

2013

# HIGHER EDUCATION TAXATION INSTITUTE

The premier forum for public and private university tax, accounting, legal and business professionals



March 24–26, 2013

AT&T Conference Center ▪ Austin, Texas

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CLE and CPE Credit Available

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## SUNDAY AFTERNOON, MARCH 24, 2013

### Presiding Officer:

Kyle R. ZumBerge, The University of Texas System Office of General Counsel, Austin, TX

2:00 p.m. Registration Opens

2:50 p.m. Welcoming Remarks

3:00 p.m. 1.25 hrs

### Implementing Your Post-Issuance Tax Exempt Bond Compliance Policy

A review of ways that university administrators have implemented written policies and guidance regarding tax-exempt bond compliance, including record retention, proceeds tracking, arbitrage rebate and private business use along with examples of written bond compliance policies. Take away best practices from this session.

Kelly Farmer, University of Minnesota, Minneapolis, MN  
Cynthia Nethercut, Yale University, New Haven, CT

4:15 p.m. 1.00 hr

### Joint Ventures:

#### A Practical Approach to Tax Compliance

Colleges and universities often encounter opportunities to participate in projects with commercial entities in order to further their educational missions, generate revenue or improve research capabilities. A look at tax rules applicable to joint ventures and practical approaches to evaluating and structuring these opportunities.

Laura E. Butzel, Patterson Belknap Webb & Tyler LLP, New York, NY  
Tomer Inbar, Patterson Belknap Webb & Tyler LLP, New York, NY

5:15 p.m. Break

## KEYNOTE PRESENTATION

5:30 p.m. 1.00 hr

### The Future of Higher Education

Hon. Martha Kanter, Under Secretary of Education, U.S. Department of Education, Washington, DC (Invited)

6:30 p.m. Adjourn to Reception

## WELCOME TO TEXAS RECEPTION

Meet and network with your fellow colleagues and enjoy Texas barbeque and live music.

## MONDAY MORNING, MARCH 25, 2013

### Presiding Officer:

Edward J. Jennings, University of Michigan, Ann Arbor, MI

7:30 a.m. Conference Room Opens

Includes continental breakfast.

8:00 a.m. Opening Remarks

8:15 a.m. .75 hr

### Recent Developments in College and University Tax Law

A look at the most recent tax law developments affecting institutions of higher education, including Congressional hearings, IRS pronouncements and enforcement measures, and judicial decisions.

Bertrand M. Harding Jr., Law Offices of Bertrand M. Harding, Jr., Alexandria, VA  
Edward J. Jennings, University of Michigan, Ann Arbor, MI

9:00 a.m. .75 hr

### IRS Audit Update

A summary and update on recent IRS audit initiatives.

Internal Revenue Service, Tax Exempt and Government Entities Division Representative

9:45 a.m. .75 hr

### Lessons from the Trenches: IRS Audit Experiences

As a follow-up to the recent wave of IRS examinations of higher education institutions, in-house tax counsel members discuss their audit experiences in dealing with the IRS and lessons learned. Advice is offered along with strategies on best practices in preparing for future examinations, ranging from managing net operating losses (NOLs) from unrelated business taxable income (UBTI) to reviewing and possibly revising contracts with respect to employment agreements, sponsorship arrangements, and other matters.

#### Moderator:

Edward J. Jennings, University of Michigan, Ann Arbor, MI

#### Panelists:

Joseph R. Irvine, The Ohio State University, Columbus, OH  
Kyle R. ZumBerge, The University of Texas System Office of General Counsel, Austin, TX

10:30 a.m. Break

10:45 a.m. 1.25 hrs

### Hot Topics in College and University UBIT

The IRS has a particular interest in unrelated business income tax (UBIT), especially UBIT losses, as its recent college and university audit indicates. The session focuses on UBIT issues on the front burner for many colleges and universities, including the tax impact of licensing intellectual property (e.g., patents, know-how, lectures and other course material) to third parties and to university or faculty sponsored start-ups. Other topics include disallowance of loss deductions for activities deemed by the IRS as "not engaged in for profit," royalty arrangements versus income for services, qualified sponsorship payments, agency issues in sports marketing arrangements, rental income tied to the revenues of tenants, parking, recreational facilities such as golf courses, unrelated debt-financed income, and taxable rents, royalties and interest under IRC Section 512(b)(13).

Frances R. Hill, University of Miami School of Law, Coral Gables, FL  
A. L. "Lorry" Spitzer, Ropes & Gray LLP, Boston, MA

12:00 p.m. Pick Up Lunch

Included in conference registration.

## MONDAY AFTERNOON

### LUNCHEON PRESENTATION

12:20 p.m. .75 hr

#### Legislative and Policy Outlook for Colleges and Universities

A look from inside the beltway at how Congress is addressing major tax issues surrounding fallout from the fiscal cliff and debt ceiling negotiations, changing rates, taxation on investments, new rules on charitable contributions and the Affordable Care Act.

Richard A. Grafmeyer, Capitol Tax Partners, Washington, DC

1:05 p.m. Break

1:15 p.m. 1.50 hrs

#### Current Issues in Making Alternative Investments

A discussion of current tax issues and the current state of other market terms in making investments in private equity funds, hedge funds and other alternative investments. ILPA principles, management fees and fee waivers, UBTI, FBAR reporting and tax forms are also discussed.

**Moderator:**  
Richard A. Speizman, KPMG LLP, Washington, DC

**Panelists:**  
John R. Barrett, University of California System, Oakland, CA  
Adam Gale, Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., New York, NY

2:45 p.m. Break

3:00 p.m. 1.25 hrs

#### Nonresident Alien Tax Issues

Institutions make more payments to foreign individuals and entities than they often realize. While understanding the changing tax regulations regarding payments made to foreign payees can be difficult, it is often the internal process of identifying potential payments and then applying the correct tax withholding and reporting that is the most challenging part of the equation. This session reviews the tax rules, and also takes a step further to discuss the procedural elements of being in compliance in an efficient manner.

Donna Kepley, Arctic International LLC, Washington, DC

4:15 p.m. 1.25 hrs

#### Tax-Exempt Finance

A review of private activity constraints with a focus on topics unique to higher education such as sponsored research, summer use of facilities, collaborative arrangements with other institutions, and arbitrage issues as to fundraising and informal debt service funds. A look at the development of written procedures for post-issuance tax compliance, including support for filing of Schedule K (Form 990), and the implications for tax-exempt finance of Congressional deficit reduction and tax reform efforts.

**Moderator:**  
Maxwell D. Solet, Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., Boston, MA

**Panelists:**  
Nancy M. Lashnits, Steptoe & Johnson PLLC, Phoenix, AZ  
George T. Magnatta, Saul Ewing LLP, Philadelphia, PA

5:30 p.m. Adjourn

Austin Land and Lake Tour \$20

6:15 p.m.

Austin Duck Adventures' amphibious tour of downtown Austin and beautiful Lake Austin on an unsinkable, U.S. Coast Guard-inspected Hydra Terra vehicle. Take Austin's best tour with 75 minutes of sightseeing that includes Historic Sixth Street, the State Capitol, Bob Bullock State History Museum, the Governor's Mansion and Lake Austin. Select on Registration Form.

## TUESDAY MORNING, MARCH 26, 2013

#### Presiding Officer:

**Mary Bachinger, National Association of College and University Business Officers (NACUBO), Washington, DC**

8:00 a.m. Conference Room Opens

Includes continental breakfast.

8:30 a.m. .75 hr

#### Charitable Gifts: Carving a Name in Stone

A consideration of drafting and negotiating naming gifts, including tax and other issues associated with perpetual naming, enforceability, donors who fall into ill repute, the "branding" of a building or a program and the use of tax-exempt organizations (e.g., family or company foundations and donor-advised funds) as funders.

John Sare, Patterson Belknap Webb & Tyler LLP, New York, NY

### KEYNOTE PRESENTATION

9:15 a.m. .75 hr

#### View from the IRS

Holly O. Paz, Director, Rulings & Agreements Internal Revenue Service, Washington, DC

10:00 a.m. Break

10:15 a.m. 1.00 hr

#### Employment Tax, Fringe Benefits and Information Reporting Update

An update on latest developments related to perks, payments to workers and worker classification, including IRS examinations and compliance initiatives.

Marianna G. Dyson, Miller & Chevalier Chartered, Washington, DC

11:15 a.m. 1.00 hr

#### Successful Global Expansion of Higher Education—Minimizing Risk and Maximizing Opportunity

As many higher education institutions seek transnational growth opportunities, university counsel play a critical role in the development of international strategies and implementation of international initiatives and operations. Guiding principles and practical lessons learned are shared, based on first-hand experience with successful global expansion strategies. Areas of focus include cross-border transactions (e.g., salary, tuition), local and expatriate taxation and immigration, local audit and regulatory compliance, cost and revenue centers, education regulation, sponsored research and distance learning.

Timothy A. Stiles, KPMG LLP, New York, NY  
Lisa Woods, KPMG LLP, Philadelphia, PA

12:15 p.m. Adjourn

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This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 15.00 hours. The University of Texas School of Law is a State Bar of California approved MCLE provider (#1944), and an Oklahoma Bar Association MCLE presumptively approved provider (#169).

TX Legal Specialization Credit Approved for Tax Law

Credit hours are subject to approval from each state's CLE authority and will be applied for upon request.

### CPE Accreditation

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UT Law CLE has applied with the National Association of State Boards of Accountancy (NASBA) to be 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 at [www.learningmarket.org](http://www.learningmarket.org).

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Leading practitioners and members of the academic and regulatory communities provide the definitive set of materials.

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UT13

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Includes Course Binder, Sunday Welcome Reception and Monday Luncheon Presentation

#### 1. Select Course Binder Format

- Electronic Course Binder on USB Key ONLY  
 Printed Course Binder ONLY

#### 2. Select Type

- Registration by Wednesday, February 27, 2013.....\$595  
 Registration after Wednesday, February 27, 2013.....\$695

#### 3. Select Credit

- CLE Credit—please specify state(s) \_\_\_\_\_  
 CPE Credit—please specify state(s) \_\_\_\_\_

#### 4. Austin Land and Lake Tour by Austin Duck Adventures

\_\_\_\_\_ number of people x \$20 each .....\$ \_\_\_\_\_

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**AUSTIN**

**March 24–26, 2013**

**CONFERENCE LOCATION**



**AT&T Conference Center - Hotel at UT**

1900 University Avenue  
 Austin, TX 78705  
 512.404.3600

**Special Room Rate: \$174**  
 good through March 6, 2013  
 (subject to availability)

**Parking:**

Free daily self-parking at UT garages.  
 Separate fees apply for valet and overnight.

**KEY DATES**

**February 27, 2013**  
*last day for early registration*  
 add \$100 for registrations  
 received after this time

**March 18, 2013**  
*last day for full refund*

**March 20, 2013**  
*last day for partial refund*  
 \$50 processing fee applied

**Sunday, March 24, 2013, 2:50 p.m.**  
*Institute begins*

*Special needs or dietary restrictions?*  
 Call 512.475.6700 or email [service@utcle.org](mailto:service@utcle.org)

**THE HIGHER EDUCATION TAXATION INSTITUTE**

The Higher Education Taxation Institute (HETI) provides a unique forum for public and private college and university tax, accounting, legal and business professionals from around the country to examine and discuss federal tax issues and compliance, legislative, judicial, regulatory and administrative changes affecting colleges and universities. HETI offers valuable expertise, timely insight into federal tax law developments and numerous networking opportunities.

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