



HOW TO AVOID A TAX CONTROVERSY (OR WHAT TO DO IF YOU CAN'T)

**D&S/CHWWA Seminar
June 4, 2013, Cira Center**

SCHEDULE – MORNING SESSION

Item	Begin	End	Tot. Minutes	CPE/CLE
<i>Registration</i>	8:00 AM	8:30 AM	30 minutes	
Session 1M– Speakers	8:30 AM	9:15 AM	45 minutes	
<i>Morning Break 1</i>	9:15 AM	9:25 AM	10 minutes	
Session 2M - Panel	9:25 AM	10:55 AM	90 minutes	
<i>Morning Break 2</i>	10:55 AM	11:05 AM	10 minutes	
Session 3M - Speakers	11:05 AM	11:50 AM	45 minutes	
Credit Hours			180 minutes	3.5/3.0

Lunch for Full-Day Participants: 12:00 pm – 1:00 pm

SCHEDULE – AFTERNOON SESSION

Item	Begin	End	Tot. Minutes	CPE/CLE
<i>Registration</i>	12:30 AM	1:00 PM	30 minutes	
Session 1A – Panel	1:00 PM	2:30 PM	90 minutes	
<i>Afternoon Break 1</i>	2:30 PM	2:40 PM	10 minutes	
Session 2A - Speakers	2:40 PM	3:25 PM	45 minutes	
<i>Afternoon Break 2</i>	3:25 PM	3:35 PM	10 minutes	
Session 3A - Speakers	3:35 PM	4:20 PM	45 minutes	
Credit Hours			180 minutes	3.5/3.0

MORNING SESSION

I. **SESSION 1M** - HOT TOPICS IN STATE & LOCAL TAXATION

Speakers: 8:30-9:15 (45 Minutes)

- A. Nexus
- B. State & Local Aggressiveness
- C. Other Topical State issues (PA and NJ)

II. **SESSION 2M** PREAUDIT STRATEGIES

Panel: 9:25-10:55 ((90 Minutes)

- A. The Audit Lottery
- B. Audit Trends
 - 1. More Intrusive Audits
 - 2. More Targeted Audits
 - 3. Economic Reality Audits
- C. IRS / State Audit Resource Issues
 - 1. Impact on Selection for, or Depth of Audit
 - 2. Focus of Audit
 - 3. Types of Audits (*Time Permitting*)
 - 4. General Types of Audits
 - 5. Coordinated Industry Case Audits
 - 6. Types of Specialized Agents
- D. The Tax Practitioner's Role in the Audit Process.
 - 1. Who should comprise the team? the taxpayer, the tax return preparer, or the tax practitioner
 - May depend on what issues may be lurking
 - Limiting auditors with access to employees

2. When to be Brought In
 3. When to Become Visible
 4. Coordination within the Team
- E.** Evaluation of Tax Position
1. Getting the Facts
 2. Reviewing the State of Physical and Electronic Records
 3. Interviewing Employees with Pertinent Knowledge
 4. Preserving Legacy Information
 5. Spoliation of Evidence
 6. E-Discovery
- F.** Evaluating the Issues
1. Evaluating Basis of Support (Penalty Protection)
 2. Making Disclosures
- G.** Recordkeeping Practices
1. Records Retention/Destruction Policies
 - Enforced and Monitored?
 2. Litigation Holds - When Appropriate
 3. Electronic Recordkeeping Considerations
 - Metadata - What is it and how can it help or hurt you?
- H.** Privilege Considerations
1. Practitioner-client privilege. § 7525.
 2. Attorney-Client (Distinctions)
 3. Work Product (difference between PA and Federal standards)
 - Anticipation of Litigation Standard
 4. Kovel Agreements

5. Use of Experts
 - Daubert Standard (Federal)
 - Frye Standard (Pennsylvania)

III. SESSION 3M - HOT TOPICS IN FEDERAL TAX CONTROVERSY
Speakers: 11:05-11:50 (45 Minutes)

- A. Ultra High Net Worth Audits
- B. FBAR - FACTA Reporting
- C. Other Topical Federal Issues (TBD)

AFTERNOON SESSION

IV. SESSION 1A - AUDIT STRATEGIES
Panel: 1:00-2:30 (90 Minutes)

- A. Preparing for and Conducting the Audit.
 1. Pre-Filing Agreements
 2. Objectives and Strategies during the Audit
 3. Time and Place of Examination.
 4. Review of Returns, Records, etc.
 5. The Initial Conference.
 6. The “Ground Rules” for the Audit.
 7. Statutes of limitations.
 8. Requests to consider other returns and repetitive audits.
 9. Production of testimony, information, and documents.
- B. Special Types of Audits and Programs
 1. The Market Segment Specialization Program audit program.
 2. Compliance Assurance Program (CAP)

3. “Financial Status” Audits.
4. LIFE Audits.
5. Employment Tax Audits.

C. Managing the Audit

1. Responding to IDRs
2. Dealing with Summonses
 - Third-party contacts and summons (§ 7609)
 - Computer Software and Trade Secrets (§ 7612)
3. Statute of Limitations Considerations
 - When to Extend
 - Difference Between Federal, Pennsylvania and Philadelphia Rules
4. Alternative Dispute Resolution
 - Mediation
 - Arbitration
 - Early Referral to Appeals
 - Fast Track Settlement

D. Closing the Audit.

1. Negotiating Resolution of Issues with the Agent.
2. Agreed Cases
 - No Change Letters
 - Closing Agreements
3. Unagreed Cases.
4. Offers-in-Compromise
5. Fast-Track Programs
 - Fast-Track Mediation.

- LMSB Fast Track Settlement.
6. Post-Audit Alternatives
 - Going to Appeals
 - The Statutory Notice of Deficiency

V. **SESSION 2A - OTHER TAX CONTROVERSY CONSIDERATIONS**
Speakers: 2:40-3:25 (45 Minutes)

VI. **(45 Minutes - Speakers)**

- A. Mitigating Interest
 1. Types of Payments
 2. Designation of Payments
 3. "Hot Interest" Considerations
- B. Collections - Due Process, Leins/Levies
- C. Penalty Abatement Requests
- D. Recovering Fees and Costs
 1. Qualified Settlement Offers. (§7430)
 2. Limitations
- E. TEFRA Traps (*Time permitting & depending on likely makeup of audience*)
- F. Practical & Ethical Considerations for Handling Tax Controversies (*Time Permitting*)
 1. Who Can Represent Taxpayers Before the IRS?
 2. Circular 230
 3. Office of Professional Responsibility

VII. **SESSION 3A - LOOKING FORWARD (45 Minutes - Speakers)**
Speakers: 3:35-4:20 (45 Minutes)

- A. Effect of the Affordable Care Health Act on Businesses
- B. Federal and State Taxation Issues for Cloud Computing and Other Intangibles