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33rd Annual National Institute on Criminal Tax Fraud and the Sixth Annual National Institute on Tax Controversy

December 7-9, 2016
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33rd Annual National Institute on Criminal Tax Fraud and the Sixth Annual National Institute on Tax Controversy

Program Description:

The 33rd Annual National Institute on Criminal Tax Fraud is the annual gathering of the criminal tax defense bar combined with the Sixth Annual National Institute on Tax Controversy. This program brings together high-level government representatives, judges, corporate counsel, and private practitioners engaged in all aspects of tax controversy, tax litigation, and criminal tax prosecutions and defense.

Curriculum topics include:

- Roundtable discussions with senior officials from the IRS and Justice Department
- Strategies for experienced practitioners when representing clients in examination, at appeals, and during criminal investigations
- Breakout sessions focused on civil tax controversy and criminal tax defense strategies
- Advice from judges on what they want to hear from you

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The image displays a collection of tax forms and documents, including:

- Form 1040EZ**: A simplified tax form for individuals with no adjustments or extra income.
- Form 1065**: A corporate income tax return form.
- Form 1120**: A corporate income tax return form for corporations.
- Form 990**: A return of organization income for tax-exempt organizations.
- Form 1041**: A return of income for estates and trusts.
- Request for Taxpayer Identification Number and Certified Identification Number**: A form used to request a taxpayer's identification number.

The forms are arranged in a collage, with some overlapping others, showing various sections, instructions, and line numbers.

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Government Lawyers	\$550
First-Time Attendees*	\$980

*First-time attendees are attendees who did not attend the Criminal Tax Fraud and Tax Controversy National Institute in 2010-2015. Fees do not include travel or lodging. The ABA reserves the right to correct all typographical errors.

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Agenda

Wednesday, December 7, 2016

12:00 p.m. – 1:00 p.m. **First-Time Attendees Lunch**

1:00 p.m. – 2:45 p.m. **Low Income Taxpayer Assistance: “Representing the Taxpayer with No Books and Records - Best Practices in Reconstruction and Estimates from Tax Return to Tax Court.”**

Moderator: Frank Agostino

Speakers: Jennifer Breen, Jeffrey Dirmann, Ric D. Hulshoff, Francine Lipman, Hon. Juan F. Vasquez

This workshop will address issues that lawyers in low income tax clinics and volunteer programs need to know to provide valuable assistance. Attendance at this workshop is open to all and does not require registration, but please only attend if you also plan to help. This year's panel will address the law, cases and best practices for preparing a return for the undocumented worker or small business with no records. The panel will discuss recent IRS trends in reconstructing income (i.e., the Form 1099-K audits, the cash business mark-up cases). The panel will also discuss how to reconstruct or estimate expenses in cases where the taxpayer has no books and records (i.e., hurricane, theft, natural disaster, records in a foreign country, cash business, etc.) The panel will also consider how, in a twist from the high-income examinations, the IRS seeks to impute expenses to reduce the earned income credit.

3:00 p.m. – 5:30 p.m. **Civil Tax Workshop**

Moderator: Frank Agostino

Speakers: Hon. Tamara Ashford, Nancy Chassman, Hon. Marvin Garbis, Andrew Strelka, A. Lavar Taylor, Hon. Juan F. Vasquez

Back again by popular demand, this workshop will demonstrate the different skill sets and strategies in tax litigation before the Tax Court, District Court, and Federal Court of Claims. You will hear from judges and experienced trial lawyers on issues including pre-litigation and litigation strategies, drafting pleadings, discovery, dispositive motions, pre-trial conferences, trial witnesses, and expert testimony. The panelists will also discuss practical considerations in choosing a litigating forum, and will highlight recent procedural issues.

Criminal Tax Workshop

Moderator: Sandra R. Brown

Speakers: Evan Davis, Lawrence S. Feld, Justin Gelfand, Sharon McCarthy, Martin A. Schainbaum, Richard Speier, Kevin F. Sweeney

This popular workshop will teach you strategies and techniques for handling sensitive civil examinations and criminal investigations, and defending a criminal prosecution. The workshop addresses when to anticipate a criminal referral, IRS Special Agent interviews of the taxpayer or preparer, representation of a target, subject or witness in a criminal investigation, how to approach a Department of Justice conference, procedural and trial issues that every criminal tax defense attorney should know, when and how to argue tax loss issues, effective plea negotiations, and sentencing strategies. The workshop includes a “criminal tax toolkit” of practice tips prepared by experienced practitioners.

5:30 p.m. – 7:00 p.m. **Institute Reception**

Day One — Thursday, December 8, 2016

8:30 a.m. – 8:45 a.m.

Welcoming Remarks and Announcements

8:45 a.m. – 10:00 a.m.

Establishing the Client Relationship: Ethical Issues
Moderator: Kathleen Pakenham
Speakers: Ian M. Comisky, Karen L. Hawkins, Lawrence S. Horn, Danielle M. Smith

There is a call, then an intake meeting, and then the issues begin: How do you establish the relationship with a new client? This panel will address commonly occurring ethics issues, including when the discussions between you and a prospective client become privileged, how to address or avoid conflict issues, how to ensure authorization for the retention of experts, and best practices for drafting engagement agreements. The panelists will also discuss very practical issues concerning how to determine an appropriate retainer and fee arrangement, authorization for the retention of experts and similar expense issues, and how to avoid fee disputes.

Ethics Credit

10 a.m. – 10:15 a.m.

Break

10:15 a.m.– 11:15 a.m.

Civil Enforcement Priorities
Moderator: Ellis L. Reemer
Speakers: Diana L. Erbsen, Fred Murray, Drita Tonuzi

Hear a roundtable discussion of hot topics, recent decisions, and enforcement priorities in civil tax enforcement. The speakers include high-ranking officials at the Department of Justice and the IRS and leading practitioners.

DOJ Criminal Roundtable
Moderator: James A. Bruton, III
Speakers: Sandra R. Brown, Caroline Ciruolo, Steven Toscher

Hear a roundtable discussion of hot topics, recent decisions, and enforcement priorities in criminal tax enforcement. The speakers are all current or former Department of Justice leaders and prosecutors.

11:15 a.m.– 12:15 p.m.

What's New at Exam and Appeals
Moderator: Sheldon M. Kay
Speakers: Sheri Dillon, Barbara T. Kaplan, Steven Miller

The IRS is continuing its efforts to refocus its approach at Examination and Appeals. The panelists will provide a roundtable discussion of what they are seeing in action, and how best to be prepared.

IRS CI Roundtable
Moderator: Mark E. Matthews
Speakers: Sanford J. Boxerman, Richard T. Lunger, Victor Song, Richard Weber

The IRS Criminal Investigation Division is on the front line of criminal tax investigations. IRS CI representatives and practitioners will discuss the top priorities and future challenges in criminal tax enforcement.

12:15 p.m. – 1:30 p.m.

Jerry Feffer Annual Lunch

1:30 p.m.–
2:20 p.m.

Civil: The New Partnership Audit Rules

Moderator: Thomas A. Cullinan

Speakers: Michael J. Desmond, Frank J. Jackson, James R. Malone, Jr.

The end of TEFRA audits and litigation is in sight, and a new regime is coming. This panel will discuss what you need to know now and in years to come concerning the new partnership audit rules.

Criminal: The World Keeps Turning: Where We Are Now With Offshore Investigations

Moderator: Scott D. Michel

Speakers: Mark Daly, John C. McDougal, Sharon L. McCarthy, Carolyn A. Schenck

It is now eight plus years, and the investigations continue. This panel will discuss where we are, and where we may see ourselves next with offshore investigations. The panel will also address what you need to know now about the options available to those who remain non-compliant.

2:20 p.m.–
3:20 p.m.

Civil: When The Evidence Is Abroad: Strategies For International Discovery

Moderator: Brian C. McManus

Speakers: Thomas Maher, Charles J. Muller, Thomas Sawyer

The government is increasingly using treaty requests, tax information exchange agreements, and mutual legal assistance treaties to gain information in tax cases. The panelists will discuss the government's efforts to obtain information from other countries, and strategies for representing witnesses and targets. The panel will also consider issues concerning inbound requests from foreign tax authorities.

Criminal: The Next Wave: The Government's Focus on U.S. Investments to Evade Foreign Taxes

Moderator: Bryan C. Skarlatos

Speakers: David F. Axelrod, Marjorie J. Pearce, Michael Shepard

There is increasing attention to the use of U.S. investments, structures and bank accounts to facilitate tax evasion in other countries. The last year has seen a number of initiatives to increase information reporting concerning these activities, as well as increased investigations in this area. This panel will discuss these initiatives, the tools available to the government, and ways to be prepared for the next wave of enforcement.

3:20 p.m.–
3:35 p.m.

Break

3:35 p.m.–
4:25 p.m.

Civil: IRS Collections: Strategies for Protecting Your Client's Rights

Moderator: Eric Green

Speakers: Christin Bucci, Wm. Robert Pope, Jr., Lawrence A. Sannicandro

The IRS has many tools to collect taxes. It is important to know what tools you may have to help your clients in response. This panel will discuss effective strategies. In particular, the panelists will address the use of Freedom of Information Act requests, and the new FOIA rules.

Criminal: Offshore Enforcement: How Will They Prove It?

Moderator: Niles A. Elber

Speakers: Hon. Marvin Garbis, Peter D. Hardy, David Katinsky, Edward M. Robbins Jr.

The examination is over and the IRS has determined that an FBAR penalty will be assessed against the taxpayer. Not every case can be settled at Appeals, and the number of new cases being filed by DOJ is increasing rapidly. The Government has used many tools to formally and informally obtain information about offshore banking activity. This panel from the government and defense bar will discuss the unique issues associated with preparing a FBAR case for trial.

4:25 p.m.–
5:45 p.m.

Civil: Preparing Witnesses to Testify

Moderator: Jenny L. Johnson

Speakers: Hon. Marvin Garbis, Richard Kando, Matthew D. Lerner, Josh O. Ungerman

Taxpayers, accountants, experts – these and other witnesses present different considerations and challenges. This panel will discuss how to decide who should testify, what effective testimony looks like, and how to get there.

Criminal: Ask the Experts: Top Tips in Criminal Tax Cases

Moderator: Larry A. Campagna

Speakers: Sandra R. Brown, Caryn Finley, Charles M. Meadows, Jay Nanavati, Jeffrey Neiman, Justin Thornton

Get practical guidance and personal views from leading criminal tax experts on both sides regarding the most challenging issues. Panelists will discuss trial strategies and the hottest of topics, including: recent court decisions, 5th amendment developments, sentencing and restitution

Day Two — Friday, December 9, 2016

8:30 a.m.–
9:45 a.m.

IRS “Future State”: Meeting IRS and Taxpayer Needs

Moderator: Armando Gomez

Panelists: Heather Maloy, William J. Wilkins

The IRS has been developing a “Future State” plan, which builds on some recent initiatives. This program will discuss the goals of the “Future State” plan, and its current status. Some concerns that have been raised about the protection of taxpayer interests under this plan will also be addressed.

9:45 a.m.–
10:00 a.m.

Break

10:00 a.m.–
11:00 a.m.

Civil: Whistleblower Update 2016 - Current Events in Tax Controversy involving Whistleblowers

Moderator: Frank Agostino

Speakers: Miriam Fisher, Aimee E. Schabilion, Hon. Juan F. Vasquez

Since 2014, the United States Tax Court has issued 14 opinions and dozens of substantive orders in whistleblower cases. These opinions address everything from drafting pleadings, establishing jurisdiction, obtaining discovery and the calculating the whistleblower award. This panel will discuss best practices when represented a whistleblower before the United States Tax Court. At the same time, the IRS is pursuing more civil cases based on information provided by whistleblowers. The panel will also discuss best practices and techniques available for discovering whether a case in based on information provided by a whistleblower and obtaining the information provided to the government by a whistleblower.

Criminal: Addressing Employment Tax Issues in Sensitive Examinations

Ethics
Credit

Moderator: Sara G. Neill

Speakers: Caryn Finley, David Holtz, Janet M. McHard, Betty J. Williams

Employment tax enforcement continues to be a priority for the IRS. In many cases, enforcement can be civil, or quickly turn criminal, especially in the era of coordinated criminal and civil tax enforcement. This panel will discuss how to address employment tax issues when they first arise in a civil examination, and how to keep things civil.

11:00 a.m.–
12:00 p.m.

Civil: Working with the Accountants: Ethical and Other Considerations

Ethics
Credit

Moderator: Richard J. Sapinski

Speakers: Wendy Abkin, Claudia Hill, Walter Pagano, Philip Wilson

Accountants are essential to our practices. They help us follow the numbers in preparing to defend our clients. They work closely with us in sensitive examinations. And they are often our key witnesses. This panel will address ethical and other considerations to keep these relationships strong and effective.

Criminal: Recurring Privilege Issues in Criminal Investigations

Moderator: Michael Y. Scudder

Speakers: Robert G. Bernhoft, John Colvin, Alexander P. Robbins

The attorney-client privilege, work product immunity, and 5th amendment privilege are always present considerations in criminal investigations. This panel will address recent and recurring issues, including the basic contours and limits of the joint defense / common interest privilege and waiver considerations; the impact of attorney proffers to the government on privileged communications; and recent decisions concerning the act of production privilege.

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General Public	\$1,415
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ABA Section of Taxation, Criminal Justice Section, AAA-CPA Members and California Society of CPAs Members	\$1,080
Government Lawyers	\$550
First-Time Attendees*	\$980

*First-time attendees are attendees who did not attend the Criminal Tax Fraud and Tax Controversy National Institute in 2010-2015. Fees do not include travel or lodging. The ABA reserves the right to correct all typographical errors.

Step 2: Please check one workshop for each day and time slot

- Wednesday ▪ December 7, 2016**
- ☐ Low Income Taxpayer Assistance Workshop. No additional cost, but you must check the box to R.S.V.P. and to attend the workshop.
 - ☐ Civil Tax Workshop — Enter your \$50 enrollment on line 6C.
 - ☐ Criminal Tax Workshop — Enter your \$50 enrollment on line 6D.
- Thursday ▪ December 8, 2016**
- ☐ The Jerry Feffer Annual Luncheon. No additional cost, but you must check the box to R.S.V.P. and to attend the luncheon.
 - ☐ Holland & Knight Women’s Networking Event. No additional cost, but you must check the box to R.S.V.P. and to attend the Event.
 - ☐ Dinner at Maggiano’s — This dinner is an additional \$75 and is a ticketed event. You must check the box to R.S.V.P. and to attend the Dinner. Enter your \$75 enrollment on line 6E.
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Electronic course materials will be provided via download at least 48 hours prior to the start of the Institute. Printed course materials are available on-site for an additional \$50 fee.

- ☐ Please provide printed course materials on-site for \$50. Enter your \$50 fee on line 6E.

* If you cannot attend, but would like to order the Course Materials, please visit us at www.ShopABA.org/2016ctf or call (800) 285-2221 for pricing and availability. Course materials will be shipped after the event.

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Civil Tax Workshop – Wednesday, Dec. 7 - \$50 (from Step 2)

6C \$ + _____

Criminal Tax Workshop – Wednesday, Dec. 7 - \$50 (from Step 2)

6D \$ + _____

Maggiano's Dinner – Thursday, Dec. 8 - \$75 (from Step 2)

6E \$ + _____

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6G \$ + _____

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MCLE

The ABA directly applies for and ordinarily receives CLE credit for ABA programs in AK, AL, AR, AZ, CA, CO, DE, GA, GU, HI, IA, IL, IN, KS, KY, LA, MN, MS, MO, MT, NH, NM, NV, NY, NC, ND, OH, OK, OR, PA, PR, SC, TN, TX, UT, VT, VA, VI, WA, WI, and WV. These states sometimes do not approve a program for credit before the program occurs. This course is expected to qualify for 14.75 CLE credit hours (including 2.25 ethics hours) in 60-minute states, and 17.70 credit hours (including 2.70 ethics hours) in 50-minute states. This transitional program is approved for both newly admitted and experienced attorneys in NY. Attorneys may be eligible to receive CLE credit through reciprocity or attorney self-submission in other states. For more information about CLE accreditation in your state, visit www.americanbar.org/cle/mandatory_cle.html.

NASBA

The American Bar Association is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be submitted to the National Registry of CPE Sponsors through its website: www.learningmarket.org.

Scholarships

For more information on scholarships, visit www.americanbar.org/groups/cle/scholarship.

Attire

Business casual attire is appropriate for all activities.

Cancellations

Cancellations received five business days or more before the program will receive a full refund, less a \$50 cancellation fee. No refunds will be provided for cancellations after that date; however, substitute registrants are welcome at any time. To cancel your registration or substitute another individual, please call the ABA at (800) 285-2221 or fax your request to (312) 988-5850. Registrants who do not cancel within the allotted time period and who do not attend the program will receive a copy of the program course materials after program completion.

Services for Persons with Disabilities

If special arrangements are required, please contact Donna Prather Williams at (312) 988-6210 or Donna.Williams@americanbar.org. Reasonable advance notice is requested.

In-Person Registration

If you plan to register in person, please call the ABA at least 24 hours in advance to confirm that the program is being held as scheduled and that space is available. Cash payments will not be accepted.

Program Confirmation

Written confirmation of your registration will be sent to you upon receipt. If you do not receive the confirmation notice prior to the program, please call the ABA at (800) 285-2221 at least 24 hours in advance to confirm that your registration was received and that the program is being held as scheduled.

Hotel Information

Wynn | Encore Las Vegas
3131 Las Vegas Boulevard South
Las Vegas, NV 89109

Rate (Single):

\$189 Sunday-Thursday | \$209 Friday-Saturday

Rate (Double):

\$219 Sunday-Thursday | \$239 Friday-Saturday

Reservations: (702) 770-7000 OR (866) 770-7555

Mention the group code (8CTF1216) to receive the group discount. All room rates are subject to city occupancy and sales tax.

Hotel deadline: Friday, November 15, 2016

Airline Information

Aba Negotiated Airfare Discounts – Available Online!

With ABA Egencia*, you can automatically obtain ABA negotiated airfare discounts for travel to the ABA Meetings. ABA Egencia enables you to purchase the best airfare at the time of booking, by providing you with the ability to search for and compare fares from virtually every airline serving the destination. Reservations with ABA Egencia can be made online or offline. For offline reservations, call (877) 833-6285. ABA Egencia is available online via ABA Travel Services*. ABA airfare discounts on some carriers may also be obtained by purchasing your tickets under the ABA Discount Codes directly from the airline or through your travel agent.

Airline discount codes are available for ABA meetings as follows:

- **American Airlines:** ABA Discount only available at ABA Egencia www.egencia.com.
- **United Airlines:** Call **(800) 426-1122** and mention code **374477** Z Code: **ZVWE**
Discount available at www.united.com; Online Discount Code: **ZVWE374477**
- **Delta Airlines:** Call **(800) 328-1111**: ABA File Global Meeting Code: **NMN7K**
Discount available at www.delta.com; Online Meeting Event Code: **NMN7K**

More details at www.americanbar.org/travel.

Standing Committee on Continuing Legal Education

Under the guidance of the Standing Committee on Continuing Legal Education, the Center for Professional Development administers and produces National Institutes, webinars, teleconferences, other technology-based products and written course materials to assist lawyers' professional development efforts.