NYU | SCHOOL OF PROFESSIONAL STUDIES

42ND INSTITUTE ON STATE AND LOCAL TAXATION

DECEMBER 11–12, 2023

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

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December 11-12, 2023
Westin New York at Times Square, New York, NY

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LEARNING OBJECTIVES OF THE 42ND 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 policy issues.
- 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 transfer pricing controversies; tangible personal property; tax insurance; sales and use tax compliance; 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.

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NYU SCHOOL OF PROFESSIONAL STUDIES PUBLICATION

Matthew Bender & Co., Inc., a member of the LexisNexis Group, will publish articles from some of the Institute's presenters. The proceedings of the 2022 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 William D. Townsend, Esq. as this year's recipient, in recognition of his unparalleled contributions to the Institute and state and local taxation. The award will be presented during the luncheon on Monday, December 11, and the celebration will continue during the reception.

NYU SPS PAUL H. FRANKEL MEMORIAL POST-LUNCHEON ADDRESS

Please be our guest on Monday, December 11, 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 11, 2023, please be our guest at 5:15 p.m. for cocktails and hors d'oeuvres and meet our distinguished speakers personally. Enjoy this time to meet and network with state and local tax practitioners from around the country.

DAY 1: MONDAY, DECEMBER 11

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

8:00 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.
SPARE A SQUARE?
Transfer Pricing SALT Controversies have increased over the years. States are concerned about possible abuse arising from inter-company transactions, while Taxpayers counter that the states have a plethora of other weapons to deploy (e.g., forced combination, addback statutes, alternative apportionment), in lieu of disputing established transfer pricing studies. What is your experience? Let's discuss.
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*
Robert M. Porcelli, Esq., *Principal, PwC, Washington DC*
David J. Shipley, Esq., *Shareholder, Stevens & Lee, Princeton, NJ*
Nicole M. Wooten, Esq., *Of Counsel, Maynard Nexsen PC, Columbia, SC*

9:20 a.m.
THERE ARE 2, NO 3, RESPONSIBLE TAXPAYERS IN EVERY SALES TRANSACTION
The adoption of marketplace facilitator collection responsibilities has complicated sales tax reporting. While the "base case" of a small seller listing products for sale on a large marketplace appears straightforward, there are numerous less-than-obvious fact patterns, including when marketplaces sell on other marketplaces, seller "opt outs", mere commission sales and foreign sellers. Is it time to address the inconsistent definition of "Marketplace Facilitator?"
Moderator: Fred J. Nicely, Jr., Esq., *Senior Tax Counsel, Council On State Taxation, Wooster, OH*
Michael J. Hilkin, Esq.*, Counsel, McDermott Will & Emery, New York, NY*
Dana Lance, CPA, *National Managing Partner, SALT Solutions, Grant Thornton, San Jose, CA*

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

10:25 a.m.
YOU CAN'T TOUCH THIS – TANGIBLE PERSONAL PROPERTY – IS IT PAST ITS PRIME?
Tangible personal property has been a cornerstone concept for both income taxation and sales taxation. But recent court decisions have demonstrated the difficulty in defining this term. In light of the developments associated with efforts to the increasing digitalization of our economy – which has profound effects on sales taxability, income tax sourcing, and the application of Public Law 86-272, the speakers cover the inconsistent interpretations of tangible personal property. Or perhaps abandon the definition altogether?
Moderator: Marc A. Simonetti, Esq., *Partner, State Tax Law, New York, NY*
Eric M. Anderson, Esq., *Managing Director, Andersen Tax, San Francisco, CA*
Michael J. Semes, Esq., *Of Counsel, BakerHostetler, Philadelphia, PA*
Ali R. Vahdat, Esq., *Americas Indirect and State & Local Tax Leader, EY, Los Angeles, CA*

11:15 a.m.
BIG GAIN HUNTING
States' treatment of non-recurring extraordinary gains continue to evolve, impacting both the determination of the tax base as well as apportionment factor considerations and the use of alternative apportionment. Further, gains from the sale of pass-through entity interests pose additional complications. This panel addresses recent decisions confronting the issues that arise from transactions that produce big gains (and losses).
Moderator: Lynn Gandhi, Esq., *Partner, Foley & Lardner, Detroit, M*
Bruce J. Fort, Esq.*, Senior Counsel, Multistate Tax Commission, Washington, DC*
Alysse McLoughlin, Esq., *Partner, Jones Walker, New York, NY*

12:00 -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 William D. Townsend

INTRODUCTION
Jeffrey A. Friedman, Esq., *Partner, Eversheds Sutherland (US), Washington, DC*
Lynn A. Gandhi, Esq., *Partner, Foley & Lardner, Detroit, MI*

NYU SCHOOL OF PROFESSIONAL STUDIES PAUL H. FRANKEL OUTSTANDING ACHIEVEMENT IN STATE AND LOCAL TAXATION AWARD RECIPIENT
William D. Townsend, Esq., *Tallahassee, FL*

1:00 p.m.
NYU SCHOOL OF PROFESSIONAL STUDIES PAUL H. FRANKEL MEMORIAL POST-LUNCHEON ADDRESS
OVERVIEW AND PREVIEW OF FEDERAL CONSTITUTIONAL ISSUES
Our commentators provide a spirited preview of the most significant constitutional cases in state taxation over the past year as well as a 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*

2:00 p.m.
GOING LOCAL
Local taxes are proliferating and can be challenging to learn, administer and challenge. Moreover, the disconnect from established state nexus standards and tax base definitions further complicate compliance. What do you know and need to know?
Moderator: Nicole L. Johnson, Esq., *Partner, Blank Rome, New York, NY*
Lindsay LaCava, Esq., *Partner, Baker McKenzie, New York, NY*
Aliza L. Sherman, Esq., *Of Counsel, Stevens & Lee, Elmwood Park, NJ*

3:00 p.m. **REFRESHMENT BREAK**

3:15 p.m.
JUST PASSING THROUGH
This panel provides the state of the states' status of tax planning, compliance and controversies associated with ownership of multistate partnerships and LLCs. Coverage addresses the complexities arising from the new PTE tax regimes and combined reporting issues.
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*

4:15 p.m.
SO, NOW WHAT DO WE DO? ETHICAL CHALLENGES ASSOCIATED WITH TAX FILINGS
Your client (or your colleagues) messed up a tax return, failed to timely file a return, or perhaps needs to correct a return previously filed. The speakers evaluate the options for fixing mistakes, and the practical opportunities to coming clean, resolving presentation issues, evaluating playing the audit lottery, as well as other options that will let you sleep easier at night.
Moderator: Glenn C. McCoy, Jr., CMI, Esq., *Principal, Client Services, Ryan, New York, NY*
Ted W. Friedman, Esq., *Partner, Eversheds Sutherland (US), New York, NY*
Jack Trachtenberg, Esq., *Principal, Deloitte Tax, 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 12

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

8:00 a.m. **CONTINENTAL BREAKFAST**

8:30 a.m.
WHAT'S ON THE HORIZON?
The one thing we know for sure is that SALT will continue to evolve. Will we see more gross receipts taxes? Digital advertising taxes? Will states continue to limit the applicability of P.L. 86-272? The speakers share their views on the most interesting and expected state and local tax changes over the next few years.
Moderator: Gregory S. Matson, Esq., *Executive Director, Multistate Tax Commission, Washington, DC*
Richard C. Call, Esq., *Partner, McDermott Will & Emery, New York, NY*
Harley T. Duncan, *Consultant, KPMG, Washington, DC*
Brian L. Oliner, Esq., *General Counsel, Federation of Tax Administrators, Washington, DC*

9:25 a.m.
REST INSURED: THE PROS AND CONS OF INSURING STATE TAX POSITIONS AND CONTROVERSIES
What exactly is tax insurance, and what are the considerations to obtaining a policy? Considerations may vary between the insured (taxpayer) and the insurer. Hear about how insurance companies assess the insured's return position/transaction/litigation position. In addition, what are the tax accounting considerations of the insured? There is more behind the curtain to learn.
Moderator: Matthew P. Hedstrom, Esq., *Partner, Alston & Bird, New York, NY*
Justin Pierce Berutich, Esq., *Managing Director, Head of Tax, Euclid Transactional, New York, NY*
Tov Haueisen, Esq., *Partner, PwC US, New York, NY*
Jenny Wong, Esq., *Vice President & Counsel, Ryan Transactional Risk, New York, NY*

10:15 a.m. **REFRESHMENT BREAK**

10:30 a.m.
BEST PRACTICES IN SALES AND USE TAX COMPLIANCE
The use of shared service centers, AI, and other technologies have become the standard in sales and use tax compliance. This panel identifies the best practices that address the most common challenges, particularly those associated with defining and situsing taxable services, implementation and maintenance of complex tax matrices, and adherence to tax accounting rules.
Moderator: Carolynn S. Kranz, Esq., *Managing Member, Industry Sales Tax Solutions, Doylestown, PA*
Jackie C. Orea, *Managing Director, Andersen Tax, San Francisco, CA*
Jennifer S. White, Esq., *Partner, Reed Smith, New York, NY*
Kimberley A. Wick, CPA, *Principal, KPMG, Atlanta, GA*

11:20 a.m.
THE TRI-STATE PANEL
A lively discussion of current key topics by state tax officials from New York, New Jersey and Connecticut.
Moderator: Richard W. Genetelli, CPA, *Managing Director, Genetelli Consulting Group, New York, NY*
Amanda Hiller, Esq., *Acting Tax Commissioner and General Counsel, New York State Department of Taxation and Finance, Albany, NY (Invited)*
Marita R. Sciarrotta, MPA, *Acting Director, New Jersey Division of Taxation, Trenton, NJ*
John Biello, MPA, *Deputy Commissioner, Connecticut Department of Revenue Services, Hartford, CT*

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

1.15 p.m.
WHAT'S HAPPENING EVERYWHERE TODAY?
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. Then, stick around for "Meet the Press" and a panel discussion on important SALT developments from across the nation.
Moderator: Ginny Buckner Kissling, *Global President and Chief Operating Officer, Ryan, Dallas, TX*
Moderator: Douglas L. Lindholm, Esq., *Executive Director, Council On State Taxation, Washington, DC*
Moderator: David A. Hughes, Esq., *Partner, HMB Legal Counsel, Chicago, IL*
Moderator: J. William McArthur, Jr., Esq., *former VP Tax Planning, TE Connectivity, Berwyn, PA*

SPECIAL REPORTERS:
Jaye A. Calhoun, Esq., *Partner, Kean Miller, New Orleans, LA*
Karl A. Frieden, Esq., *Vice President and General Counsel, Council On State Taxation, Washington, DC*
Stephanie Anne Lipinski Galland, Esq., *Principal, Miles & Stockbridge, Washington, DC*
Burnet R. Maybank III, Esq., *Counsel, Adams & Reese, Columbia, SC*
Sharon R. Paxton, Esq., *Of Counsel, McNees Wallace & Nurick, Harrisburg, PA*
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Jorge Rodriguez, Esq., *Managing Principal, Rodriguez Law Firm, New York, NY*
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Geoffrey Way, Esq., *Director, KPMG, Sacramento, CA*
Masha M. Yevzelman, Esq., *Shareholder, Fredrickson & Byron, Minneapolis, MN*
PRODUCER:
Michael Garcia, *Director, Ryan, Dallas, TX*

4.20 p.m. **WRAP UP**

4.30 p.m. **CONFERENCE CONCLUDES**