

# 15<sup>TH</sup> ANNUAL TAX CONTROVERSY FORUM

## JUNE 8-9, 2023

WESTIN NEW YORK AT TIMES SQUARE  
NEW YORK, NY

**FINANCE AND TAXATION PROGRAMS**

SPECIAL FEATURE THIS YEAR:

Two Days of Problem Solving Sessions

Bring a Power of Attorney and Address Issues

With Representatives of the IRS!

CONFERENCE CO-CHAIRS:

Caroline D. Ciraolo, Esq., *Partner, Kostelanetz, Washington, DC*

Bryan C. Skarlatos, Esq., *Partner, Kostelanetz, New York, NY*

**FINANCE AND TAXATION PROGRAMS**

## CO-CHAIRS

Caroline D. Ciraolo, Esq., *Partner, Kostelanetz, Washington, DC*

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## LEARNING OBJECTIVES

The NYU School of Professional Studies is pleased to present the 15th Annual Tax Controversy Forum. The Tax Controversy Forum brings together representatives from the government and expert private practitioners to compare perspectives on a variety of topics involving tax audits, appeals, and litigation. The Forum covers a wide range of topics across the tax compliance and enforcement spectrum, from policy updates, to procedural seminars, substantive programs, international issues, ethical problems, current enforcement initiatives, sensitive audits, and civil and criminal tax penalties.

Tax compliance and enforcement are essential elements of our federal tax system. The Tax Controversy Forum is an opportunity to stay current on new developments, exchange ideas, and share practice tips that can contribute to a better functioning system. Participants qualify for CPE, CLE, and CE credits.

As a premier educational institution, the NYU School of Professional Studies is committed to providing the highest standard of professional enrichment.

## WHO SHOULD ATTEND?

Accountants, attorneys, enrolled agents, in-house practitioners, and tax professionals at all levels who prepare for or handle audits, appeals, or tax litigation, as well as those involved in planning and transactional work who could benefit from a better understanding of the implications of their work for audit defense.

## SPECIAL IRS IN-PERSON PROBLEM-SOLVING SESSIONS

### POWER OF ATTORNEY REQUIRED

Representatives of the IRS will be available in designated areas at the Tax Forum location in the Westin New York at Times Square to help tax practitioners resolve current tax problems.

The Taxpayer Advocates will provide one-to-one guidance, direction on next steps, and case building ideas.

If a tax professional's client's problem meets the Taxpayer Advocate Service's criteria, a Case Advocate will be assigned to work with the tax professional to resolve the taxpayer's issue. To take advantage of problem-solving sessions, you must bring a fully executed IRS Form 2848 "Power of Attorney and Declaration of Representative"

## NYU SCHOOL OF PROFESSIONAL STUDIES

Angie Kamath, MPP, *Dean*

## DIVISION OF PROGRAMS IN BUSINESS

Martin Ihrig, MBS, PhD, *Associate Dean and Associate Clinical Professor*

## DEPARTMENT OF FINANCE AND TAXATION PROGRAMS

Kathleen Costello, CMP, *Assistant Director*

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15<sup>TH</sup> ANNUAL TAX CONTROVERSY FORUM

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# 15<sup>TH</sup> ANNUAL TAX CONTROVERSY FORUM

## THURSDAY, JUNE 8, 2023

8 a.m.

### REGISTRATION AND DISTRIBUTION OF MATERIALS CONTINENTAL BREAKFAST

8:30 a.m.

#### WELCOME

Kathleen Costello, CMP, *Assistant Director, NYU School of Professional Studies, New York, NY*

#### OPENING REMARKS

Caroline D. Ciruolo, Esq., *Partner, Kostelanetz, Washington, DC*

Bryan C. Skarlatos, Esq., *Partner, Kostelanetz, New York, NY*

8:45 a.m.

#### WHAT'S NEXT FOR THE IRS? AN UPDATE FROM SENIOR IRS EXECUTIVES

There is a lot going on at the IRS! The IRS has a newly confirmed Commissioner, additional funding is in place, and the issuance of the IRS Inflation Reduction Act Strategic Operating Plan lays out what we can expect in the coming months and years. Hear directly from senior IRS executives as they discuss the IRS' plans for the future, hiring trends, the compliance and enforcement focus and other critical areas.

**Moderator:** Sharon Katz-Pearlman, Esq., *Shareholder, Greenberg Traurig, New York, NY*

Douglas W. O'Donnell, CPA, *Deputy Commissioner, Services and Enforcement, Internal Revenue Service, Washington, DC*

Holly O. Paz, Esq., *Acting Commissioner, Large Business and International Division, Internal Revenue Service, Washington, DC*

Lia Colbert, *Commissioner, Small Business/Self-Employed Division, Internal Revenue Service, Washington, DC*

#### TAX COMPLIANCE AND ENFORCEMENT UPDATE: PART I

Voluntary compliance and enforcement of the tax law are at the heart of our tax system. Over the past several years, the IRS and DOJ have been challenged to come up with new and more efficient ways to ensure that all taxpayers pay the correct amount of tax. These panels provide an update on new developments and priorities across various divisions of the government.

9:45 a.m.

#### CHANGES AT THE IRS INDEPENDENT OFFICE OF APPEALS

In 2019, The Taxpayer First Act ("TFA") created the newly named Independent Office of Appeals. The TFA also confirmed that the right to appeal shall generally be available to all taxpayers and enhanced taxpayers' ability to obtain their case files. This panel provides an overview of what is going on in the Appeals Division and how the TFA has affected Appeals Conferences over the past few years.

**Moderator:** Daniel Rosen, Esq., *Of Counsel, Todd Welty, PC, Atlanta, GA*

Andrew Keyso, Esq., *Chief, Independent Office of Appeals, Internal Revenue Service, Washington, DC*

10:10 a.m.

#### ETHICS: PROFESSIONALS UNDER FIRE

"There may be liberty and justice for all, but there are tax breaks only for some." Martin A. Sullivan. In the pursuit of these breaks, taxpayers frequently engage professionals – lawyers, accountants, appraisers, actuaries, and others – to identify opportunities to minimize their tax burden. But when does tax avoidance cross the line? The IRS has prioritized its examinations of and investigations into perceived abusive tax shelters and transactions and, in doing so, is targeting the professionals involved through preparer and promoter investigations, disciplinary proceedings before the Office of Professional Responsibility, and criminal investigations. This panel addresses the potential exposure for professionals assisting taxpayers with tax advantaged transactions, and current enforcement actions.

**Moderator:** Frank Agostino, Esq., *Founder & President, Agostino & Associates, PC, Hackensack, NJ*

Sarah E. Paul, Esq., *Partner, Eversheds Sutherland, New York, NY*

Larry A. Campagna, Esq., *Managing Shareholder, Chamberlain, Hrdlicka, White, Williams & Aughtry, PC, Houston, TX*

Sharyn M. Fisk, Esq., *Director, Office of Professional Responsibility, Internal Revenue Service, Washington, DC*

Bruce C. Wood, CPA/ABV, CVA, MTx., *Principal, BW Arpeggio, Alpharetta, GA*

11:10 a.m. REFRESHMENT BREAK

11:20 a.m.

## DISABILITY IN THE LEGAL PROFESSION – ARE YOU OVERLOOKING TALENT AND MISSING OPPORTUNITIES?

The legal profession can be extremely fast-paced and hypercompetitive, creating pressure among legal professionals to downplay any disability to minimize the risk of explicit or implicit bias, stigma, or simply reduced work assignments. While law firms are striving to accelerate and enhance diversity, equity, inclusion, and accessibility (“DEIA”) efforts for females, minorities, and LGBTQIA+ professionals, fewer firms mention or have implemented policies and practices to address disabilities in their diversity efforts. Only 1.4% of attorneys report having disabilities, but this number is three times higher than in 2019 and organizations are recognizing the need to expand their disability DEIA efforts. This panel addresses the need for “leadership by example” in the legal profession, including education and training for those with disabilities, the provision of necessary resources, and efforts to foster inclusion.

**Moderator:** **Nina E. Olson, Esq.**, *Executive Director, Center for Taxpayer Rights, Washington, DC*

**Josh Beck, Esq.**, *National Taxpayer Advocate Service, Attorney Advisory Group, Internal Revenue Service, Washington, DC*

**Leslie Book, Esq.**, *Professor of Law, Villanova University Charles Widger School of Law, Villanova, PA*

**David Long**, *Lead Equal Opportunity Specialist, Office of Equity, Diversity and Inclusion, Civil Rights Unit, Internal Revenue Service, Washington, DC*

12:20-1 p.m.

## LUNCHEON

Buffet lunch served

1-1:50 p.m.

## BREAK OUT SESSIONS

### TRACK I

#### AUDITS OF EXEMPT ORGS AND PRIVATE FOUNDATIONS: TAX EXEMPT DOES NOT MEAN NO EXAMINATIONS!

The IRS has an Exempt Organizations Examinations program designed to promote voluntary compliance by analyzing the operational and financial activities of exempt organizations and determining whether the organizations accurately filed required returns and reports. This panel of expert practitioners explores the complex tax, regulatory, and ethical issues that apply to exempt organizations and explains the common issues that arise during exempt organization examinations and compliance checks.

**Moderator:** **Josh O. Ungerman, Esq., CPA**, *Partner, Meadows, Collier, Reed, Cousins, Crouch & Ungerman, Dallas, TX*

**John Colvin, Esq.**, *Partner, Colvin + Hallet, Seattle, WA*

**Jason B. Freeman, Esq.**, *Managing Member, Freeman Law PLLC, Dallas, TX*

**Emily P. Hughes, PC, Esq.**, *Partner, Kirkland & Ellis, Washington, DC*

### TRACK II

#### LEFT HOLDING THE BAG: WITHHOLDING AGENT CURRENT ISSUES AND TRAPS FOR THE UNWARY

The global marketplace and increased individual mobility has created additional scenarios where US taxpayers are sending payments outside the United States and thereby making them subject to US withholding and reporting requirements. IRS LB&I has a compliance campaign to examine taxpayers who make such payments but fail to meet their compliance obligations. This panel identifies the subset of taxpayers (withholding agents) who are responsible for withholding US tax on payments to foreign payees, explains the surprising ways withholding agents can become liable for tax due on money paid to others, and describes how the IRS is holding US withholding agents accountable for the tax liabilities of foreign payees.

**Moderator:** **Jeffrey Dirmann, Esq.**, *Associate, Agostino & Associates PC, Hackensack, NJ*

**Christopher Hanfling, Esq.**, *Partner, Jones Day, Washington, DC*

**Victor A. Jaramillo, Esq.**, *Member, Caplin & Drysdale, Chartered, Washington, DC*

**Lauren Azebu, Esq.**, *Partner, Steptoe & Johnson, Washington, DC*

1:50 p.m. BREAK

2:10–3 p.m.

BREAK OUT SESSIONS

### TRACK I

#### LITIGATING (AND RESOLVING?) SYNDICATED CONSERVATION EASEMENT CASES

The IRS has declared war on Syndicated Conservation Easement transactions and is auditing thousands of partnerships that have donated easements and taken a related charitable donation deduction. More than 750 of these cases have reached the Tax Court. This tidal wave of litigation has given rise to a host of issues around when a deduction for the donation of an easement should be disallowed in its entirety, how to value the easement, and what makes a donation fraudulent. This panel explores these issues as well as the related question of whether there is a way to resolve a majority of these cases through some type of settlement initiative or other procedure.

**Moderator:** Michelle Abrams Levin, Esq., *Shareholder, Dentons Sirote, Huntsville, AL*

Thomas A. Cullinan, Esq., *Shareholder, Chamberlain, Hrdlicka, White, Williams & Aughtry, PC, Atlanta, GA*

Katherine Jordan, Esq., *Director of Tax Controversy, GBX Group, Cleveland, OH*

Rod J. Rosenstein, Esq., *Partner, King & Spalding, Washington, DC*

### TRACK II

#### PUERTO RICO'S ACT 20/22 TAX INCENTIVE PROGRAM: RESIDENCY AND SOURCING UNDER THE IRS'S MICROSCOPE

Since their passage in 2012, Puerto Rico's Acts 20 and 22, known together as Act 60 since 2019, have encouraged many individuals and businesses from the US mainland to relocate to Puerto Rico. The tax benefits that Act 60 provides encourage taxpayers outside Puerto Rico to boost the Puerto Rican economy by investing, doing business, and residing in Puerto Rico. As with any tax benefit, though, Act 60 is vulnerable to abuse. This panel discusses the IRS and the DOJ's scrutiny of taxpayers' claims of bona fide residency and Puerto Rico-sourced income.

**Moderator:** Jay R. Nanavati, Esq., *Partner, Kostelanetz, Washington, DC*

Timothy P. Noonan, Esq., *Partner, Hodgson Russ, New York, NY*

Carlos F. Ortiz, Esq., *Partner, Baker & Hostetler, New York, NY*

Victor Song, *Partner, Integritas<sup>3</sup>, Seattle, WA*

3 p.m. REFRESHMENT BREAK

3:20–4:10 p.m.

BREAK OUT SESSIONS

### TRACK I

#### EMPLOYEE RETENTION CREDIT AUDITS AND INVESTIGATIONS – THE TSUNAMI IS COMING

Claims for Employee Retention Credits ("ERCs") have proliferated exponentially. Almost everyone has seen a commercial or received a text or email offering easy money through ERC claims. The IRS has made no secret of its plans to aggressively audit ERC claims and punish abuse and fraud. This panel of experienced practitioners discusses the IRS' targeted enforcement efforts, explains how to spot red flags indicating abuse of the ERC, and describes the penalties that apply to taxpayers, promoters, and practitioners for erroneously claiming ERC credits.

**Moderator:** Christopher M. Ferguson, Esq., *Partner, Kostelanetz, New York, NY*

Sandra R. Brown, Esq., *Principal, Hochman, Salkin, Toscher, Perez, PC, Beverly Hills, CA*

Eric Hylton, *Director of Investigations, Zerbe, Miller, Fingeret, Frank & Jadav, Washington, DC*

Daniel Mayo, Esq., *Principal, Withum, Red Bank, NJ*

### TRACK II

#### EFFECTIVELY NAVIGATING THE LB&I EXAMINATION PROCESS: TIPS AND STRATEGIES FOR RESPONDING TO INFORMATION DOCUMENT REQUESTS

LB&I has specific rules and procedures for how agents should use IDRs to collect information from taxpayers. Understanding these rules and procedures is essential to developing a strategy for successfully handling an examination. This panel of expert practitioners provides an overview of LB&I IDR procedures as well as practical advice on how to approach an examination and effectively communicate with the IRS.

**Moderator:** Sanford J. Boxerman, Esq., *Shareholder, Capes Sokol, PC, St. Louis, MO*  
Mary A. McNulty, Esq., *Partner, Holland & Knight, Houston, TX*  
Robert J. Kovacev, Esq., *Member, Miller & Chevalier, Chartered, Washington, DC*  
Barbara T. Kaplan, Esq., *Shareholder, Greenberg Traurig, New York, NY*

4:10 p.m. BREAK

4:30–5:30 p.m.

BREAK OUT SESSIONS

### TRACK I

#### NAVIGATING THE CRYPTO WINTER - PREPARING FOR CRYPTOCURRENCY REGULATION AND ENFORCEMENT IN UNCERTAIN TIMES

The cryptocurrency industry is constantly changing and its underlying technologies are undeniably confusing. Faced with these obstacles, the IRS has issued informal guidance on discrete and nuanced tax issues, Treasury is poised to propose new information reporting rules, and regulatory scrutiny is tightening from all directions. This panel discusses the latest issues involving digital assets and highlights important considerations for tax counsel.

**Moderator:** Garrett Brodeur, Esq., *Associate, Kostelanetz, New York, NY*

Thomas E. Bishop, *Tom Bishop & Associates, East Islip, NY*

Erika Nijenhuis, Esq., *Senior Counsel, Office of Tax Policy, US Department of Treasury, Washington, DC*

Del Wright Jr., Esq., *Professor of Law, University of Missouri-Kansas City Law School, Kansas City, MO*

Caitlin R. Tharp, Esq., *Associate, Steptoe & Johnson, Washington, DC*

### TRACK II

#### THE ADMINISTRATIVE PROCEDURE ACT v. THE IRS: WHICH REGULATIONS, RULES, AND NOTICES WILL SURVIVE?

Ever since the Supreme Court rejected tax exceptionalism in *Mayo Foundation v. United States*, 562 U.S. 44 (2011), challenges to tax regulations and IRS notices have proliferated, with several important decisions coming out in the last year alone. Courts have now developed a full body of jurisprudence regarding application of the Administrative Procedure Act (“APA”) to tax cases and it appears that Treasury and the IRS are going to have to engage much more carefully with the APA as they issue new guidance. Have we reached the end of “tax exceptionalism”? What does Treasury’s “Policy Statement on the Tax Regulatory Process” mean for deference in tax litigation? How will the APA apply to the blizzard of new regulations under the TCJA? This panel addresses these questions and explores the current state of the law on the APA as it applies to tax.

**Moderator:** Andrew Weiner, Esq., *Counsel, Kostelanetz, Washington, DC*

David W. Foster, Esq., *Partner, Kirkland & Ellis, Washington, DC*

S. Starling Marshall, Esq., *Partner, Crowell & Moring, New York, NY*

Joseph A. DiRuzzo, III, Esq., CPA, *Partner, DiRuzzo & Company, Fort Lauderdale, FL*

5:30 p.m.

RECESS

## FRIDAY, JUNE 9, 2022

8 a.m.

### REGISTRATION AND DISTRIBUTION OF MATERIALS CONTINENTAL BREAKFAST

#### TAX COMPLIANCE AND ENFORCEMENT UPDATE: PART II

Voluntary compliance and enforcement of the tax law are at the heart of our tax system. Over the past several years, the IRS has been challenged to come up with new and more efficient ways to ensure that all taxpayers pay the correct amount of tax. These panels provide an update on new developments at the IRS and the United States Tax Court.

8:45 a.m.

### IRS CRIMINAL INVESTIGATION DIVISION ENFORCEMENT UPDATE

With the increase in the IRS enforcement budget coupled with the recent focus on fraud enforcement, tax professionals anticipate a surge in criminal tax investigations and prosecutions. This panel features James Lee, Chief of IRS Criminal Investigation, and top criminal tax defense experts on the latest trends and developments in criminal tax. Topics include enforcement priorities, technological innovations and data analytics, public-private partnerships, IRS funding, and developments in cryptocurrency enforcement. Practitioners share practical tips on working with IRS-CI and tips on how to navigate the sensitivities of an IRS criminal investigation.

**Moderator:** Don Fort, CPA, *Director of Investigations, Kostelanetz, Washington, DC*

James Lee, *Chief, Criminal Investigation Division, Internal Revenue Service, Washington, DC*

Kathy A. Enstrom, MBA, *Director of Investigations, Moore Tax Law Group, Chicago, IL*

Jeremy H. Temkin, Esq., *Principal, Morvillo Abramowitz Grand Iason & Anello PC, New York, NY*

9:45 a.m.

### IRS WHISTLEBLOWER OFFICE UPDATE

With the enactment of Section 7623, claims for whistleblower awards have skyrocketed and the IRS Whistleblower Office has a full plate of potential enforcement actions. Decisions regarding the pursuit of administrative actions against identified taxpayers and the calculation and payment of awards has been the subject of litigation in the US Tax Court and the US Court of Federal Claims. This panel provides an update from the IRS Whistleblower Office on recent decisions addressing this important practice area.

**Moderator:** Thomas C. Pliske, Esq., CPA, *Principal, Tax Whistleblower Law Firm, Saint Peters, MO*

John W. Hinman, *Director, Whistleblower Office, Internal Revenue Service, Washington, DC*

10:10 a.m.

### IRS COLLECTIONS UPDATE

In many cases, it comes down to when, how, and how much a taxpayer must pay to satisfy pending federal tax liabilities. To answer these questions, a tax professional must be familiar with IRS' collection tools and the taxpayer's rights in response thereto. This panel provides an update from IRS Collections on these issues that impact every tax practice.

**Moderator:** Eric L. Green, Esq., *Partner, Green & Sklarz, New Haven, CT*

Nikki C. Johnson, *Director, Headquarters Collection, Small Business/Self-Employed Division, Internal Revenue Service, Atlanta, GA*

10:35 a.m.

### TAXPAYER ADVOCATE UPDATE

Erin Collins became the National Taxpayer Advocate ("NTA") on March 30, 2020, at the outset of the COVID-19 pandemic. With the IRS pushed to its breaking point, Collins and her team continued their dual focus on addressing systemic issues (of which there were many) and handling individual taxpayer cases (of which there were even more). Hear about the lessons learned over Collins' past three years in the role and the NTA's priorities and vision for the future of the newly funded IRS.

**Moderator:** Melissa L. Wiley, Esq., *Partner, Lowenstein Sandler, Washington, DC*

Erin M. Collins, Esq., *National Taxpayer Advocate, Internal Revenue Service, Washington, DC*

11 a.m. REFRESHMENT BREAK

11:15 a.m.

### UPDATES FROM THE IRS OFFICE OF CHIEF COUNSEL AND US TAX COURT

The IRS Office of Chief Counsel and the US Tax Court both play important roles in the resolution of cases that have not been resolved at audit or in appeals. This panel provides insight into cases involving the Office of Chief Counsel and the US Tax Court, challenges presented by those cases, and how those challenges are being addressed.

**Moderator:** Jennifer Breen, Esq., *Partner, Morgan Lewis & Bockius, Washington, DC*

**Moderator:** Diana L. Erbsen, Esq., *Partner, DLA Piper, New York, NY*

The Hon. Kathleen Kerrigan, *Chief Judge, United States Tax Court, Washington, DC*

Drita Tonuzi, Esq., *Deputy Chief Counsel (Operations), Internal Revenue Service, Washington, DC*



12:15 p.m.  
LUNCH RECESS

1:30–2:20 p.m.  
BREAK OUT SESSIONS

### TRACK I

#### FLIPPING THE SCRIPT: PUTTING THE GOVERNMENT ON DEFENSE AT TRIAL

Despite best efforts to reach alternative resolution, litigation is often the best or only option. This panel discusses effective trial strategies in civil and criminal tax trials. Topics for discussion include when to stipulate, what pretrial motions to consider, how to handle discovery disputes, what to look for when picking a jury, how to handle a cooperating witness, getting the most out of the Government's *Brady/Giglio* obligations, identifying evidentiary issues, and more.

**Moderator:** Jeffrey A. Neiman, Esq., *Partner, Marcus Neiman Rashbaum & Pineiro, Fort Lauderdale, FL*  
Sharon L. McCarthy, Esq., *Partner, Kostelanetz, New York, NY*  
Sara G. Neill, Esq., *Shareholder, Capes Sokol, PC, St. Louis, MO*  
Richard W. Westling, Esq., *Member, Epstein Becker & Green, PC, Washington, DC*

### TRACK II

#### THEY'RE HERE! AUDITS UNDER THE CENTRALIZED PARTNERSHIP AUDIT REGIME

The Bipartisan Budget Act ("BBA") was signed into law November 2, 2015, replacing the audit and collection procedures for partnerships under the Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA") for tax years beginning January 2018. In the past several years, the IRS has begun pursuing BBA audits, and revenue agents and tax professionals are working together to navigate these choppy waters. This panel explains the centralized partnership audit regime, notices to expect from the IRS, actions to take during the audit, methods to challenge proposed adjustments, and the impact on the individual partners.

**Moderator:** Tom Greenaway, Esq., *Principal, KPMG, Boston, MA*  
Miri Forster, Esq., *Partner, Eisner Advisory Group, Iselin, NJ*  
Brian C. McManus, Esq., *Partner, Latham & Watkins, Boston, MA*  
Kelley C. Miller, Esq., *Partner, Reed Smith, Washington, DC*

2:20 p.m. REFRESHMENT BREAK

2:40–3:30 p.m.  
BREAK OUT SESSIONS

### TRACK I

#### RECENT DEVELOPMENTS AFFECTING INTERNATIONAL REPORTING PENALTIES

Tax professionals representing clients challenging international reporting penalties know that it has been an uphill battle, with many twists and turns along the way. On April 3, 2023, the landscape changed dramatically with the US Tax Court's decision in *Farhy v. Commissioner*, 160 T.C. No. 6, in which the Court held that the IRS lacks statutory authority to assess penalties for failure to timely file accurate Forms 5471, *Information Return of US Persons With Respect to Certain Foreign Corporations*. This panel addresses the impact of *Farhy* on pending and future challenges to international reporting penalties, best practices for challenging penalties, and other recent developments.

**Moderator:** Phillip Colasanto, Esq., *Senior Associate, Withersworldwide, New Haven, CT*  
Fran Obeid, Esq., *Founder, MFO LAW, PC, New York, NY*  
Daniel N. Price, Esq., *Law Offices of Daniel N. Price, San Antonio, TX*  
Steven R. Toscher, Esq., *Principal, Hochman Salkin Toscher Perez, PC, Beverly Hills, CA*

### TRACK II

#### STRATEGIES AND TIPS FOR NAVIGATING COLLECTION APPEALS

One of the most common questions raised by taxpayers faced with potential or assessed tax liabilities is: What are my options? A simple question that requires the tax professional to explain the numerous and often complex paths to resolving federal tax liabilities. While navigating the numerous options, taxpayers must address ever-increasing enforcement actions, including, but not limited to, the filing of Notices of Federal Tax Lien, levies and wage garnishments, responsible person investigations, and nominee or alter ego liens. This panel reviews a taxpayer's right to an administrative appeal of collection enforcement, the procedures for pursuing collection appeals, arguments that can be raised, best practices, and tips of the trade.

**Moderator:** Yvonne R. Cort, Esq., *Partner, Capell Barnett Matalon & Schoenfeld, Syosset, NY*  
E. Martin Davidoff, CPA, Esq., *Partner-in-Charge - National Tax Controversy Practice, Prager Metis; Founder, Davidoff Tax Law, Cranbury, NJ*  
Beverly Winstead, Esq., *Principal, Law Office of Beverly Winstead, Baltimore, MD*  
Carmela G. Walrond, Esq., CPA, *Partner, JLD Tax Resolution Group, Jersey City, NJ*

3:30 p.m. BREAK

3:50–4:50 p.m.

BREAK OUT SESSIONS

## TRACK I

### REPRESENTING CLIENTS WITH FOREIGN BANK ACCOUNTS: CLEANING UP PROBLEMS AND LITIGATING PROPOSED ASSESSMENTS

US persons have been required to disclose their interests in foreign financial accounts on Reports of Foreign Bank and Financial Accounts (“FBARs”) since the enactment of the Bank Secrecy Act in 1970. Prior to 2009, the government rarely pursued FBAR violations, but that all changed with the announcement of the IRS offshore voluntary disclosure programs. Since 2009, the IRS has assessed massive FBAR penalties against numerous US persons, leading to the inevitable increase in litigation challenging these assessments. This panel addresses the current state of FBAR enforcement, the impact of the US Supreme Court’s decision in *Bittner*, the current issues pursued in litigation around the country, and what the future holds.

**Moderator:** Brian P. Ketcham, Esq., *Ketcham PLLC, New York, NY*  
Zhanna A. Ziering, Esq., *Member, Moore Tax Law Group, New York, NY*  
Ian M. Comisky, Esq., *Partner, Fox Rothschild, Philadelphia, PA*  
Richard J. Sapinski, Esq., *Partner, Sills Cummins & Gross PC, Newark, NJ*  
Chad M. Vanderhoef, Esq., *Partner, Holland & Knight, Tampa, FL*

## TRACK II

### IRA CLEAN ENERGY CREDITS AND ANTICIPATED ENFORCEMENT

The EPA describes the Inflation Reduction Act of 2022 (“IRA”) as “the most significant climate legislation in US history, offering funding, programs, and incentives to accelerate the transition to a clean energy economy” and predicts that the Act will drive the deployment of new clean electricity resources. Under the IRA, certain businesses and tax exempt entities may deduct a percentage of the cost of renewable energy systems from federal tax and, in some cases, directly monetize or transfer tax credits to unrelated parties. With these tax benefits will come increased enforcement to ensure that taxpayers are not abusing the system. This panel addresses the various clean energy credits under the IRA, the eligibility and filing requirements, current and forthcoming Treasury and IRS guidance, and what we can expect in future audits and investigations.

**Moderator:** Carina C. Federico, Esq., *Partner, Crowell & Moring, Washington, DC*  
Amish Shah, Esq., *Partner, Holland & Knight, Washington, DC*  
Philip J. Wilson, CPA, *Office Managing Partner, Marcum, Costa Mesa, CA*  
Adriana Wirtz, Esq., *Partner, Vinson & Elkins, New York, NY*

4:50 P.M.

CONFERENCE CONCLUDES