

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

A regular meeting of the Tax Council of the State Bar of Michigan-Taxation Section was held on Tuesday, October 14, 2003, at 8:00 A.M. The meeting was held at The Sheraton Detroit Novi Hotel in Novi, Michigan. Sherill Siebert, Chairperson of the Tax Section, presided:

COUNCIL MEMBERS PRESENT

Jess A. Bahs
Charles M. Lax
Ronald T. Charlebois
Trevor T. Wetherington

Aaron H. Sherbin
Joan R. Dindoffer
Jay A. Kennedy
Eric N. Nemeth

Anthony J. Caputo
Sherill Siebert
Henry P. Lee

COMMITTEE CHAIRPERSONS PRESENT

Eric T. Carver, Business Entities
James F. Mauro, Practice & Procedure
John M. Neberle, State & Local
Warren J. Widmayer, Employee Benefits

COUNCIL MEMBERS ABSENT

Thomas J. Kenny
Jeffrey DeVree

COMMITTEE CHAIRPERSON ABSENT

George H. Runstandler, III, Estates and Trusts

OTHERS PRESENT

Jan M. Baggett, Program Facilitator

The meeting was called to order at 9:00 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 Anthony J. Caputo and seconded by Joan R. Dindoffer to accept the minutes, the motion was unanimously carried.

B. ORIENTATION.

Sherill asked everyone present to introduce themselves and indicate their Council duties. Sherill provided a brief orientation and indicated that Jan Baggett would later be handing out a Policy and Procedure Manual to new members, and a Council organizational chart and roster to everyone. She also handed out a list of the upcoming 2003-2004 Tax Council Meetings. Sherill pointed out that the January meeting would be an "in-person" meeting at the offices of Raymond and Prokop rather than a teleconference meeting. Henry Lee pointed out that the scheduled January meeting conflicted with the Heckler Estate Planning Conference. In light of that, Sherill indicated that she would consider rescheduling the meeting. Sherill next pointed out that there would be a change to our annual meeting. She reminded everyone that our bylaws were amended so that we did not have to have our annual meeting in conjunction with the State Bar Meeting. As a result, it was decided that the Taxation Section's annual meeting would be held in conjunction with the Past Presidents' Dinner and that we would try to get a speaker for that meeting to attract more people. Finally, Sherill advised everyone that the Taxation Section letterhead would be in the form of an electronic template as opposed to preprinted stationary as we have used in the past. She instructed everyone to first print out the letterhead then send that printed letterhead through your printer again as opposed to trying to type on to the electronic template directly.

C. TREASURER'S REPORT.

Prior to the meeting, the Treasurer's report (as of September 29, 2003), a Summary of Activity (Section vouchers only) for the period August 31, 2003, and last year's budget (ending September 29, 2003) were distributed via email to Council members and chairpersons. Eric Nemeth reported that he was unable to do a year end reconciliation since he had not received financial information from the State Bar of Michigan. Eric instructed everyone that any future vouchers should be sent to Chuck Lax, this year's Treasurer. Eric Nemeth generally reported that the Taxation Section's cash flow was good and that expenses were down even with the \$2,500 grant to the MSU - DCL Tax Clinic.

Chuck Lax, this year's Treasurer, circulated a proposed budget and indicated that this was a revised budget from the budget that was circulated at the last Council meeting. Chuck stated that there are substantial funds available and that the Section should spend funds for worthwhile expenditures. Chuck pointed out two additional items to the budget. First, an outreach category was created with a proposed expenditure for the year of \$5,000. These funds would be used by the Section to engage in meaningful outreach programs. Second, the annual meeting and tax conference were combined and the proposed expenditures for both increased to \$3,200. Sherill pointed out that the budget is designed to spend funds to expand and enhance outreach programs. After a general discussion of the budget, on a motion duly made by Henry Lee and seconded by Ronald Charlebois to approve and adopt the budget, the motion was unanimously carried.

D. COUNCIL ACTIVITIES.

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

1. After Hours Tax Law Series. Trevor T. Wetherington reported that the next After Hours Program is scheduled for November 18, 2003 and is entitled "Tax Aspects of Buying or Selling a Business." Trevor also reported that he continues to work with Shirley Kaigler on transitioning of After Hours Tax Law Series to him.

2. Summer Tax Conference. Henry P. Lee, Chairperson of the 2004 Summer Tax Conference, passed out a report and reported that this year's program will be held at the Soaring Eagle Resort on June 25 and June 26, 2004. Henry stated that he had secured two sponsors and possibly a third. He suggested we may want to increase the sponsorship fee from \$5,000 and ask for sponsors to have a greater role at future conferences. Henry passed out a draft of a case study on estate planning (which he proposes be used at the conference). Ronald Charlebois suggested we put a "save the date" in the Michigan Tax Lawyer which could include sponsors. Jess A. Bahs, Chairperson of the 2005 Summer Tax Conference, had no report.

3. Tax Court Luncheon. Ronald T. Charlebois reported that the Tax Court luncheon held September 30, 2003 at the Detroit Club had 19 people in attendance. Judge Swift and Judge Holmes of the Tax Court were speakers at the event. Eric Nemeth stated that the next Tax Court calendar was scheduled for March 8th and that a luncheon should be considered for March 9th.

4. Directory. Trevor Wetherington reported that he has been having a difficult time opening the directory electronically because it needs to be converted to a text file. He indicated that he had been talking to the Avanti Group about converting the file and they quoted him a fee of \$500.00. Trevor indicated that he needs "Page Maker" in order to convert to a text file. Sherill indicated that she may have "Page Maker" and I.S. support to help Trevor with the conversion. If that can be done, Trevor indicated

that it would take two to three weeks to edit the file. There was a general discussion that since the budget provides for Trevor to incur costs with respect to the directory, no motion would be necessary authorizing him to incur costs towards creating a directory electronically.

5. Michigan Bar Journal. Ronald T. Charlebois reported that the October 2004 issue of the State Bar Journal is designated as the tax issue. Three to four articles would be needed for the Journal. Ronald indicated that the State Bar of Michigan has issued new editorial guidelines and formats for articles which are submitted. Ronald has been in contact with people who are interested in submitting articles and he indicated that he has one article already and another author committed to preparing an article. Henry Lee suggested that those people who offered to write articles for the last issue and were unable to get their article published should get first dibs at publishing an article in this upcoming Journal. Sherill also suggested that Ronald solicit articles by e-mailing section members.

6. Michigan Tax Lawyer. Jay Kennedy reported that the next Michigan Tax Lawyer is scheduled to be published sometime in January and that the deadline for submission of articles, reports and other materials is November 15, 2003. Jay indicated that the Business Entities Committee and Employee Benefits Committee are responsible for articles for this issue. Jay also indicated that the next Journal thereafter would be published sometime in April and that the deadline for the submission of articles, reports and materials would be February 29, 2004. The State and Local Committee and Practice and Procedure Committee are responsible for the articles for that issue. Jay suggested that we also have all of our Summer Tax Conference information (including speakers) in place so that we could advertise the Summer Tax Conference in the upcoming journals. Jay also requested that information regarding the After Hour Tax Law Series be submitted to him for inclusion in the Michigan Tax Lawyer.

7. Internet. Jeffrey DeVree was not present but issued a report. The report provided for Jeff's plan to upgrade the tax section website which included finding out why the direct URL does not work and fix it, browse the ABA Tax Session Website and the Tax Section website for ideas, go through his own collection of internet resources for tax lawyers and look for more ideas, and report to the Council with ideas, suggestions and recommendations.

8. Federal and State Tax Legislation. Anthony Caputo reported on recent tax legislation which included regulations pertaining to 401(k) plans, regulations pertaining to split dollar arrangements, and guidance on the enforcement of tax liens in light of the Craft case and guidance regarding the adopting of prototype plans. He also reported that the ABA has posted a money laundering seminar which he will be attending.

9. Membership Outreach. Joan Dindoffer reported that she and Sherill Siebert met to discuss the Membership Outreach position. Joan would like outreach efforts to reach law students and suggested we consider discounting dues and journals to law students, sponsoring an essay contest, and making presentations at the law schools. She has had discussions with the State Bar of Michigan to determine whether or not there are any constraints on providing discounts to law students. Joan also indicated that she has contacted ICLE regarding discounts for law students attending the After Hours Tax Law Series. She also indicated that she would be contacting law school deans and faculty to see what they would like to see from the Taxation Section. Henry Lee asked what the Section is doing to get new members and to get existing members more involved. What ensued was a general discussion of this topic with suggestions including communicating more through email, inviting Section members to Council meetings, expanding attendance at our events, having Council members encourage associates at their firm to participate, encouraging their colleagues at other firms to encourage their associates to participate and soliciting suggestions from Committee chairpeople about how they may be able to get increased participation within their particular committee. John Neberle reminded everyone that participation in the Section activities is not billable and it may be difficult to encourage people to get involved. Anthony Caputo felt that interesting topics are key and this is what attracts people to attend meetings. Sherill Siebert requested that committee chairpersons prepare a schedule of meetings for the entire fiscal year and publish that schedule early on. Sherill also suggested that committee chairpersons may want to survey their Section members and get their input on ways of enhancing attendance and participation.

D. COMMITTEE REPORTS.

1. State & Local. John Neberle reported that the members of the State and Local Committee would be meeting today at 10:30 a.m. with Jack L. Van Coevering, Chairperson of the Michigan Tax Tribunal, regarding practice before the Michigan Tax Tribunal. Mr. Van Coevering is considering setting up a “best practices” group and considering appointing a state bar member to be chairperson for this group for a two (2) year period. This group would also have representatives from other interested organizations. The group would review practice before the Tax Tribunal on a periodic basis and make recommendations on how to improve practice before the Tribunal. John expressed that the idea to establish this group has gotten controversial and he is not sure where the idea will go. In fact, Mr. Van Coevering is considering withdrawing the proposal to establish a group and instead go forward with a less structured format. Sherill Siebert expressed concern that having someone represent the State Bar of Michigan on this group may constitute a lobbying activity. She felt we should certainly participate in the group but not as a representative of the State Bar. The balance of John’s report dealt with legislative and administrative updates concerning Michigan taxes.

2. Business Entities. Eric T. Carver reported that the Business Entities Committee is planning to hold two (2) meetings. One meeting would be at the end of this year dealing with the final treasury regulations on split dollar insurance. It was discussed that maybe this meeting should take place in conjunction with the ABA teleconference meeting on split dollar insurance. Eric will be sending an email notice regarding the date, time and location of the meeting once it has been determined. The second meeting being considered by the Business Entities Committee would be held during the first part of next year regarding business valuations. Eric indicated he is considering making this a joint meeting with the Estates and Trusts Committee.

3. Employee Benefits. Warren J. Widmayer submitted a report and reported that the Employee Benefits Committee has not met since the last Tax Council meeting. The next meeting of the committee will be co-sponsored with the Michigan Employee Benefits Conference on November 20, 2003, at the Red Run Golf Club. It will be a dinner meeting with Paul Shultz, Director, Employee Plans Rulings and Agreements, Internal Revenue Service, TE/GE, as featured speaker. Warren also reported the proposed meeting schedule of the committee for the coming fiscal year. One meeting would be held February 2004 with the location and speaker to be determined. A second meeting would be held Thursday, May 24, 2004 and would be an annual session of presentations by committee members and would be held at the Novi Hilton. A third meeting would be held September of 2004 with the location and speaker to be determined. Warren indicated that the meeting topics for the proposed February and September meetings may include an annual IRS liaison with local and regional TE/GE office representatives, a Treasury representative providing information regarding current guidance projects, and/or a Department of Labor representative discussing current trends/issues and investigations, and/or a possible joint meeting with other employee benefits groups with a half day to full day current developments update seminar by Sal Tripodi. Warren indicated that Mr. Tripodi's fee for speaking was expensive, but he would certainly attract a good number of people.

4. Estates & Trusts. George Runstadler was not present but submitted a report. The report indicated that the Estates and Trusts Committee would be putting together a meeting for the end of October, beginning of November. The tentative topic for this meeting is "Split Dollar Regulations: Wider Impact than One Would Anticipate". George's report also stated that a presenter for the meeting is being sought.

5. Practice & Procedure. James F. Mauro reported that the Practice and Procedure Committee is considering meetings covering IRS bureaucracy, state collection matters and the Tax Tribunal. The committee has not decided upon dates, locations or speakers. Jim stated that once the committee has done so, he will coordinate the scheduling of those meetings with Jan Baggett.

6. Facilitator's Report. Jan Baggett distributed to the members an organizational chart of the Council, a Council roster and the Chairpersons calendar.

Jan asked that members e-mail or contact her with dates of proposed meetings so that she can update the calendar. Jan will discuss with Jeff DeVree about making the calendar available on the internet. Jan will also have updated calendars e-mailed periodically as changes occur to the calendar and will also have updated calendars brought to future Council meetings. Jan also passed out Policy and Procedure Manuals to new Council members. Jan suggested that the new Council members review the job description relating to their particular assignment so as to understand their duties and responsibilities. Sherill suggested that it wouldn't be a bad idea for all Council members to review the job description pertaining to his or her particular assignment to determine whether they still accurately reflect duties and responsibilities. If not, he or she should provide revisions to the job description to Jan so that the Manual can be updated.

7. Probate and Estate Planning Liaison. George Gregory was absent but submitted a report. The report indicated that the Probate and Estate Planning Section of the State Bar of Michigan held its annual meeting at the University Club in East Lansing, Michigan on September 20, 2003. At that meeting the section elected its officers for the upcoming fiscal year. The report also indicated that, as a result of the Section's Uniform of Practice Committees work, a directive from the SCAO stated that there should not be local forms in use that have not been approved by the SCAO. The report also discussed the issue of banks who are raising the issue of a conflict with respect to probate litigators who have represented banks in the past and that there is a case currently pending on this matter. The report also indicated some of the other matters discussed by the Probate and Estate Planning Section which included a pamphlet being created discussing the duties of trustees in settling irrevocable trusts, the move towards estate planning practitioners obtaining certification, and some of the recent legislative matters which are of interest to the section. On a related note, Sherill Siebert indicated that George Gregory expressed that, if Shirley Kaigler is appointed by the Probate and Estate Planning Section to be their liaison to our Section, George would like to resign and have Shirley be appointed our liaison to the Probate and Estate Planning Section. Currently, George is our liaison to their Section and their liaison to our Section. Anthony Caputo moved that, if Shirley Kaigler is appointed by the Probate and Estate Planning Section as their liaison to the Taxation Section, then the Taxation Section should appoint her as its liaison to the Probate and Estate Planning Section. The motion was seconded by Trevor Wetherington and approved unanimously.

E. OLD BUSINESS.

None.

F. NEW BUSINESS.

Eric Nemeth reported that he will be attending the National Association of State Bar's meeting in Washington D.C. as the Michigan delegate. Chuck Lax then discussed the sections annual meeting. Chuck questioned whether we should have a program at

the Past Presidents' Dinner in lieu of an annual meeting. If so, should we have a speaker at the program? Chuck suggested that perhaps a general business type person as opposed to a tax person should be the featured speaker since it may draw more people to the event. After some discussion, it was decided that we should pursue this idea further and Chuck Lax indicated that he would be in charge of further developing and investigating this idea. Finally, Trevor Wetherington suggested that we might consider creating a competition on a tax topic between the various law schools. We could invite winners of the competition to a dinner to receive their awards. Trevor felt that this might be an excellent way to outreach, that it would allow law students with an interest in tax to get some exposure and will help the committee identify students who are motivated in the field of taxation. The council thought this was an excellent idea and one the council should pursue further through Joan Dindoffer and membership outreach.

There being no further business, a motion to adjourn was made by Eric Nemeth and seconded by Trevor Wetherington. After unanimous consent, the meeting was adjourned at 10:42 a.m.

Respectfully submitted,

Aaron H. Sherbin
Secretary

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