

Tax Section of the Florida Bar

September 2018 E-Newsletter

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TAX SECTION
of the Florida Bar

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TOP NEWS

2018 Fall Meeting

September 20 – 22, 2018 | JW Marriott, Washington, DC

[Click Here for Brochure](#)

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September 20-23 the Section travels to Washington D.C. for its Fall Meeting. Tax lawyers will be in high demand as the country analyzes the short-term and long-term impact of the new tax law. There, we will meet with our Florida legislative delegation and various agencies that we interact with as tax practitioners or that affect tax legislation and policy. This is a unique and important opportunity for the Section to engage on the federal level at a time when it couldn't be more important for us to do so. The timing of this meeting coincides perfectly to voice our thoughts and concerns related to new tax legislation and have input into any patch or glitch legislation that may be necessary. Section members will also have unique sightseeing opportunities on this trip, such as tours of D.C. monuments at night and behind the scenes tours of the Smithsonian!

The hotel reservation deadline has passed, but there is still time to register and make alternate lodging arrangements if you hurry! Please contact Program Administrator [Leslie Reithmiller](#) if you have any questions about registration.

Hot Off the Press!

Summer 2018 Issue of the Tax Section *Bulletin* Now Available

Check Out These Articles:

- Tax Section Active in Protecting Tax and Business Planning from Effects of Comments to UVTA
- Considering Expatriating? Now Might Be the Perfect Time
- Taxpayer Rights in Florida: New Opportunity for Meaningful Reform
- Federal Income Tax Incentives Under the New Qualified Opportunity Zone Regime
- The New Participation Exemption: An Opportunity to Convert Ordinary Dividends into Qualified Dividends
- AND MORE!

[Click Here to Read!](#)

Florida Bar Tax Section Speaker's Bureau

We are pleased to announce the rebirth of the Florida Bar Tax Section Speaker's Bureau which was first instituted in the 1950's to encourage members of the newly formed Tax Section to educate the public about matters of significance to the tax community by speaking to civic organizations, clubs and as guests on radio talk shows. With the reincarnation of this member benefit we will provide tax attorneys throughout Florida with access to high quality pre-drafted speeches regarding important tax and legislative matters. We hope that our members will take advantage of these finely crafted speeches to educate the public, including fellow attorneys and other residents of Florida, and for their own business development. The first materials to be provided by the Tax Section will be regarding proposed Constitutional Amendments 1, 2 & 5 that have tax implications on the ballot this year to assist in educating the voters (without taking a position for or against) and to promote informed political engagement at the polls. The speeches provided by the Tax Section Speaker's Bureau also provide our members with an excellent opportunity to get out into the public sphere and enhance their speaking profiles and visibility in their communities. These speeches will soon be posted to a new, private Member Benefits section of the Section's website (coming soon!), but if you wish to take advantage of this exciting new member benefit while the page is still under construction, please contact [Dana Apfelbaum](#).

Florida Department of Revenue Conducts First Public Meeting Regarding TCJA Changes

On August 22, the Florida Department of Revenue held the first of at least two public meetings to evaluate the potential impact of the TCJA's many domestic and foreign provisions on Florida's corporate income tax. Approximately fifty individuals attended the meeting either in-person or online. Of the thirteen TCJA provisions previously outlined by the Department, the majority of the hour-long meeting was public comment on GILTI (951A), the net interest deduction limitation (163(j)); and repatriation (965). Karl Frieden, General Counsel for the Council on State Taxation (COST), Diann Smith from McDermott Will & Emery, representing the State After Tax Reform (STAR) Partnership, and Mark Holcomb from Dean Mead were the only members of the public that spoke. Below are some of the key discussion points:

GILTI

- The federal corporate tax base broadening provisions in the TCJA were designed to offset the reduction in the federal corporate tax rate to make the US more competitive internationally. Because states have not similarly lowered tax rates, GILTI creates arbitrary results that are inconsistent with the federal tax reform.
- If Florida adopting GILTI would result in an unrepresented expansion of the state taxing foreign income.
- The Department may already have the regulatory authority to exclude GILTI as subpart F income, due to their similarities. However, all parties appear to agree that clear legislation decoupling from GILTI would provide the most protection against the substantial revenue increase.
- If a state adopts GILTI, the likely result will be commerce clause challenges. Under Kraft, the US Supreme Court forbid a state from discriminatory taxation against foreign commerce. The same issue would arise with GILTI, and the complicated calculations to comply at a state level would only exacerbate the constitutional concerns. Even if Florida were not prohibited from taxing GILTI, other federal constitutional requirements may affect the apportionment of that income.

Interest Limitation Deduction

- Citing the EY/COST report entitled The Impact of Federal Tax Reform on State Corporate Income Taxes, COST explained it is estimated the interest deduction limitation will result in a 7% increase per year in the Florida corporate tax base. COST explained this single provision accounts for the majority of the total estimated Florida corporate tax base increase under the TCJA of 13% per year.

- The interest deduction limitation should be coupled with the additional 100% expensing allowed under IRC §168(k). Congress intended these two provisions to be linked to spur immediate business improvements and allowing the corresponding interest deductions to be spread over time. If states, like Florida, already decouple from the increased expensing allowed and also adopt the interest deduction limitation, there will be disproportionate results.
- Warnings of the added complexity that will occur in a separate entity state such as Florida if the IRS imposes the interest limitation deduction on a federal consolidated basis.

Repatriation

- Advocated that the Legislature should codify the Department's informal pronouncement, in the interests of clarity and certainty for both the Department and taxpayers. Unless the Legislature reverses course and requires an addition of deemed repatriated foreign income to the Florida tax base, these amounts should be excluded from Florida corporate income tax for most taxpayers.
 - Florida should be limited to waters edge, not foreign.
 - The retroactive nature of the changes could result in due process challenges.

The next public meeting is tentatively planned for October 24th. We anticipate a significant number of taxpayers, business groups, coalitions, and associations will have written and/or oral comments submitted to the Department by that time. The Section anticipates approving its comments at the Fall Meeting in Washington DC. If you have any questions, please contact French Brown at fbrown@deanmead.com.

**Mark Your
Calendar!
2018-2019
Phone CLEs**



[Click Here to See Scheduled Dates!](#)

2018-2019 Marvin C. Gutter Outstanding Public Service Award



Left to Right: Chair Michael D. Minton, Mark Allen Prater, and Professor Dennis Calfee

Mark Allen Prater was honored as the 2018-2019 recipient of the Marvin C. Gutter Outstanding Public Service Award at the Section's Organizational meeting held at Amelia Island Plantation in early July. Mark was nominated by Prof. Dennis Calfee (UF LLM Graduate Tax Program Prof.) who attended the ceremony. Mark also participated as a speaker at the Ullman Year in Review CLE program that has become a traditional component of the Organizational meeting. He will also participate in the Section's Fall meeting this September 20-22 in Washington DC.

After earning his LLM in Taxation at the University of Florida in 1987, Mark entered the practice of law in Portland, Oregon. As famed Justice William O. Douglas is reputed to have said, "Go East young man, go East." Mark journeyed East in 1990 taking a position as a tax counsel on the Republican staff of the U. S. Senate Finance Committee where he worked with and was mentored by another prominent Florida LLM, Lindy Paull. For over 28 years Mark has served in key tax policy positions. He has served as Chief Tax Counsel on the Republican staff of the Senate Finance Committee since 1993 and since 2007 has also held the position of Deputy Staff director of the Republican staff. Mark has always worked well with and been respected by not only both sides of the aisle in Congress but the White House as well. He is considered by all with whom he comes in contact as a kind, honest broker with a masterful knowledge of the Internal Revenue Code and the legislative process, which has enabled him to forge unique solutions to complex problems facing the country. In 2011 he was selected as the Staff Director for the Joint Select Committee on Deficit Reduction, the "Super Committee." He has played a role in every major tax bill since 1990 with a key role in the passage of the most recent tax

overhaul. Mark has journeyed to Florida on multiple occasions to speak on pressing tax policy issues, including his participation in the Ellen Bellet Gelberg Tax Policy Lecture Series at the University of Florida, Levin College of Law.

Over the past twenty-eight years Mark has practiced what Montesquieu referred to as public virtue, preferring public to private interests, an essential element in sustaining a republican government. His service is an example for us all.

Mark is currently a Managing Partner with Price Waterhouse Coopers in Washington, D.C.



Samuel C. Ullman Scholarship

By Michael D. Minton, Chair

As I previously reported, we lost a dear friend, mentor, ambassador and legend of The Florida Bar Tax Section this past Spring with the passing of Sam Ullman, who passed away on March 11, 2018. During his many years of active participation, Sam served as Chair (1977-1978), received The Gerald T. Hart Outstanding Tax Attorney of the Year Award (1993-1994), created our Sam Ullman Annual Review program which continues as his namesake and encourages young attorneys to get more involved with the Tax Section, helped found the Tax Certification program approved in 1982, and was a professor and mentor to many. At the Annual Meeting of the Tax Section last April in Sarasota, I informed the Directors and members of the effort to establish an endowed scholarship in Sam's memory.

While the UF Foundation has informed us that a commitment of \$30,000 is required for an endowed scholarship, the law school has established a threshold of \$100,000 for a separate scholarship to be awarded, so our goal is to raise at least \$100,000. I am pleased to inform you (as I reported at the Organizational meeting earlier this month) that the Tax Section's Ullman Scholarship currently has: (i) \$29,000 received in the account; (ii) pledges in the amount of

\$19,500, and (iii) the Tax Section's matching pledge of \$30,000 over the next six years. Over the Organizational meeting another \$1,500 of pledges were received. This now brings our current aggregate total to \$80,000. We have achieved 80% of our goal!

Please join us by making a pledge today and help the Tax Section reach its goal of establishing this scholarship in Sam's memory so that other students will know of his lifelong commitment to education, this profession that he loved so much, and helping others, for which Sam's name will always be synonymous.

[Click Here for UF Pledge Form](#)

Florida Corporate Income Tax Guidance on Repatriation

The Florida Department of Revenue has issued a Tax Information Publication (or “TIP”) entitled: Section 965, IRC - Transition Tax - Repatriation - Impact on Florida Corporate Income/Franchise Tax Return (Form F-1120).

The TIP, dated April 27, 2018, has been posted to the Department's website and can be [viewed here](#).

Florida Bar Journal Articles

The Florida Bar Journal has openings for tax articles for the May/June 2019 issue (**February 15, 2019 deadline**) onward. Please email Taso Milonas at tmilonas@wealthlawgroup.com or Charlotte Erdmann at Charlotte@erdmannlaw.com if you are interested.

[Click here](#) to access *The Florida Bar Journal* archives!



Tax Section *Bulletin* Submissions

The Summer Edition of the Florida Bar Tax Section Bulletin was published and circulated in August 2018. We intend to publish a Fall Edition of the Florida Bar Tax Section *Bulletin* for circulation in December 2018. Please contact Michael Bruno at mjbruno@mwe.com for article spots. The deadline for submission is **November 9, 2018**.

Catch Up on Past CLEs!

Log in to [The Florida Bar Members Portal](#) to
browse the CLE Products Catalog.

Tax Reform Study Committee

The Federal Tax Division has created a Tax Reform study committee to analyze and report on the recent tax reform legislation that was signed into law near the end of 2017. Leaders from the areas of international tax, business organizations, estate planning, tax procedure and controversy, and employee benefits and qualified plans have been hard at work analyzing the impact of the new laws, and the study committee and the Tax Section will continue to educate Section members on the impact of such reform through phone CLEs, live CLEs, lunch-and-learns, and articles in Section publications. The committee is also looking for opportunities to address reform-related issues with government and IRS representatives during the Section's trip to Washington D.C. in September 2018. If you are interested in getting involved with the study committee, please email Brian Malec at bmalec@deanmead.com.

Tax Section Comments on IRS Regulation Projects

Let your voice be heard. The Tax Section provides comments on proposed treasury regulations that are of interest to its members. If you see proposed regulations and would like to work together with other Tax Section members on comments, contact Brian Harris at brian.harris@akerman.com.

Tax Section Hall of Champions: Dick Jacobs

The purpose of the Florida Bar Tax Section's "Hall of Champions" Interview Series is to record and preserve the wisdom of those lawyers who have meant so much to the development of tax law and policy in Florida.



In this installment, we interview Richard O. ("Dick") Jacobs, who served as Chair of the Section in 1978-79.

Mr. Jacobs practices with the Johnson Pope law firm in St. Petersburg, Florida. More information about Mr. Jacobs can be [found here](#).

Interviewed by Steven M. Hogan (www.ausley.com).

Listen on your [iPhone](#), [Android](#), or [web browser](#).

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 LITC 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. NOW SERVING TALLAHASSEE. The Program is designed to have local tax practitioners volunteer their time to pro se taxpayers during calendar call sessions without entering their name as the attorney of record. If you are interested in participating in the Calendar Call Program, please contact one of the following Tax Section members:

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305-600-1485
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