

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

A regular meeting of the Taxation Council of the State Bar of Michigan Taxation Section was held on June 26, 2004 at 7:30 a.m. The meeting was held at the Soaring Eagle Casino & Resort, Anishnabeg Room, Mt. Pleasant, Michigan. Sherill Siebert, Chairperson of the Tax Section, presided:

COUNCIL MEMBERS PRESENT

Jess A. Bahs
Anthony J. Caputo
Ronald T. Charlebois
Eric N. Nemeth

Aaron H. Sherbin
Charles M. Lax
Jay A. Kennedy
Henry P. Lee

Jeffrey A. DeVree
Joan R. Dindoffer
Sherill Siebert

COMMITTEE CHAIRPERSONS PRESENT

George H. Runstadler, III, Estates & Trusts
James F. Mauro, Practice & Procedure
John M. Neberle, State & Local
Warren J. Widmayer, Employee Benefits

COUNCIL MEMBERS ABSENT

Thomas J. Kenny
Trevor T. Wetherington

COMMITTEE CHAIRPERSONS ABSENT

Eric T. Carver, Business Entities

OTHERS PRESENT

Edward M. Deron, Ex-Officio, Past Council Chairperson
George Gregory, Past Council Chairperson
Jan M. Baggett, Program Facilitator
Deborah L. Michaelian
Shirley Kaigler, Probate & Estate Planning Section Liaison
Sebastian V. Grassi, Jr., Taxation Section Member
Gina Torielli, Thomas M. Cooley Law School

The meeting was called to order at 7:30 a.m., by Council Chairperson, Sherill Siebert.

A. MINUTES.

The minutes of the last meeting of the Council had been previously distributed. Various comments were received pertaining to those minutes. The comments have been incorporated therein. There being no other comments, on motion duly made by Henry Lee and seconded by Anthony Caputo to accept the minutes, the motion was unanimously carried.

B. TREASURER'S REPORT.

Charles Lax submitted financial information to the Council and reported generally on the income and expenses of the Section.

C. COUNCIL ACTIVITIES.

Sherill Siebert asked for reports and was advised of the following:

1. After Hours Tax Law Series. Trevor Wetherington was not present and did not submit a report.

2. Summer Tax Conference.

Henry Lee, Chairperson of the 2004 Summer Tax Conference, reported that he was happy overall with the conference; although he would have liked better attendance. He estimated that there were approximately 84 people in attendance at this year's conference. Henry then asked for feedback from the Council regarding the conference.

Jess Bahs reported that there has been no commitment about a summer tax conference for 2005. The Council has reservations to hold the conference either at Soaring Eagle Resort again or at Crystal Mountain. Jess also indicated that he will be having a planning meeting soon about whether or not the Council will go forward with a summer tax conference next year. Sherill Siebert indicated that the Council will explore with ICLE about alternatives to a summer tax conference and come back to the Council with recommendations. Eric Nemeth, Jess Bahs, Lynn Chard of ICLE, Mary Hiniker of ICLE and Sherill Siebert will be meeting. Sherill did point out that ICLE felt that the summer tax conference would not work because the Tax Section is fragmented with so many various sub-tax specialties.

3. Tax Court Luncheon. Ronald Charlebois reported that Tax Court Judge Diane L. Kroupa has acknowledged through her assistant that she will attend a luncheon in her honor sponsored by the Tax Section on November 30, 2004 (for the

calendar that starts November 29th). In accordance with past practices, notices as to this luncheon will be sent as soon as the arrangements are finalized.

4. Directory. Trevor Wetherington was not present and did not submit a report. A discussion ensued about the Section's mailing list and Sherill Siebert indicated that she had complained to the State Bar of Michigan about our list and that the State Bar promised that they would correct the problem and give us access to the mailing lists.

5. Michigan Bar Journal. Ronald Charlebois reported that the four authors who have each agreed to write a tax article for the November 2004 tax theme issue of the Bar Journal are as follows: (1) Michel Halloran, Director of Tax Clinic, Michigan State University College of Law; (2) Robin Ferriby, Vice President, Donors Relations, Community Foundation for Southeastern Michigan; (3) Joni Lawson, Tax Faculty, LLM Program, Cooley Law School; and (4) Henry Lee. Ronald has been in contact with each of these authors and provided each of them with a copy of the published guidelines for the articles and informed them of the August 15th deadline for submission. As of this date, only Joni Lawson has submitted her article for review. The other authors have been advised to also submit their article earlier if at all possible. Follow-up will take place from time to time to encourage compliance.

6. Michigan Tax Lawyer. Jay Kennedy reported that the deadline for the next Michigan Tax Lawyer is August 15, 2004. He requested that all reports and articles be submitted to him on or before the deadline. Jay also indicated that he will be meeting with Tom Kenny to put this next edition together and transition the Michigan Tax Lawyer duties over to Tom Kenny. Jay finally reported that the next edition will include a short article written by a law student.

7. Internet. Jeffrey DeVree reported that the website is up and running and updated except for the Section's calendar. He encouraged committee chairs and Council members to submit dates of events and meetings on a timely basis so that he could keep the calendar of events on the website current. He also reported that the list serve is up and running and that 400 to 500 people initially registered for the list serve and he is getting about 2 to 3 additional subscribers every day. Thereafter, a discussion ensued regarding the experiences people were having with the list serve (both good and bad).

8. Federal and State Tax Legislation. Anthony Caputo indicated that there was nothing to report.

9. Public Policy Liaison. Anthony Caputo indicated that there was nothing to report.

10. Membership Outreach. Joan R. Dindoffer reported that a student article would be part of the upcoming Michigan Tax Lawyer. She also indicated that a student from U of D Mercy Law School had committed to preparing an article for the next edition

of the Michigan Tax Lawyer. Joan indicated that seven law students had taken advantage of the Section's scholarship offer to attend the summer tax conference and were in attendance at the conference. Finally, she reported that she will be meeting with the Dean of Ava Marie Law School to get their law students involved in our Section.

D. COMMITTEE REPORTS.

1. Business Entities. Eric T. Carver was not present and did not submit a report.

2. Employee Benefits. Warren J. Widmayer reported that the committee recently had a meeting in May and that the committee's next meeting would be held in July discussing ESOP Issues. Warren also indicated that the committee would be having an IRS Exam Summit with the Detroit IRS Office in September. Finally, Warren reported that the committee's meeting featuring Paul Schultz has been moved to November.

3. Estates & Trusts. George Runstadler reported that the committee recently had a meeting addressing the decoupling of the estate tax. He reported that the Michigan legislature had rejected the decoupling concept. George also reported that he is working on setting up two future meetings. One would focus on the revisions to the Principal and Income Act and the regulations recently promulgated under Subchapter J of the Internal Revenue Code. The second meeting would deal with issues of creditor protection, tenants by the entirety and the recent Craft case.

4. Practice & Procedure. James Mauro reported that the committee recently had a meeting jointly with the state and local tax committee via video teleconferencing with the cooperation of the law firm of Dickinson & Wright. Jim indicated that the meeting was well attended and that the video conferencing worked well. He also reported that on Wednesday, August 4, 2004, from 3:30 to 5:00 p.m., his committee will be having a joint meeting with the state and local tax committee to discuss the rules and court procedures of the Michigan Tax Tribunal. Jack VanCovering from the Michigan Tax Tribunal will be the featured speaker.

5. State & Local. John Neberle reported that he had nothing to add other than what James Mauro had reported in his report.

6. Probate and Estate Planning Liaison. Shirley Kaigler reported that she did not attend the last meeting of the Probate and Estate Planning Section but did discuss the meeting with George Gregory. She indicated that the Probate and Estate Planning Section has decided to prepare an amicus brief in connection with an attorney malpractice case being brought by beneficiaries of a trust against the attorney who had drafted the estate planning documents. Shirley indicated that the Probate and Estate Planning Section wants to emphasis in their brief that estate planning is not just driven by tax considerations and that there are other issues involved. Sebastian Grassi then discussed at length the case and its possible ramifications to tax practitioners. A

general discussion then ensued among the members present as to whether or not the Tax Section should file a brief or join in with the Probate and Estate Planning Section's brief. It was decided that the Tax Section should review the Probate and Estate Planning Section brief and consider signing-on to the concept that tax is not the only thing to consider when planning. After which, Anthony Caputo made a motion to have the Tax Section review the brief and support it, if the brief was acceptable. The motion was seconded by Henry Lee and unanimously approved. Finally, Sebastian Grassi indicated that ICLE is interested in possibly establishing a Family Owned Business Institute which would be a collaborative effort of the Business Law Section, the Taxation Section and the Probate and Estate Planning Section.

7. State Bar of Michigan Liaison Report. Roger Young was not present and did not submit a report.

E. OLD BUSINESS. Eric Nemeth indicated that the Tax Section should make sure that it recruits different speakers to speak at the Tax Section's sponsored seminars, conferences and events. He felt the Section should not appear to be endorsing any person or firm. Seminars, conferences and events should have different speakers and give equal time.

F. NEW BUSINESS. Sherill Siebert indicated that the Section received a dues notice for \$250.00 from the National Association of State Bar Tax Sections which the Section would be paying. She also indicated that there will be an IRS Fall Practitioner Forum Planning meeting via conference call on Tuesday, June 29, 2004. Eric Nemeth and James Mauro agreed to participate in that conference call.

Respectfully submitted,
Aaron H. Sherbin
Secretary