

Re:Cap

Caplin & Drysdale
ATTORNEYS

Speakers Corner

August 2005

August 5-6, 2005

American Bankruptcy Institute's Mid-Atlantic Bankruptcy Workshop

Location: Cambridge, MD

Speaker: **Peter Lockwood**

Mr. Lockwood is speaking on "Recent Developments Affecting Mass Tort Cases."

August 22, 2005

Greenwoods & Freehills; IFA

Location: Sydney and Melbourne, Australia

Speaker: **David Rosenbloom**

Mr. Rosenbloom will speak on "U.S. Transfer Pricing & APAs."

August 25-26, 2005

Eighth Annual Advanced ALI-ABA Course of Study for Counselors to Foreign & U.S. Clients: International Trust and Estate Planning

Location: Seattle, WA

Speakers: **Michael Pfeifer** and **Joseph Henderson**

Mr. Pfeifer (who was co-planning chair) and Mr. Henderson are both faculty for this eighth annual course of study. Mr. Henderson will be speaking on the "Effect of Tax Treaties on U.S. Activities of NRAs," focusing on key provisions of income, estate and gifts tax treaties, the 1996 U.S. Model Treaty and new directions, as well as current issues. Mr. Pfeifer will be speaking on "Expatriation," focusing on changes in taxation of expatriation, including broader sweep of §877 and elimination of ruling process, as well as new thresholds and definition of tax expatriation, new short-term residence rule and new reporting requirements.

www.ali-aba.org

August 29, 2005

Advanced Forum on China-U.S. Tax Laws

Location: Beijing University Law School, Beijing, China

Speaker: **David Rosenbloom**

Mr. Rosenbloom will be speaking on "The U.S. Approach to Transfer Pricing: Benchmarks and Hallmarks."

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Head of the Class

August 15-19, 2005

University of Sydney, Sydney Law School, Sydney, Australia

David Rosenbloom is teaching “International Aspects of U.S. Income Taxation”.

Fall, 2005

Georgetown University Law Center, Washington, D.C.

Christopher S. Rizek is teaching “Tax Practice and Procedure— Administrative” in the Georgetown tax LL.M. program this fall.

Recent Publications

July 2005

“Consider the Foreign Factor”

The Legal Times

In this article, Patricia Gimbel Lewis and Michael Pfeifer discuss issues for some deferred compensation plans created by new Section 409A of the Internal Revenue Code. They outline the strict requirements that must be met to allow deferral of the tax until the employee receives the compensation. There is also a discussion of the international implications, as well as next steps in abiding by the new Section 409A.

Notes and Notables

Leslie M. Kelleher joined the firm’s Creditors’ Rights practice group in May as Of Counsel. Joseph S. Henderson joined the firm’s Estate Planning practice group as Member in June. Also joining the firm in June was Joseph M. Birkenstock, who will be working in the firm’s Political Activity Law practice group as Of Counsel. In July, Adam L. VanGrack joined the firm’s Civil Litigation practice group and Holly Olson Paz joined the firm’s Exempt Organizations practice group, both as Associates. In August we welcomed Kevin E. Thorn as an Associate in our Tax Controversies (both Civil and Criminal) practice group.

Elihu Inselbuch and the Caplin & Drysdale New York Office were listed in “The New York Area’s Best Lawyers,” a special advertising section of New York Magazine’s August 1-8, 2005 issue. Mr. Inselbuch’s photograph and profile appear on page BL-79 of the issue. “The New York Area’s Best Lawyers” was excerpted from the upcoming 12th edition of The Best Lawyers in America, which will be published in November 2005.

The May 2005 issue of The Exempt Organization Tax Review featured “A Word of Thanks to Milton Cerny.” This item thanked him for his International Dateline column, which they described as “a key feature of this journal.” In this note of thanks, many of Mr. Cerny’s years of contributions were noted, including his prior monthly “Letter Ruling Alert,” as well as his various articles and series.

Patrica Gimbel Lewis and H. David Rosenbloom were listed in this year’s “The Best of the Best 2005,” described as “the only international guide to identify the world’s leading practitioners across 11 areas of law.” Published by Euromoney Institutional Investor PLC in June, this guide was the culmination of in-house counsel and private practitioner questionnaires, and the final list includes 289 specialists across the 11 areas. Ms. Lewis and Mr. Rosenbloom had their photographs and profiles included under the “Transfer Pricing” area of law.

On June 9, 2005 Elihu Inselbuch participated in Mealey’s Bankruptcy Conference in Chicago, IL. Mr. Inselbuch spoke on a panel addressing an “Update on the Current Major Bankruptcies,” with a focus on the current status of pending cases involving Owens Corning, Armstrong, Federal Mogul, USG, WR Grace, Congoleum, AC&S, Quigley and others, as well as the question of Resolution or Litigation.

On July 21, 2005, Caplin & Drysdale sponsored a site build for **Buildable Hours**, a non-profit organization of law firms that works in conjunction with **Habitat for Humanity** to commit financial and physical resources to build homes for deserving families. This year’s group included Robert Boisure, Adam Doerr, Joseph Henderson, Albert Lauber, Scott Michel, Bree Nicolai, John Riggleman, Chris Rizek, John Sawyko and Harry Schwirck. They made tremendous progress on the homes, despite the heat and humidity, and pictures of the group’s efforts are available on the firm’s IntraNet.

In the News

April 27, 2005

“IRS Issue Paper May Signal Return to Broad Use of Section 482, Some Warn”

Tax Management Transfer Pricing Report

Patrica Lewis commented on the issue of various types of joint ventures, and posed a question regarding the determination of “acting in concert” given various types of joint venture scenarios. She stated that although it is “pretty much understood” that Section 482 applies to 50-50 joint ventures, the statute could apply to companies with a variety of common ownership scenarios.

May 3, 2005

“On Bloggers and Money: Some Seek Disclosure”
Santa Fe New Mexican

In an article discussing the FEC’s involvement in regulating political bloggers, Trevor Potter commented on the difficulty in distinguishing between those who have been hired to blog, and those who are employees who blog of their own accord.

May 8, 2005

“Drug Makers Reap Benefits of Tax Break”
The New York Times

H. David Rosenbloom commented on the tax break (part of the American Jobs Creation Act) that allows corporations a one year window to return foreign profits to the U.S. at a significantly lower tax rate. He specifically commented on the “complex but legal tactics” these corporations use after the window expires to move profits from the U.S. to low-tax countries. (These quotes were also used in the article “Tax Break Nets Drug Firms Billions; Measure on Repatriating Profits was Aimed at Creating Jobs”, which was printed in *The International Herald Tribune* on May 9).

May 9, 2005

“Is Olson Out of the Loop?”
Tax Notes

Christopher S. Rizek commented on the role of the National Taxpayer Advocate, stating “I can’t imagine a situation where you wouldn’t want the Advocate on your side of any issue.” He was also quoted as saying that bringing Nina Olson (the current NTA) into the process early makes sense from both statutory and practical standpoints.

May 11, 2005

“Practitioners Hail Changes to APA Program Designed to Speed Cases, Increase Accountability”
Tax Management Transfer Pricing Report

In an article discussing the more rigorous deadlines and other changes for processing advance pricing agreements in the IRS, Patricia Lewis said the revision “showed a welcome responsiveness to taxpayer concerns, and was expeditious to boot.” Lewis also commented on the specialization initiative and her hope that the changes will increase guidance on issues in the middle ground between information and policy.

May 19, 2005

“The Hammer Falls: Are the Democrats Tough Enough to Bring Down Tom DeLay?”
Rolling Stone

Trevor Potter’s quote “The ethics oversight process in the House is completely paralyzed,” first printed last year, was included in this article, which discusses ethics issues involving Tom DeLay.

June 1, 2005

“Letters to the Editor”
Wall Street Journal

Kirk Jowers responded to the article “Ethics Watchdogs with a Nonpartisan Bite,” offering examples to counter the impression that ethics organizations are engaged in partisan efforts, and addressing points he felt the author failed to address regarding 527 groups, including specifically the Democratic ones funded by George Soros in the 2004 election.

June 10, 2005

“U Welcomes New Hinckley Director”
The Daily Utah Chronicle

Kirk Jowers was welcomed as Director of the Hinckley Institute of Politics in a ceremony attended by nearly 500 people. About the opportunity he says “there is nothing more rewarding than working with students.” (A similar article appeared on *desertnews.com* on June 9).

June 20, 2005

“Circular 230 Tax Advice Rules Take Effect; Practitioners Roll Out Compliance Programs”
Daily Tax Report

Christopher S. Rizek was quoted discussing the disclaimer messages that law firms place on emails as a result of the new Circular 230 tax shelter opinion rules, which became effective in June, 2005.

In the News

June 20, 2005

“Utahns are OK with Expanded Stem Cell Studies”
The Salt Lake Tribune

Kirk Jowers commented on a new finding that most Utahns support expanding the lines of embryonic stem cells available for federal funding. He said he found such support “very interesting” considering that “a vote for it would be against Bush.”

July 2005

“The Tax Lawyer’s Role in the Way the American Tax System Works”

The Monthly Digest of Tax Articles

The publication reprinted Mr. Caplin’s *Erwin Griswold Lecture*.

July 3, 2005

“Conversation: The Hinckley Institute of Politics”
Civic Dialogue

Kirk Jowers was interviewed on *Civic Dialogue*, Utah’s longest running public affairs program, regarding the past, present and future of the Hinckley Institute of Politics.

July 9, 2005

“Payback Time for ‘527’ Groups?”
The National Journal

In an article discussing the future of 527 groups, **Trevor Potter** commented on the FEC allocation rule, which already impacts 527 groups and may influence further 527 legislation.

July 20, 2005

“Practitioners Reject Senate Draft Report’s Suggestions for Joint Committee Review of APAs, Increased Field Role”

Tax Management Transfer Pricing Report

Patricia Lewis commented on the suggestion in the Senate Finance Committee draft report for Joint Committee on Taxation review of APAs, saying, “injecting an additional layer of review of excruciatingly factually situations into a program where timeliness is a key concern is counterproductive”. She also warns against actions that could undermine the approach of the APA Program.

August 1, 2005

“Policy Planning Should Shift to Include Post-War Occupation”

Inside the Army

Walter Slocombe commented on an independent Council on Foreign Relations task force report regarding planning for post-war Iraq. Mr. Slocombe, a task force member, described the analysis as “useful” and “generally informed,” but also expressed several concerns, including the “great gulf” between situations where there is continuing combat and those where there is not.

August 2, 2005

“The King for a Clean-Up: The New Saudi Monarch is Ready to Take on His Country’s Corruption and Dangerous Subordination to US Interests”

The Guardian (London)

In an article discussing the current state of the monarchy in Saudi Arabia after the death of King Fahd, **Walter Slocombe** commented on the need for Saudi political support after the 1991 Iraq war. (A similar article, “Successor Aims to End Subservience to the West” appeared in *The Irish Times* on August 3).

August 5, 2005

“May Files Complaint Against Oprison”
Leesburg Today

This article cited a letter written by **Trevor Potter**, regarding a complaint by Del. Joe T. May alleging that his challenger violated many campaign laws. Mr. Potter stated that the accusations are “appropriately subject to review by a Commonwealth’s Attorney.”

New on the Bookshelf

The False Claims Act: Fraud Against the Government, by Claire M. Sylvia (2001) (BUS LAW KF 9365 .S968) A comprehensive treatise on False Claims Act. The book is “intended to be a resource for practitioners, whether they represent defendants, relators, or the Government, and provide advice on compliance.”

For more information on any of the items contained in this issue of Re:Cap please contact the Marketing Department at 202-862-7803 or enj@capdale.com