31st Annual
Advanced State & Local Tax Institute

Thursday-Friday, May 15-16, 2008
New Location: Hilton Washington • Washington, DC

13.0 CLE credit hours (60 minute hour), including 1.0 hour of legal ethics
15.5 CLE credit hours (50 minute hour), including 1.0 hour of legal ethics
15.5 CPE credit hours

The Story Behind Combined Reporting:

Wednesday, May 14, 2008
Georgetown University Law Center • Washington, DC
Details Inside!

Wednesday, May 14, 2008
Georgetown University Law Center • Washington, DC

7.0 CLE credit hours (60 minute hour)
8.0 CLE credit hours (50 minute hour)/8.0 CPE credit hours

Agenda

8:15-8:45 am Registration & Continental Breakfast
8:45-9:00 am Welcome & Opening Remarks

9:00-9:45 am An Overview of the Group Reporting Regimes in Use Today
Timothy C. Kimmel

This session will provide the participants an overview of the different group filing methods utilized by states, including unitary combined reporting, consolidated reporting and nexus-based combination. Particular emphasis will be placed on comparisons and contrasts among states and required and discretionary group filing.

9:45-10:30 am The Unitary Business Principle: A Judicial Doctrine That Threads Through A Multitude of State Taxes
Joann M. Weiner

11:30 am-12:15 pm Principles for Sourcing Multijurisdictional Income
Benjamin F. Miller

The basic goal of any system of sourcing multijurisdictional income is to fairly reflect income where earned, but the ways in which jurisdictions have sought to achieve this goal has varied. This session will explore conflicting policy goals and the problems with attempting to apply one set of sourcing rules to diverse industries, as well as the diverse business models frequently encountered by entities that operate within a single industry. In hopes of illustrating the tension between simplicity and fairness, it will juxtapose the relative simplicity of a single regime to the complexities that arise in the quest for fairness when states adopt too many industry and operationally specific sets of sourcing rules.

12:15-12:30 pm Box Lunch Distribution

12:30-1:15 pm Who is the Taxpayer: Single v. Aggregate Taxpayer Theory
Kimberly M. Reeder

A critical part of any combined reporting regime is the issue of whether the group will be considered a single taxpayer or multiple taxpayers that report as a group. This distinction is likely to impact critical computational issues. This session will examine the famous (or perhaps infamous) Joyce/Finnigan decisions of the California Board of Equalization that address who will be the taxpayer in the context of the sales factor as well as other decisions that address similar issues.

1:15-1:30 pm Networking Break

1:30-2:15 pm Procedural Issues Raised by Combined Reporting and Formulary Apportionment
Craig B. Fields
Holli L. Hyans

This presentation will explore the types and scope of procedural conflicts that may arise in the context of combined reporting. Some of the relevant issues include: whether one return or multiple returns must be filed; how the relevant statute of limitations will apply and what entity will be able to consent to waivers for the group; and how accounting methods and period elections impact the group.

2:15-3:15 pm Considerations for States Currently Contemplating Combined Reporting
Moderator: Philip M. Zinn
Panelists: Sabra Faires
Eileen P. McAnenny
Fred Nicely

In the past year a number of states have considered implementing combined reporting. In this session, members of the commissions tasked with weighing the pros and cons of combined reporting in Massachusetts, North Carolina and Ohio will share their perspectives.

3:15-3:30 pm Networking Break

3:30-4:15 pm Would States Adopt a Uniform Model Combined Reporting Statute?
Joe Huddleston
Carolyn Joy Lee
Charolette F. Noel

Although numerous states have adopted a version of combined reporting, the requirements in each state vary widely regarding what entities may be included in the group, what type of relationship is required among the entities eligible to be in the group and other issues. This session will explore the goal of uniformity, provide insight into whether that goal is achievable and consider the burdens placed on taxpayers where there is a lack of uniformity.

4:15-5:00 pm Pros and Cons of Combined Reporting
Ann Holley

This concluding session will pull together the day’s analyses and reviews by providing and commenting on a compendium of the pros and cons of utilizing a combined reporting regime in the corporate income tax area, as well other business type levies, such as net worth based taxes and gross receipts taxes.

Speakers

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13.0 CLE credit hours (60 minute hour), including 1.0 hour of legal ethics

15.5 CLE credit hours (50 minute hour), including 1.0 hour of legal ethics

15.5 CPE credit hours

Thursday, May 15

7:30-8:15 am
Registration & Continental Breakfast

8:15-8:30 am
Introduction & Overview
Philip M. Tatarowicz

8:30-9:15 am
Current Developments – A Nationwide Perspective
Joli K. Goldberg
Discussion and analysis of the year’s most important state and local corporate income tax developments on constitutional, legislative, administrative and judicial levels.

9:15-10:00 am
Amortization Expenses, Embedded Royalties, New Definitions of Unreasonable and Business Purpose – A Practical Analysis of Evolving Expense Addback Regimes
Karen Boucher
Shona Ponda
What started in the 80’s as an experiment by Ohio to challenge the deductibility of intercompany expenses has now become the norm in separate reporting states and is creeping into the rules in combined reporting states as well. What have we learned? How far do these provisions reach? Are there best practices to mitigate their impact? This session will explore the practical application of expense addback regimes.

10:00-10:30 am
Networking Break

10:30-11:15 am
Throwback, Throwout and New Jersey Throwout
Peter L. Faber
Traditional throwback and throwout programs increase the sales factor by either increasing the numerator or decreasing the denominator when sales originating in the taxing state are not taxed by the destination state. New Jersey throwout decreases the denominator when sales have no connection with New Jersey, resulting in sales factors which are very high for companies with limited New Jersey activity. Is the New Jersey throwout facially unconstitutional? If not, is it unconstitutional “as applied?”

11:15 am-12:00 pm
The U.S. Supreme Court 2007 Term – Analysis and Observations of Select State Tax Controversies
Philip M. Tatarowicz
This session will focus on select state and local tax controversies where the Court was asked to review lower court decisions, analyzing controversies such as MeadWestvaco Corp. v. Illinois Department of Revenue, dealing with whether gain from the sale of an operating division was business income; Kentucky v. Davis, dealing with whether a state may tax out-of-state but not in-state municipal interest; CSX Transportation v. Georgia State Board of Equalization, dealing with the ad valorem taxation of railroad property; Ford Motor Co. v. City of Seattle et al., dealing with unapportioned gross receipts taxes imposed by two cities on activities partially carried on in other states, and General Electric v. New Hampshire, dealing with the taxation of dividends distributed by non-US corporations.

12:00-12:30 pm
Box Lunch Distribution

12:30-1:30 pm
Concurrent Sessions: Regional Discussions

Northeast
Glenn McCoy
Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont

Southeast
Bobby L. Burgner
Alabama, District of Columbia, Florida, Georgia, Kentucky, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia

Central
Francina A. Dlouhy
Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin

West
Eric Anderson
Alaska, Arizona, California, Colorado, Hawaii, Idaho, Louisiana, Montana, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, Wyoming

1:30-2:00 pm
Networking Break

2:00-2:45 pm
Can and Should States Withhold Their Way Around Unconstitutional Taxes?
Bryan Mayster
Tax withholding is used by the federal government to secure tax revenue from extra jurisdictional actors, often foreigners who may forgo the tax rather than subject themselves to U.S. jurisdiction. Is there a parallel state strategy that can short-circuit nexus issues? Does Federal law limit the powers of the state to withhold? Are there different standards that apply to withholding versus taxes? Moreover, even if a state can impose withholding taxes without limit, should they – given the daunting legal and data processing tasks required to adequately address such issues?

2:45-3:30 pm
State Sourcing Rules – An Update, Current Evaluation and Prognostication of One of the Most Important Developments Affecting Multijurisdictional Taxpayers
Charles A. Trost
Shirley K. Sicilian
Since the development of the Uniform Division of Income For Tax Purposes Act (UDITPA), no disciplined overall review has occurred. Developments in this area may certainly shake up the reliance interests of many multijurisdictional taxpayers leaving in its wake net winners and losers. Our panel of specialists who are formally
involved in the re-examination of UDITPA will present an up-to-the-minute report of their progress. Also, they will review the issues and challenges facing the re-examination, which include the conflicting goals of interested parties for reform versus status quo.

**3:30-4:00 pm**
Networking Break

**4:00-4:45 pm**
A Non-Confrontational Colloquy Between Taxpayers And Select State Tax General Counsels

Moderator: Loren L. Chumley
Panelists: Benjamin F. Miller
Daniel Smirlock
Marshall C. Stranburg

At this always lively session, state general counsels will discuss their perspectives of current state tax issues. Bring your questions to the Institute or email them in advance to cle@law.georgetown.edu.

**4:45-5:30 pm**
See Me, Feel Me, Touch Me … Really? A Multitax Analysis of Tangible Personal Property
Michael H. Lippman
Carley A. Roberts

If it looks like a duck, walks like a duck and quacks like a duck, it must be a duck, right? Tax rules today - income tax, sales and use taxes, property tax - evolved from a mercantile economy that no longer reflects today's reality. These rules, at times, are stretched to achieve results that may be surprising and to some nonsensical. An electronic transmission is perceptible to the senses and is therefore tangible? Classification as tangible property broadly defines sourcing rules, apportionment factors and the imposition of sales and property taxes. This insightful discussion will explore the varied definitions of tangible personal property.

**5:30-7:00 pm**
Networking Cocktail Reception
Sponsored by BNA Tax Management

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**Friday, May 16**

**7:45-8:15 am**
Continental Breakfast

**8:15-8:30 am**
Introduction and Overview
Jerry Johnson

**8:30-9:15 am**
Sales and Use Taxes: Current Developments – National Perspective
Susan Haffield

A review of recent constitutional, legislative, judicial and administrative sales and use tax developments with an emphasis on those developments giving rise to planning and refund opportunities.

**9:15-10:00 am**
No, This is Not a Telephone Call! Telecom, Information Services or Something Else Altogether: Applying the True Object Test to Taxable Services
Stacey L. Sprinkle

We often fail to recognize the quantity of data that travels from a source to our homes, businesses and handheld devices. Fiber optic lines, satellite transmissions and cable, cellular technology have changed our world. Many of us cut our teeth on the true object test in a traditional setting, e.g., manufacturing and resale exemptions. This session will explore the outer reaches of truth, examining how these rules apply in the ubiquitous world of information age services.

**10:00-10:30 am**
Networking Break

**10:30-11:15 am**
Your Digital Tax Future Is Virtually Here
Walter Nagel

Both digital sellers and digital providers of music, movies, games and other virtual goods are vexed by issues of where sales occur and where income is earned. This session will examine the current state of the law, including efforts by the MTC and Streamlined Sales Tax Project to address these issues.

**11:15 am-12:15 pm**
The Scope of Professional Responsibility and Related Ethical Dilemmas
Michael R. Chesman
Michael T. Fatale

Our distinguished panel will discuss select rules of professional responsibility governing tax practitioners and will address how various taxing agencies are working to implement and enforce those rules, with a focus on the challenges facing the IRS Office of Professional Responsibility. The session will also present and analyze examples of the ethical issues that have arisen out of the governing standards of tax practice.

**12:15-1:45 pm**
Lunch (on your own)

**1:45-2:30 pm**
Looming Implications for the Nation, States and Taxpayers Arising Out Of The Growing Push For Fundamental Federal and State Tax Reform
Iris J. Lav

During this session we will review the current drives for fundamental federal and state tax reform and the implications that they hold for one another, as well as to the overall landscape of fiscal federalism.

**2:30-3:00 pm**
Networking Break

**3:15-4:00 pm**
Green Incentives – Will They Add “Green” to the Bottom Line?
Stephanie A. Lipinski Galland
Ramon Reynoso

“Green” incentives are the new rage. With the focus on green buildings and operations, companies and state legislatures are looking for ways to support “green” through tax incentives. This session will discuss current and new “green” incentives - what a company has to do to take advantage of these incentives and how to maintain the incentives once the company has them.

**4:00-4:45 pm**
Current Audit Issues Outside the Sales and Use Tax Area and (As A Special Bonus Feature) How to Be a Loser at All Steps of a Tax Dispute
Paul H. Frankel
Prof. Richard D. Pomp

Our two popular authorities will discuss, from the viewpoints of both, the taxpayer and the state, trends and developments outside the sales and use tax area, including recently decided, current and ongoing issues being challenged. Also, as a special bonus feature of this year’s program, our commentators will analyze what it takes to be a loser at all steps of a tax dispute!

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Speakers

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- Hilton Washington
  1919 Connecticut Avenue NW
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  Phone: (800) 445-8667
  Room rate: $279(single)/$289(double)

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Georgetown Law CLE makes every effort possible to provide equal educational opportunities to all. We provide a limited number of scholarships on a case-by-case basis. Apply online at www.georgetownncle.org or submit written request no later than 5:00 pm on Friday, April 25, 2008 to:

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Please fax your cancellation notice to (202) 662-9891 or email cle@law.georgetown.edu by 5:00 pm on Monday, May 12, 2008 for a refund (less $75 administrative fee). Rain checks for a future program will be granted for cancellations received after May 12 and prior to the start of the program. Substitutions are accepted at anytime prior to the program.

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Course level: Overview; Group-Live, No prerequisites or Advance Preparation required.

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Early-Bird Registrations must be received before April 14, 2008.

- $995 Early-Bird Regular Registration
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- CD-ROM
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Registrants not selecting a desired format will receive their course materials based on format availability.

The Story Behind Combined Reporting (May 14)

- $395 Registration
- $195 Government Registration

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Review the year's most important state and local tax developments from a national perspective

Receive up-to-the minute developments from each section of the country during our regional workshops

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What's New at the 2008 Institute:

Explore the practical application of expense add back regimes in both separate and combined reporting states

Assess the impact of throwback, throwout and the New Jersey throwout programs

Examine whether states can and should withhold their way around unconstitutional taxes

Receive an up-to-the-minute report from a panel of specialists re-examining UDITPA

Analyze how the traditional true object test applies in our new world of information age services

Review the state taxation of digital services and the proposed MTC and SSTP approaches

Discuss critical ethical and professional responsibility challenges facing SALT practitioners

Obtain an up-to-date assessment of unclaimed property rules of priority and compliance practices

Review and analyze “green” incentives - how to take advantage of them and how to maintain them