$2,000 contingent grant to Legal Services of Eastern Michigan was not awarded because they failed to meet the deadline for submission, so it was awarded instead to the Accounting Aid Society.

D. PROBATE AND ESTATE PLANNING SECTION LIAISON REPORT .

Lorraine New was not present but submitted a written report regarding the status of the Michigan Trust Code legislation which was bogged down in legislative maneuvers, but still expected to pass.

E. STATE BAR OF MICHIGAN LIAISON REPORT

No report was submitted.

F. IRS AREA COUNSEL LIAISON REPORT

Eric Skinner reported in Robert Heitmeyer's absence. He reported on the most recent Tax Court calendar with Judge Chiechi. He then noted that the IRS Office of Chief Counsel is hiring 116 new attorneys this year and 140 next year, which is the biggest increase in staff in recent memory.

G. PROGRAM FACILITATOR REPORT

Deb Michaelian was present and indicated she had nothing to report.

H. COMMITTEE ACTIVITIES

Jess A. Bahs then asked for Committee reports and was advised of the following:

1. Business Entities – Marko Belej.

Marko Belej reported that he received mixed reviews on his committee's breakout session at the Annual Tax Conference, and noted that there was low turnout.

2. Employee Benefits – Lisa Zimmer.

Lisa Zimmer was absent but filed a report noting that she is trying to plan a joint meeting with the American Society of Pension Professionals and Actuaries and the Michigan Employee Benefits Council.

3. Estates & Trusts – George Cassar.

George Cassar reported that the Tax Conference breakout session had the largest attendance of any Estates and Trust Committee meeting in memory, which he attributed to the speaker, Jeffrey Pennell, who was very well received. George is trying to plan a committee meeting for June 23, with details to be announced.

4. Practice and Procedure – James Mauro.

James Mauro reported that his committee had an outstanding breakout session with 20 to 30 people in attendance and very favorable feedback. He suggested that the competition between breakout sessions might be causing some problems

for attendees who want to attend more than one breakout session, and suggested considering splitting the breakouts so there are fewer choices and more opportunities to attend more than one session.

5. State and Local – Marla S. Carew.

Marla Carew was absent but filed a report. She stated that the SALT Committee had a successful joint meeting with the MACPA SALT Task Force, drawing a combined group of more than 60 to listen to representatives from the State Tax Commission and the Michigan Tax Tribunal. She also reported that the Second Annual Meet and Greet with governmental representatives of the Treasury Department and Attorney General's Office is scheduled for June 11 at Honigman's offices.

6. International Law – Michael Domanski.

Michael Domanski was absent but reported by email that he is currently working on planning a couple of events for the fall, one involving IRS enforcement in the international area and a second on the Obama administration's international tax reform proposals.

I. OLD BUSINESS.

1. Index of Articles on Website

Gina M. Torielli reported that a Thomas M. Cooley Law School student has been identified to work on this project and Marjorie Gell will be working with the student to develop the index.

2. Task Force for State Transfer Tax Amendment

No new developments have occurred on this initiative.

J. NEW BUSINESS.

1. Tax Tribunal Draft Bill

Jess Bahs stated that the Taxation section has been invited to participate in the drafting of legislation to reform the Michigan Tax Tribunal. Jack Van Coevering prepared a discussion draft focusing on the need for members of the Tax Tribunal to have experience and understanding of the tax laws over which the Tax Tribunal has jurisdiction, as the primary complaints of practitioners and taxpayers relate to the backlog and inability to rely on clearly reasoned decisions with good precedential value. This draft was circulated to the Council, and additional revised drafts will also be circulated to Council for review and comment. His initial draft proposes that all members of the tribunal be attorneys with experience or demonstrated knowledge of the tax laws within the Tax Tribunal's jurisdiction.

Paul McCord pointed out that the American Bar Association has a model tax tribunal law.

Considerable discussion followed regarding the State of Michigan position that the Tax Tribunal be self-supporting through its fee structure and the terrible backlog in cases at the Tax Tribunal. The consensus was that some reform is overdue and the Taxation Section should be involved in helping to guide the legislature in any attempt to shape policy regarding this effort.

Wayne Roberts expressed support for the effort and noted that Jack's draft was a good start. Jess Bahs asked that Council members watch for email updates on this effort and review and comment on future drafts of the proposed legislation and the Taxation Section's policy position on this issue.

There being no further business, upon motion by Ronald Charlebois, seconded by Warren Widmayer and unanimously approved, the meeting was adjourned at approximately 5:08 P.M.

Respectfully submitted,

Warren J. Widmayer  
Secretary