



NYU

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PROFESSIONAL STUDIES

41ST INSTITUTE ON STATE AND LOCAL TAXATION

DECEMBER 12-13, 2022

WESTIN NEW YORK AT TIMES SQUARE
NEW YORK, NY

FINANCE AND TAXATION PROGRAMS

PROGRAM CO-CHAIRS:

Jeffrey A. Friedman, Esq., *Partner, Eversheds Sutherland US, Washington, DC*

J. William McArthur, Esq., *Former VP Planning, TE Connectivity, Berwyn, PA*

FINANCE AND LAW PROGRAMS

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December 12-13, 2022
Westin New York at Times Square, New York, NY

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LEARNING OBJECTIVES OF THE 41st INSTITUTE:

The Institute provides the perfect setting to meet practitioners from around the country. It's an opportunity to share ideas, exchange views, learn what others are doing, and obtain credit for continuing education. At the Institute, you will:

- Learn about the year's most important state and local tax developments from a national perspective.
- Obtain up-to-date analyses of state tax developments.
- Explore the most important professional challenges and ethical dilemmas that are reshaping the profession.
- Develop a working knowledge of the current trends in areas of state and local taxation, such as state taxation of digital services and products; scrutiny of intercompany transactions; handling an MTC audit; gross receipts taxes; and more.

WHO SHOULD ATTEND?

The Institute is designed for the practitioner who must frequently anticipate and handle state and local tax matters. The Institute addresses all major areas of state and local taxation and attracts attorneys, accountants, state tax officials, tax directors, tax managers, and anyone seeking expert discussion of the latest in state tax technical, legislative, and planning developments.

PLAN EARLY

We strongly advise you to register and make your hotel reservations as early as possible, as availability is limited.



NYU SCHOOL OF PROFESSIONAL STUDIES PUBLICATION

Matthew Bender & Co., Inc., a member of the LexisNexis Group, will publish the proceedings of the Institute. The proceedings of the 2021 Institute on State and Local Taxation are now available. For further information, please direct inquiries to Matthew Bender & Co., Inc. by phone at (937) 610-5157 or by e-mail at david.t.soborski@lexisnexis.com.

AWARD CEREMONY

The NYU School of Professional Studies is pleased to present the NYU School of Professional Studies Paul H. Frankel annual award for Outstanding Achievement in State and Local Taxation. New York University selected June S. Hass, Esq., as this year's recipient, in recognition of her unparalleled contributions in all areas of state and local taxation. The award will be presented during the luncheon on Monday, December 12, and the celebration will continue during the reception.

NYU SPS PAUL H. FRANKEL MEMORIAL POST-LUNCHEON ADDRESS

Please be our guest on Monday, December 12, as Jeff Friedman and Rick Pomp deliver a spirited overview and preview of federal constitutional issues. Lunch is included in the conference fee. However, you must confirm your attendance at the lunch when registering in order to receive a meal ticket. Registrants who do not R.S.V.P. to attend the lunch cannot be guaranteed a seat and will be seated subject to availability.

NETWORKING RECEPTION

It's never been more valuable or vital to connect with colleagues at the NYU School of Professional Studies annual reception. On Monday, December 12, 2022, please be our guest at 5.15 p.m. for cocktails and hors d'oeuvres and meet our distinguished speakers personally. Also, enjoy this time to meet and network with state and local tax practitioners from around the country.

DAY 1: MONDAY, DECEMBER 12

Moderator: J. William McArthur, Esq., *Former VP Planning, TE Connectivity, Berwyn, PA*

8 a.m.

REGISTRATION AND DISTRIBUTION OF MATERIALS CONTINENTAL BREAKFAST

8:25 a.m. **WELCOMING REMARKS**

Kathleen Costello, CMP, *Assistant Director, NYU School of Professional Studies, New York, NY*

8:30 a.m. **EVALUATING FORMULARY APPORTIONMENT OF STATE CORPORATE INCOME TAX**

There have been significant legislative and administrative changes to corporate income tax apportionment formulas, including apportionment of sales other than sales of tangible personal property. The panel explores recent decisions and pending cases regarding the apportionment of capital transactions, intangible income, and services, as well as the ability of states and taxpayers to invoke alternative apportionment formulas.

Moderator: David J. Shipley, Esq., *Shareholder, Stevens & Lee, Princeton, NJ*

Lynn A. Gandhi, Esq., *Partner, Foley & Lardner, Detroit, MI*

Marc A. Simonetti, Esq., *Partner, Pillsbury Winthrop Shaw Pittman, New York, NY*

9:20 a.m. **CAN'T FIND THE REMOTE? STATE TAX ISSUES ASSOCIATED WITH A DISPERSED WORKFORCE**

The increase in employers hiring employees in multiple states and the increase in telework due to the pandemic has created new state and local tax issues and compliance challenges for employers and employees alike. This panel discusses the many state and local tax issues that arise from having a dispersed workforce, including nexus considerations, withholding tax considerations, and state-specific rules seeking to tax employees of an in-state business who are teleworking from other states.

Moderator: Eugene J. Gibilaro, Esq., *Of Counsel, Blank Rome, Tampa, FL*

Jamie C. Yesnowitz, Esq., *Principal, Grant Thornton, Washington, DC*

Edward A. Zelinsky, Esq., *Morris and Annie Trachman Professor of Law, Benjamin N. Cardozo School of Law, Yeshiva University, New York, NY*

10:10 a.m. **REFRESHMENT BREAK**

10:25 a.m. **SUPER-MARKETPLACE SALES TAX ISSUES**

Marketplace Mayhem: The ink is barely dry on states' marketplace laws, but we are already experiencing implementation issues. The panelists provide a review of emerging issues, including determining the scope of marketplace laws, mitigating double-taxation, and complying with exemption certificates and other administrative burdens.

Moderator: Michele Borens, Esq., *Partner, Eversheds Sutherland US, Washington, DC*

Richard Cram, Esq., *Director, National Nexus Program, Multistate Tax Commission, Washington, DC*

Matthew P. Hedstrom, Esq., *Partner, Alston & Bird, New York, NY*

11:15 a.m.

STATE TAX IMPLICATIONS OF THE IRA AND OTHER FEDERAL CONFORMITY ISSUES

The federal Inflation Reduction Act of 2022 includes an expansive new corporate book-income alternative minimum tax (CAMT). This session provides a brief overview of how the CAMT works and analyzes any potential short-term and long-term state tax implications. The panelists also discuss the hangover impact of the federal Tax Cuts and Jobs Act and lingering state conformity issues relating to foreign source income, interest expense deductions and amortization of research expenditures.

Moderator: Karl A. Frieden, Esq., *Vice President and General Counsel, Council On State Taxation, Washington, DC*

Bruce J. Fort, Esq., *Senior Counsel, Multistate Tax Commission, Washington, DC*

Todd Roberts, Esq., CPA, *Partner & Inbound Leader, State and Local Tax Services & Practice Leader, Rockies SALT Group, PwC, Denver, CO*

12 -12:45 p.m.

LUNCHEON

Please Join Us as the NYU School of Professional Studies Presents the NYU School of Professional Studies Paul H. Frankel Award for Outstanding Achievement in State and Local Taxation to

INTRODUCTION

Jeffrey A. Friedman, Esq., *Partner, Eversheds Sutherland US, Washington, DC*

J. William McArthur, Esq., *Former VP Planning, TE Connectivity, Berwyn, PA*

NYU SCHOOL OF PROFESSIONAL STUDIES PAUL H. FRANKEL OUTSTANDING ACHIEVEMENT IN STATE AND LOCAL TAXATION AWARD RECIPIENT

June S. Haas, Esq., *Haas Law, Cheboygan, MI*

1 p.m.

NYU SCHOOL OF PROFESSIONAL STUDIES PAUL H. FRANKEL MEMORIAL POST-LUNCHEON ADDRESS OVERVIEW AND PREVIEW OF FEDERAL CONSTITUTIONAL ISSUES

The most significant constitutional cases in state taxation over the past year, both in the US Supreme Court and in state courts, are surveyed. The commentators provide a spirited preview of important cases to watch in the coming year.

Jeffrey A. Friedman, Esq., *Partner, Eversheds Sutherland US, Washington, DC*

Richard D. Pomp, Esq., *Professor of Law, University of Connecticut, Hartford, CT*

2 p.m. NOTABLE DEVELOPMENTS AFFECTING THE MULTISTATE TAXATION OF PTEs

The rapid rise of state pass-through entity (PTE) taxes affects nearly every enterprise. This panel discusses PTE taxes, including: financial accounting implications; the MTC's ambitious Partnership Tax Project and an update on its Model Partnership Audit/RAR Statute; recent developments in the state taxation of capital gains when a nonresident owner sells its ownership interest to a third party; and other recent PTE SALT developments.

Moderator: Bruce P. Ely, Esq., *Partner, Bradley Arant Boult Cummings, Birmingham, AL*

Chris Barber, Esq., *Counsel, Multistate Tax Commission, Dallas, TX*

Dale Y. Kim, CPA, *Partner, EY, New York, NY*

Kelvin M. Lawrence, Esq., *Partner, Dinsmore & Shohl, Columbus, OH*

3 p.m. REFRESHMENT BREAK

3:15 p.m. Os AND 1s – STATE TAXATION OF DIGITAL SERVICES AND PRODUCTS

Cloud services and digital goods and services remain a hot topic among state legislatures and departments of revenue. This session includes an update on the work taking place on digital goods and services at the Multistate Tax Commission as well as Streamlined Sales Tax Project. The speakers also cover anticipated and unique trends in taxing the digital space.

Moderator:Carolynn S. Kranz, Esq., *Managing Member, Industry Sales Tax Solutions, Washington, DC*

Gilbert Brewer, Esq., *Senior Assistant Director of Tax Policy, Washington State Department of Revenue, Olympia, WA*

Michael Kelley, Esq., *State Tax Counsel, Microsoft, Redmond, WA*

Lindsay LaCava, Esq., *Partner, Baker McKenzie, New York, NY*

4:15 p.m. NEW ETHICAL CHALLENGES ARISE AS LIFE WITH THE COVID-19 PANDEMIC BECOMES THE 'NEW NORMAL'

The coronavirus (COVID-19) pandemic caused unexpected changes and disruptions to society during 2020 and 2021, including to the legal and accounting professions. Now that 2022 is drawing to a close, attorneys and accountants must consider existing and newly enacted ethical obligations. Many state bar and CPA associations have published new guidance to help their members with their ethical duties as COVID-19 continues to plague us (unfortunate pun intended?). Certain actions by the New York State Bar Association, DC Bar Association, North Carolina Bar Association, and the Michigan Bar Association are highlighted in this session.

Moderator: Glenn C. McCoy, Jr., CMI, Esq., *Principal, Client Services, Ryan, New York, NY*

Matthew J. Landwehr, Esq., *Partner, Thompson Coburn, St. Louis, MO*

Kathleen M. Quinn, Esq., *Partner, McDermott Will & Emery, New York, NY*

5:15 p.m. NETWORKING RECEPTION

Join your fellow attendees for an opportunity to meet the speakers and to network with tax practitioners from around the country.

DAY 2: TUESDAY, DECEMBER 13

Moderator: Jeffrey A. Friedman, Esq., *Partner, Eversheds Sutherland US, Washington, DC*

8 a.m. CONTINENTAL BREAKFAST

8:30 a.m. TAX ACCOUNTING FOR SALT

The accounting for state and local tax consequences can be intimidating to say the least. This panel demystifies it. Topics covered include a description of the application of ASC 740 and ASC 450, valuation allowances, and deferred tax assets. In addition to covering the basics, the discussion dives into specific hypotheticals that are intended to provide practical application of some not-so-practical accounting rules.

Moderator: Todd G. Betor, Esq., *Of Counsel, Winston & Strawn, New York, NY*

Anna Cronic, CPA, *Senior Manager, Washington National Tax, RSM US, Atlanta, GA*

Mark McCormick, MBA, *Director, US State, Local and Indirect Tax, Newell Brands, Atlanta, GA*

9:25 a.m. GROSS RECEIPTS TAXES

Gross receipts taxes and their variants are experiencing a resurgence over the past few years, with the adoption of Oregon's CAT, Nevada's Commerce Tax, Maryland's Digital Advertising Tax, and countless local and municipal gross receipts-based taxes. This session explores the downside of gross receipts taxes, why such taxes should not be a part of any state's revenue program, and the expensive and complex litigation that inevitably follows their adoption.

Moderator: Douglas L. Lindholm, Esq., *President and Executive Director, Council On State Taxation, Washington, DC*

Michelle DeLappe, Esq., *Partner, Fox Rothschild, Seattle, WA*

Richard D. Pomp, Esq., *Professor of Law, University of Connecticut, Hartford, CT*

10:15 A.M. REFRESHMENT BREAK

10:30 a.m. **HANDLING AN MTC AUDIT AND SOME OF THE HOT ISSUES THE MTC IS GENERATING**

Panelists discuss the Multistate Tax Commission's audit program, along with other ongoing or recently completed MTC projects that are likely to impact taxpayers in the future. The audit discussion covers how taxpayers are selected, how the process differs from a typical state audit, best (worst) practices for getting through it, and why some taxpayers have actually requested an MTC audit.

Moderator: Shirley K. Sicilian, Esq., *National Director of State and Local Tax Controversy, KPMG, Washington, DC*

Holly Coon, *Director, Joint Audit Program, Multistate Tax Commission, Washington, DC*

Joe Garrett, Esq., *Managing Director, Multistate Tax Group, Deloitte, Birmingham, AL*

Alysse McLoughlin, Esq., *Partner, Jones Walker, New York, NY*

11:20 a.m. **BAD [INTER] COMPANY? SCRUTINY OF INTERCOMPANY TRANSACTION**

Intercompany transactions are often the subject of disagreement between taxpayers and states but related party arrangements are a basic part of economic business life and are not going away. This panel provides an overview of transfer pricing concepts, the necessity of intercompany agreements, discusses reasons for transfer pricing, pain points in transfer pricing, and state efforts to challenge and resolve intercompany transaction related disputes.

Moderator: Mitchell A. Newmark, Esq., *Partner, Blank Rome, New York, NY*

Michael J. Bryan, CPA, *Deputy Director, Audit Activity, New Jersey Division of Taxation, Trenton, NJ*

Sherri H. York, CPA, *Partner, RSM US, Charlotte, NC*

12:15 p.m. **LUNCH RECESS**

1:15 p.m. **WHAT 'S HAPPENING EVERYWHERE TODAY? INCLUDING LOCAL TAXES**

Get ready for a jam-packed show! It's hard to cover the ever-changing state and local tax landscape, but an all-star team of "special reporters" provides a rundown of what you need to know about the most important SALT developments affecting taxpayers today. Dateline focuses on issues with local taxes. Then, stick around for "Meet the Press" and a panel discussion on important developments in the New York / New Jersey / Pennsylvania region.

Moderator: Ginny Buckner Kissling, *President, U.S. Operations and Principal, Ryan,*

Dallas, TX

Moderator: Douglas L. Lindholm, Esq., *Executive Director, Council On State Taxation,*

Washington, DC

Moderator: David Hughes, Esq., *Partner, Horwood Marcus & Berk Chartered, Chicago, IL*

Moderator: J. William McArthur, Jr., Esq., *former VP Tax Planning, TE Connectivity, Berwyn, PA*

SPECIAL REPORTERS:

Richard M. Botwright, Esq., *Shareholder, Stevens & Lee, Reading, PA*

Jaye A. Calhoun, Esq., *Partner, Kean Miller, New Orleans, LA*

Richard W. Genetelli, CPA, *Managing Director, Genetelli Consulting Group, New York, NY*

Stephanie Gilfeather, Esq., *Director, Indirect Tax, Expedia Group, Seattle, WA*

Richard L. Jones, Esq., *Partner, Sullivan & Worcester, Boston, MA*

Burnet R. Maybank III, Esq., *Member, Nexsen Pruet, Columbia, SC*

Sarah McGahan, Esq., *Managing Director, KPMG, Houston, TX*

Michael Puzyk, Esq., *Senior Manager, EY, New York, NY*

Timothy G. Schally, Esq., *Partner, Tax Practice Group Chair, Michael Best & Friedrich, Milwaukee, WI*

Mark F. Sommer, Esq., *Member and Practice Group Leader, Frost Brown Todd, Louisville,*

4:20 p.m.

DAY 2 WRAP UP

4:30 p.m. **CONFERENCE CONCLUDES**