

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

October 22, 2009

A regular meeting of the Council of the State Bar of Michigan Taxation Section was held on October 22, 2009 at 9:00 AM at the office of Varnum located at 39500 High Pointe Blvd., Suite 350, Novi, Michigan 48375. Ronald T. Charlebois, Chairperson of the Taxation Section, presided.

COUNCIL MEMBERS PRESENT

Jess A. Bahs	Ronald T. Charlebois
Gina M. Torielli	Warren Widmayer
David B. Walters	Paul V. McCord
Michael Domanski	Gary Glenn
Gary Remer	John M. O'Hara

COUNCIL MEMBERS ABSENT

Wayne D. Roberts	Jack Van Coevering
Lynn M. Gandhi	Marjorie B. Gell

COMMITTEE CHAIRPERSONS PRESENT

Alex Domenicucci	Tom Shaevsky
George V. Cassar	Peter Kulick

COMMITTEE CHAIRPERSONS ABSENT

Marla Carew

OTHERS PRESENT

Deb Michaelian	Mary Hiniker
Jeff Kirkey	

Council Chairperson, Ronald T. Charlebois, called the meeting to order at approximately 9:05 AM. Due to Wayne Roberts's unavoidable absence, Warren Widmayer agreed to serve as Acting Secretary.

MINUTES

The Minutes of the September 17, 2009 meeting of the Council had been previously distributed. The motion by Gina Torielli, seconded by David Walters, to accept the Minutes with a minor change was unanimously carried.

TREASURER'S REPORT

Gina M. Torielli submitted her final report as Treasurer for the period from October 1, 2008 to September 30, 2009. The report indicated cash of approximately \$100,800 on hand at September 30, 2009. Gina reported that in addition to expenses actually incurred during the fiscal year, the report includes \$3,219 of expenses that were either 2010 deposit prepaid expenses or 2008 expenses carried into 2009. The only difference between our books and the State Bar books was our pre-payment of the Rock Financial deposit, which is on our books but not the State Bar's books. The net deficit spending for the year was \$21,370. A motion to approve the Treasurer's report was made by Warren Widmayer, seconded by David Walters, and unanimously approved.

Warren Widmayer presented the budget for the October 1, 2009 – September 30, 2010 fiscal year. He explained that the surplus carried in previous years was beginning to decline and the surplus at the end of the coming fiscal year would be less than one year's expenses if past deficits continued at the same rate. He explained that reserving one year's expenses was an arbitrary target, but he used that as his goal in drafting the budget. He noted that he made the following adjustments from the prior year's budget or actual revenue and expenses to reach that goal:

- Revenue is increased by \$6,700 over last year's actual – assumes that Annual Tax Conference revenue will increase due to ICLE's involvement and possible additional sponsor
- All committees other than SALT are reduced by \$2,000 from previous year's budget, to approximate actual historical spending
- Tax Conference expense is increased by \$6,000 to cover ICLE's costs
- *Michigan Tax Lawyer* budgeted expense was reduced \$9,000 to be closer to actual historical experience
- Listserv and e-newsletter expense budget was reduced to be closer to actual experience.
- Low income taxpayer assistance grant program is reduced from \$12,000 to \$10,000

David Walters noted that in the past we have not given a grant to Community Legal Services, which is requesting money this year, which will cause demand to outstrip the budget. After discussion regarding whether to increase the budgeted expense for the grant program, upon motion by Gina Torielli and seconded by Michael Domanski, the proposed 2009-2010 budget was accepted as proposed.

COUNCIL ACTIVITIES

1. Continuing Professional Education - After Hours Tax Law Series – Jeff Kirkey and Gary Glenn. Jeff Kirkey from ICLE submitted an updated report on the current registrations for the 2009-2010 After Hours Tax Law Series. His report indicated that the first session regarding impact of the economic stimulus and other 2009 legislation scheduled for October 6th had low attendance – 28 in person, 35 by webcast. The November 17 program on property tax appeals and real estate issues is a hit and will have high attendance. The rest of the schedule is set. He reminded the Council that it is never too

early to start planning the next year's program and urged members to begin thinking about topics.

2. 2010 Tax Conference – John O'Hara John started with a discussion of proposed speakers. He noted that Ira Shepherd will be invited back to do the general tax update and Jeffrey Pennel would be invited back to do the estate tax segment. State and local tax speakers might include Robert Klein, State Treasurer, or someone from the auto companies.

Jeff Kirkey of ICLE emphasized that topics and speakers for breakout sessions must be finalized by November 7 to meet the marketing deadlines.

John and Jeff then discussed pricing for the conference registrations. Last year the prices were \$200 for non-Section members, \$100 for Section members (reduced to \$90 if more than one member from the same firm attended), \$50 for new lawyers, and \$30 for students. Jeff Kirkey compared this to an ICLE Family Law one-day conference that included meals: \$285 for non-section members, \$255 for co-sponsoring section members, and \$235 for new lawyers and ICLE Partners. He also noted that attendance has trailed off over recent years, although he does not attribute that to the pricing. He acknowledged that the Taxation Section deliberately subsidizes the registration fee for Section members. Upon motion by Gina Torielli and seconded by Michael Domanski and adopted, Council agreed to increase registration pricing to \$250 for non-Section members, \$125 for Section members, \$100 for multiple member registrants from one firm, \$75 for new lawyers, and \$30 for students.

The possibilities for additional sponsors and prospects were discussed, and Council members will get prospects to John O'Hara. Gary Remer and George Cassar noted that they have possible sponsors to suggest to John.

Proposed format changes to the breakout sessions were discussed; only three Committee breakouts will be held simultaneously, enabling attendees to attend more than one Committee's breakout session.

Offshore bank account issues were discussed as a topic and there seems to be a lot of interest.

3. Tax Court Luncheon - Jack Van Coevering. Jack Van Coevering was not able to attend the meeting. Ronald Charlebois reported that the October 20th luncheon with Judge Paris went well, although only 26 people attended. Ron attributes the low attendance to the fast-track preparation and late notice of the program.

Discussion ensued regarding whether the Tax Court luncheon was a worthwhile event and merited the current frequency of two per year. After discussion, Gina Torielli moved to continue the practice of holding two Tax Court luncheons per year. David Walters seconded the motion and it carried.

Ronald Charlebois noted that due to timing difficulties related to getting a check cut for a facility deposit for the Tax Court luncheons, it would be helpful to authorize issuance of a deposit for any future Tax Court luncheons without requiring separate motions each time.

Upon a motion by Gina Torielli, seconded by Paul McCord, and unanimously approved, the Taxation Section Council authorized issuance of up to \$1,000 in advance of each Tax Court luncheon as a facility reservation deposit.

4. Directory – Marjorie Gell. Marjorie Gell was absent and did not submit a report.
5. Michigan Bar Journal Liaison – Paul McCord. Paul noted that he needs input for the December issue Section Briefs by November 5. The Taxation theme issue scheduled for December is set – all articles have been submitted and approved.
6. Michigan Tax Lawyer – Lynn M. Gandhi. Lynn Gandhi was absent and did not submit a report.
7. Internet – Marjorie Gell. Marjorie Gell was absent and did not submit a report.
8. Federal and State Legislation and Public Policy Liaison – Paul McCord. Paul reported that the situation in Lansing is very fluid. The Offer In Compromise proposed legislation is in committee; being opposed by the MDOT as a revenue drain, whereas proponents argue that it is a revenue raiser. Michigan Tax Tribunal proposals are stuck behind the budgetary proposals that are taking priority. There is a tax amnesty being discussed but this has not solidified yet.
9. Membership Outreach Coordinator – David Walters. Dave reported that meet and greets with Cooley, U of M and U of D are all on track. Email will be sent to Council members once the dates are confirmed.
10. Annual Meeting – Jack Van Coevering. Action was deferred until Jack Van Coevering is present.
11. Grant Program – David Walters. Dave will get a notice to Paul McCord for publication in the Bar Journal Section Notes to emphasize the need for applicants from outstate areas for low income tax assistance grants, particularly northern lower Michigan and the Upper Peninsula. Timing of the grant application deadline was discussed. Dave suggested a March 1 deadline so the clinics will know their awards before the 15th of April, and formal presentation will occur in May at the Tax Conference.

PROBATE AND ESTATE PLANNING SECTION LIAISON REPORT

Lorraine F. New was absent and advised in advance that she had nothing to report.

STATE BAR OF MICHIGAN LIAISON REPORT

Lambro Niforos was absent.

IRS AREA COUNSEL LIAISON REPORT

Nobody from the IRS Area Counsel office was in attendance.

PROGRAM FACILITATOR REPORT

Deb Michaelian was present and indicated she had nothing to report, but noted that she is available as a resource to all Council members and Committee Chairs.

COMMITTEE ACTIVITIES

Business Entities – Alex Domenicucci

Alex reported that he is working on a program re: restructuring distressed businesses.

Employee Benefits – Thomas Shaevsky

Tom is working with the Michigan Employee Benefits Council to put together a November meeting on actuarial issues in the new Section 436 and 430 regulations.

Estates and Trusts – George Cassar

George is working on a joint meeting with Probate and Estate Section in November.

Practice and Procedure – Peter Kulick

Peter is considering a small program on the FBAR issues before the end of the year. Paul McCord suggested that he contact the IRS Chief Counsel's office which has a large inventory of these cases. Following his report, Peter was excused from the meeting.

State and Local – Marla S. Carew

Marla was absent and did not file a report.

International Law – Michael Domanski

Mike will try joint programming with international associations this year, starting with a program with the French-American Chamber of Commerce regarding movement of employees between entities. He also is meeting with University of Windsor representatives regarding cross-border transactions and the possibility of involving Canadian bar members in future programs.

OLD BUSINESS

Tax Tribunal Bill

This is perceived to be on the back burner due to the budget crisis.

Efforts to Alert Legislators of Taxation Section Positions

See tax on legal services, below.

Upcoming Cooley Event – Ronald Charlebois

We were unable to get someone to attend on behalf of the Section at the Cooley “Section Fair” in Grand Rapids.

NEW BUSINESS

Michigan Business Tax Conference

This will be held on November 3 and 4. Reports are that attendance is projected to be considerably lower than in the past.

Gina Torielli noted that Treasury is working on getting a lot of guidance out on the MBT in advance of this meeting in the hope of getting feedback at the conference.

Tax on Legal Services Proposal

Ronald Charlebois discussed the new proposal to tax legal services. He noted that the Section previously developed a position in opposition to this tax, for a variety of reasons. The medical community is well organized in opposition to the new QAAP tax, and are suggesting that if they are being taxed attorneys should be taxed as well. There also is a move afoot to reduce the limits on the amount of self-employment income subject to tax.

Ron noted that the cost of hiring a lobbyist would be prohibitive for the Section; but the SBM’s lobbyist will be able to be active in opposing this on behalf of the bar. The Section will be asked to provide advisory support from a tax policy and legislative analysis perspective. There is an exception for services to business entities, which may create tension and require more careful scrutiny of billing practices to stay in compliance with the law if it is enacted as proposed. Because of this exception, the impact of the tax will fall primarily on individuals.

Ron asked for comments regarding the extent to which the Section should get involved in the debate. Consensus was that we should circulate the bills that have been introduced and the Council’s previously formulated positions to the Section members and circulate any proposals from the State Bar for further involvement to the Council for consent before acting on them.

Ron noted that he is appointing Paul McCord, Wayne Roberts and Marla Carew as a committee to monitor and react to developments in this area.

There being no further business, upon motion duly made by Gina Torielli, seconded by David Walters and unanimously approved, the meeting was adjourned at approximately 11:03 AM.

Respectfully submitted,

Warren J. Widmayer
Acting Secretary