

Tax Section of the Florida Bar

January 2016 E-Newsletter

www.floridatallaxlawyers.org

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Message from the Chair

By James H. Barrett, Esq.,
Baker & McKenzie, LLP

The first half of this year has been very productive. Amelia Island was well attended. We had an excellent Ullman Year in Review CLE, plenty of productive meetings and recreational events that included a family movie night, a family 60's dinner, fireworks (with dessert), a beach party and a 5K race.

Our Fall Meeting last October at the Portofino Hotel in Orlando included a CLE that covered a broad range of trust and estate tax planning issues and had over 70 attendees in person and over the web. Congratulations to Mark Brown, Jen Wioncek and Brian Malec for successfully co-chairing this CLE. Our recreational events that were held in conjunction with this meeting at Universal Studios, Orlando, were well received by our members.

For the rest of the year, we have a busy schedule. January 6-8, our International Tax Conference is upcoming. Shawn Wolfe will be chairing the Tax Section's ITC committee. The conference, which is co-sponsored with the FICPA, typically attracts over 400 attendees with a significant number participating via the web. This year, we are expanding the conference to include a third day that will review the basics of international taxation. Also from January 14 - 17, a group of about 17 Tax Section members will be traveling to Havana, Cuba for a series of educational meetings with a broad range of individuals who are Cuban legal, economic, tax and cultural experts. We also will be meeting with Cuban tax officials.

Our other in person CLE's this year will include our "Representing the Physician" conference on January 16 in Fort Lauderdale, the 2016 National Multistate Tax Symposium from February 3-5 in Orlando, the FICPA/Florida Bar Tax Section State Tax Conference from June 8-11 in Orlando and our Annual Wealth Protection Seminar.

Thanks to Micah Fogarty and her team for the hard work that has gone into organizing this year's moot court competition which will be held on St. Pete Beach from February 17-21st.

Dana Apfelbaum and Mitch Goldberg have done a great job of expanding the New Tax Lawyer lunches. In Miami, Datan Dorot is continuing the successful New Tax Lawyer lunches that he chairs in Miami. Attendance has been over 70 for some of those lunches in Miami. Our

monthly teleconferences that are organized by Michael O'Leary (in conjunction with Brian Malec and Micah Fogarty) continue to attract over 160 attendees. Also, upcoming is our annual meeting with the Florida Department of Revenue in Tallahassee.

The Winter 2016 directors' meeting will be held in Hawks' Key in the Florida Keys over the weekend of March 2nd. Our final in person meeting of 2015-2016 will be at the Fontainebleau Hotel, Miami Beach from May 19 - 22. Our CLE on May 20th at the Fontainebleau Hotel will cover a broad range of economic substance issues that impact your practice. Guy Whitesman and Joe Schimmel will be co-chairing that CLE. On Saturday night, May 21st, we will be honoring Bob Hudson, this year's recipient of The Gerald T. Hart Outstanding Tax Attorney of the Year Award.

We are looking to continue to expand opportunities for our members to access Tax Section CLE's and substantive tax articles. We also are looking to increase opportunities for our members to write articles, make substantive presentations, participate in regulations' comments projects and to meet with state and federal tax officials with regard to issues of interest to our members. We hope to start an annual discussion with the IRS in Washington, DC, concerning substantive tax topics that interest our members. Some of these topics will be taken from our regulations' comments projects. We continue to work on four regulations' comments projects. Brian Harris is heading up that effort. Please contact Brian if you would like to assist with one of our projects. The title of the projects can be found in the Tax Section's monthly eblast.

We also are looking for ways to work with other Sections of The Florida Bar. Potential projects for joint CLE presentations are being discussed with the Young Lawyers Division and the General Practice Solo and Small Law Firm Section. Topics that we are considering include presentations addressing basic tax issues concerning voluntary disclosures, FIRPTA, the distinction between employees and independent contractors and entity selection.

Please reach out to me to the extent that you would like to become more involved in Tax Section activities. In particular, please advise me, Brian Malec or Micah Fogarty if you would like to become a member of a substantive committee in our FEDTAX division. Please reach to me or French Brown or Yolanda Jameson if you would like to join a substantive subcommittee in our SALT divisions. To facilitate such participation, we have just started listserves for FEDTAX and SALT practitioners. Information regarding how to join the listserves can be found on the Tax Section website.

Please also reach out to me about other projects that you believe that the Tax Section should undertake during the 2015-2016 year. As I mentioned in the last edition of the Tax Section Bulletin, providing service to our members has been the focus of my 2015 - 2016 year. I hope that we have been successful in that goal. Thanks to everyone for their engagement this year.

Happy Holidays and I look forward to seeing you in the New Year.

34th Annual International Tax Conference

(SEE ATTACHED BROCHURE)

January 6- 8, 2016

(Please note the International Tax Boot Camp – January 6th – has been added as a third day)

Hotel Group Rate for Conference- \$299.00

JW Marriott

1109 Brickell Avenue

Miami, FL 33131

1-800-228-9290 (Reservations)

www.internationaltaxconference.com

Group Discount and Webcast Available (See attached brochure for details)

The 34th Annual International Tax Conference, presented by the Tax Section of the Florida Bar and the Florida Institute of Certified Public Accountants, is designed as an intermediate to advanced level conference. This conference will update practitioners in the accounting, legal, business and other financial sectors on current and relevant international tax topics. Prominent tax practitioners (both attorneys and CPAs), as well as government speakers, will discuss new developments, tax planning ideas, current issues, and changes in the laws applying to international tax planning and how it impacts your clients. For those not located in South Florida, in addition to all of the technical knowledge, add the fact that this is located in Miami ... in January! This is the “DO NOT MISS” international tax conference of the year!

We are pleased to announce the International Tax Boot Camp, which will take place on January 6, 2016. The International Tax Boot camp will provide young attorneys and CPAs a beginner level summary of international inbound and outbound taxation. The boot camp will also provide an introduction to the topics that will be discussed during the course of the two day International Tax Conference.

The Presenters for the International Tax Boot Camp are:

- **Scott A. Bowman, Proskauer**
- **Steven L. Cantor, Cantor & Webb P.A.**
- **Kevin Packman, Holland & Knight**
- **Bill Sherman, Holland & Knight**

The United States has adopted a Code that combines the worldwide taxation of all U.S. persons (U.S. citizens or resident aliens and domestic corporations) on all income, whether derived in the United States or abroad, with territorial-based taxation of U.S.-source income of nonresident aliens and foreign entities, and limited deferral for foreign income earned by subsidiaries of U.S. companies. Under this system, the application of the Code differs depending on whether the income arises from outbound investment or inbound investment. Outbound investment refers to the foreign activities of U.S. persons, while inbound investment is investment by foreign persons in U.S. assets or activities.

Topics to be covered in the International Tax Boot Camp include:

Inbound Tax:

Residence of Individuals and Entities
Entity Classification
Source of Income Rules
Gross Basis and Net Basis Taxation of US Source Income
Foreign Investment in Real Property Tax Act (“FIRPTA”)
Effectively Connected Income
Pre-Immigration Planning

Outbound Tax:

Taxation of Worldwide Income
Subpart F
Passive Foreign Investment Company Taxation
Foreign Tax Credits
Code Sections 367
Inversions
Expatriation
Offshore Voluntary Disclosure Program

Jointly Sponsored By:

The Tax Section of the Florida Bar and the Florida Institute of CPA’s

Tax Section of Florida Bar ITC Planning Committee:

Shawn Wolf – Chair
Steven Hadjilogiou – Vice Chair
Jason Warner
Seth Entin
James H Barrett
Hal Webb
Larry Kemm
Kevin Packman
Jeffrey Rubinger

Location:

JW Marriott Hotel Miami
1109 Brickell Avenue
Miami, Florida 33131

MEETINGS
(SAVE THESE DATES)

2016 Directors Meeting

March 3-6, 2016
Hawks Cay

2016 Tax Section Annual Meeting

May 19-22, 2016
Fontainebleau Hotel, Miami Beach
“The World of Economic Substance as it Applies to Your World”

2016 Organizational Meeting

July 1-4, 2016
Omni Amelia Island Plantation
Now accepting reservations for
The 2016 Tax Section Organizational Meeting!

Tentative Schedule

Friday, July 1, 2016 – 4:00 p.m. – 6:00 (Directors’ Committee – Directors’ Dinner to follow)

Saturday, July 2nd, 6:00 p.m. – 10:00 p.m. (Chair’s Reception and Dinner)

Sunday, July 3rd, 8:00 a.m. – 2:00 p.m. (Committee Meetings and Executive Council Meeting)

Monday, July 4th, 1:30 p.m. – 5:00 p.m. (Ullman Year in Review)

Monday, July 4th, 7:00 p.m. – 9:30 p.m. (Dinner and Fireworks)

Group rate 2016 - \$264.00

[CLICK HERE FOR OMNI RESERVATIONS](#)

2016 Fall Meeting

October 13-16, 2016
Renaissance Vinoy, St. Petersburg

2017 Annual Meeting

May 4 -7, 2017
The Breakers, Palm Beach

Visit the Tax Section website for more information: <http://www.floridatallaxlawyers.org>

CLE OPPORTUNITIES

- **Division:** New Tax Lawyers of the Florida Bar Tax Section
Date: 1/13/2016 12 p.m. – 1 p.m.
Speaker: Patrick J. McCormick
Topic: International Taxation: What Every Attorney Needs to Know
Description: The topic will address when a person is subject to taxation in the United States, and focuses primarily on requirements for individuals (as these are the most common clients). We will also address the requirements for reporting in the United States, and options available for prior failures to properly report (including the legal requirements for the same). Lastly, we will address how the Foreign Account Tax Compliance Act impacts taxation of individuals with international assets, and beneficial actions for clients in the growing global landscape.
- **Division:** Fed Tax Division of the Florida Bar Tax Section
Date: 1/27/2016 from 12 p.m. – 1 p.m.
Speaker: Hal Webb
Topic: International Taxation: Selected Issues and Updates
Description: During the presentation, the speaker will provide a general overview of inbound and outbound U.S. federal tax principles. Should time permit, the speaker will also include a brief discussion of the current trends in the field of international tax and estate planning.

**Each CLE will be free and worth 1 credit.
The location will be the same for both.
LOCATION - Tel: (712) 432-0900, Code: 611713**

WRITING OPPORTUNITIES

Florida Bar Tax Section Bulletin

Are you interested in publishing an article that will be circulated to the 2000 plus members of the Tax Section? If so, preparing an article for the Tax Section Bulletin is a great way to gain notoriety in the Section and beyond. Please contact any one of the following Tax Section representatives if you are interested:

Brian Malec
Federal Tax Division Director

407-428-5177
bmalec@deanmead.com

Micah Fogarty
Federal Tax Division Director

813-253-2020
mfogarty@barnettbolt.com

Tax Section Comments on IRS Regulation Projects

The Tax Section has members working on comments on the following IRS regulation projects. If you are interested in participating in either comment project contact Brian Harris at brian.harris@akerman.com.

(1) **Transfers of Property to Partnerships with Related Foreign Persons.** We are looking at putting together a group and are soliciting volunteers to prepare comments in response to Notice 2015-54, Transfers of Property to Partnerships with Related Foreign Partners and Controlled Transactions Involving Partnerships. Notice 2015-54 is aimed at IP migrations that utilize partnerships. A typical IP migration involves a transfer of IP from a US company to a foreign company. As such, the use of partnerships is the less frequently used approach. Portions of Notice 2015-54 mandate the use of the remedial method under Code Section 704(c) to cause the US contributor to have income, and portions seemingly apply IRC 482 principles in a manner this is possibly inconsistent with the *Veritas* decision and invokes the income allocation rules used by the current cost sharing rules under Treas. Reg. Section 1.482-7. The cost sharing rules require that a significant amount of profits earned by contributed IP be allocated to the contributing cost sharing participant. As such, the application of the cost sharing approach to partnerships may exceed the IRS's authority. The impact of the Notice 2015-54 may extend to other areas of partnership tax and maybe even estate and gift tax planning.

(2) **FIRPTA Reorganizations.** We are currently looking at the Requested Exclusion of FIRPTA Reorganizations from Corporate Inversion Rules. The principal covered Code Sections are 7874 and 897. Participants include: Jim Barrett, Bob Hudson, Steve Hadjiligiou, Jeff Rubinger, Joe McFarland, James Schmidt, Summer LePree, Ceci Hassan, Bobby Moore, Michael Bruno, Adam Smith, Alfredo Tamayo and Hans Tanzler IV. There is no comments deadline and this project is ongoing.

From the Trusts & Estates Corner of the World, the IRS recently announced a new procedure for obtaining an estate tax closing letter evidencing that a Federal Estate (and Generation-Skipping Transfer) Tax Form (Form 706) has been accepted as filed. Historically, the IRS issued these letters to the executor/personal representative of an estate automatically. The significance of an estate tax closing letter is that, barring the most unusual of circumstances, the IRS will not seek to re-open an estate or seek to collect any additional taxes after a closing letter has been issued. I personally have never experienced an estate being re-opened after a closing letter has been issued in over 30 year of practice. For estate tax returns filed on or after June 1, 2015, an estate tax closing letter will now only be issued upon request by the taxpayer. The IRS website (www.irs.gov) advises taxpayers to wait at least four (4) months after filing the return to make the request and provides a contact number for additional information regarding any such requests (866-699-4083). While it should in any event be considered "best practices" to have one in the file, Florida probate courts will not allow a taxable estate administration to be concluded without evidence of filing. So this new request requirement should be added to your standard checklist for taxable probate estates or you may find yourself waiting for something that is no longer going to come automatically.

Pro Bono Volunteer Opportunities

Florida's Low Income Taxpayer Clinics (LITCs) assist low income taxpayers with IRS controversies, including, collections, liability disputes and Tax Court petitions. Studies show that representation significantly increases positive outcomes for low income taxpayers. If interested in representing a low income taxpayer, please directly contact the LTC nearest you (for a complete list of the LITCs in Florida, go to www.lsgmi.org and click on Low Income Taxpayer Clinic under Quick Links.

Volunteers needed for the U.S. Tax Court Pro-Bono Calendar Call Program. The Program is designed to have local tax practitioners volunteer their time to pro se taxpayers during Small Case calendar call sessions without entering their name as the attorney of record. If you are interested in participating, please contact Karen J. Lapekas at 305-600-1485 or karen@lapekaslaw.com.

**Questions or comments, please email Arlee Colman at
acolman@flabar.org or visit our website at
www.floridatlawyers.org**