

THE LATEST TAX DEVELOPMENTS AND PLANNING FROM TOP PRACTITIONERS

THE  
57<sup>TH</sup> ANNUAL



SOUTHERN FEDERAL  
TAX INSTITUTE



**OCTOBER 24-28, 2022**

**GRAND HYATT ATLANTA**  
IN BUCKHEAD, ATLANTA, GEORGIA  
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**TWO DAY EXCLUSIVE**  
Estate Planning Presentations On Oct 27-28

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*This program provides high quality, in-depth coverage of recent developments and cutting-edge topics in tax and estate planning.*

*The 2022 Institute will be a hybrid event. Join us in-person at the Grand Hyatt Atlanta in Buckhead or attend virtually from your home/office.*

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# PRESIDENT'S LETTER

Dear Tax Colleagues:

On behalf of the Trustees of the Southern Federal Tax Institute ("SFTI"), it is my distinct honor to invite you to join us at the Grand Hyatt Atlanta in Buckhead for the 57th Annual Southern Federal Tax Institute. After two years of offering our programming in a virtual format, we are thrilled to gather in person once again in October to learn from some of the most distinguished tax professionals in the country. Each year it is the goal of the SFTI Board of Trustees to provide timely and cutting-edge information to help you better advise and counsel clients, while also providing a touch of southern hospitality to foster new introductions and lasting relationships.

We have planned an excellent program scheduled for October 24–28, 2022, which includes thirty topics presented over five days by leading tax and estate planning practitioners. Though we were bracing for another round of significant tax reform in the recent past (including the unwinding of many of the components of the 2017 TCJA), the prospect of legislative reform in the near future appears less likely. This Congressional pause allows us to focus this year's programming on other emerging tax developments as well as relevant topics for a wide range of tax practices.

We will continue our tradition of starting the Institute with an in-depth review of federal income tax developments. Monday afternoon will include presentations on timely issues of cybersecurity considerations, international tax considerations for closely-held businesses, and SALT workarounds at the state level. Tuesday is devoted to business entity taxation; the morning session will focus on partnership and real estate developments, while the afternoon session will address corporate tax matters. Specific topics include navigating the disguised sale rules, distributions from closely held corporations, remediating busted S corp. elections, and structuring business ventures to meet Section 1202. Wednesday morning will offer a range of topics from employee benefits to tax accounting, while the afternoon session will focus on topics in tax controversy as well as ethics.

Thursday and Friday will again focus on trust and estate planning topics, beginning with recent developments. Thursday morning will continue with fiduciary litigation update and SECURE Act planning. Thursday afternoon will include planning techniques involving QTIP trusts, SLATs, and split dollar arrangements as well as ethics. Friday will include BDOTs, business succession planning, private foundation self-dealing rules followed by an in-depth analysis of Non-Grantor Trusts.

We continue to offer the flexibility of two-day, three-day or five-day programs. The comprehensive outlines provided by our speakers are a hallmark of the SFTI. The five-day conference is offered in four flexible registration packages: the full five-day package, the initial three-day package (which includes both the income tax and ethics sessions), the final three-day package (which includes the estate planning and ethics sessions), and the two-day package (which includes the estate planning sessions only). In addition, we have included a remote option for those who are unable to attend in-person at this time.

A vital part of the Institute is the hospitality and networking opportunities it provides. I feel this aspect is most important in 2022 after two years of remote learning. Please plan to take part and bring younger colleagues along with you this year. Specifically, please join us at our receptions on Monday, Wednesday, and Thursday evenings. The cocktail parties are a wonderful venue for renewing friendships with longtime colleagues, introducing younger colleagues, and networking with leading tax practitioners.

We also encourage you to meet and thank our sponsors and exhibitors. Their support and generosity play an important part in delivering programs that are exceptional both in quality and value.

We look forward to welcoming you in person to the 57th Annual Southern Federal Tax Institute. On behalf of the Trustees, thank you for joining us.

Martha Louise R. Lewis



President  
Southern Federal Tax Institute



# WHAT'S NEW IN THE INCOME TAX WORLD?

## SUNDAY EVENING, OCTOBER 23, 2022

5:30-7:30 Registration

## MONDAY MORNING, OCTOBER 24, 2022

*Martha Louise R. Lewis, Presiding*

7:15-9:00 Registration

8:00-9:00 Breakfast

9:00-10:30 **RECENT FEDERAL INCOME TAX DEVELOPMENTS** - This presentation highlights significant changes affecting taxpayers over the past twelve months, addressing significant court decisions, rulings, and statutory and regulatory developments.

**Bruce A. McGovern**, South Texas College of Law, Houston, TX

**Cassady V. "Cass" Brewer**, Georgia State University College of Law, Atlanta, GA

10:30-10:45 Break

10:45-12:00 **RECENT FEDERAL INCOME TAX DEVELOPMENTS (CONT'D)**

12:15-1:05 **Mid-Day Program: TAX CONTROVERSY FROM THE TRENCHES** - The IRS has indicated that it will hire an additional 200 attorneys to combat abusive tax schemes, including syndicated conservation easement deals and abusive micro-captive insurance arrangements. Separately, the IRS has continued its international enforcements efforts against unwitting taxpayers, foreign and domestic. This presentation will discuss lessons learned from numerous audits and ongoing litigation against the IRS including, whether to push-out in BBA audits, access to Appeals, the IRS's use of summonses during audits, international compliance campaigns and disclosure programs, challenges to IRS regulations, notices, and other actions under the Administrative Procedure Act, and other hot topics from recent IRS enforcement efforts. Sponsored by **Chamberlain, Hrdlicka, White, Williams & Aughtry** and presented by **John W. Hackney, Jennifer Duval Lindy** and **Jeff S. Luechtefeld**

## MONDAY AFTERNOON, OCTOBER 24, 2022

*Tiffany A. Altizer, Presiding*

1:15-2:15 **WHY CYBERSECURITY PROGRAMS FAIL** - Whether we want to admit it or not, many organizations' security programs are failing, leading to damaging and costly data breaches. This presentation will provide candid insight on why so many programs are unsuccessful, and provide a checklist of activities so you can ensure that your firm's and your clients' security programs are successful and effective. Attendees will leave this presentation with a clear action plan for implementing a successful Cyber Security program, protecting sensitive data in their purview, and avoiding the pitfalls that have hampered many organizations. Particularly in light of IRS requirements on protecting taxpayer data, an understanding of cybersecurity issues, challenges, and strategies is critical for tax professionals.

**Mark Burnette**, LBMC, Nashville, TN

2:15-3:15 **INTERNATIONAL TAX STRUCTURING FOR NON-PUBLICLY TRADED CLIENTS** - The cross-border tax landscape continues to be in flux, and given the nature of today's global economy, international tax issues appear with increasing frequency, even for domestic practitioners. While mainstream media and most industry commentary highlight changes affecting publicly-traded companies, there are a host of special considerations impacting closely-held businesses operating internationally, and these issues receive far less attention despite affecting many more taxpayers. This discussion will focus on the cross-border U.S. tax issues (both inbound and outbound) facing non-publicly traded companies, including the current state of relevant laws and tax-efficient structuring alternatives, and will highlight remaining challenges for taxpayers and their advisors to be mindful of.

**Summer Ayers LePree**, Baker & McKenzie LLP, Miami, FL

3:15-3:30 Break

3:30-4:30 **STATE PASS-THROUGH ENTITY ELECTIONS - BENEFIT OR TRAP FOR THE UNWARY?** - In response to the \$10,000 cap on the deductibility of state and local taxes for individuals, several states have enacted (mostly) elective regimes where pass-through entities are taxed at the entity level. As with all things states, there is no "one size fits all" approach to these new regimes. There are several nuances and items to consider for both the pass-through entity and the individual owners prior to making an election to be taxed at the entity level. This discussion will review the current landscape of state pass-through entity elections with a discussion of pass-through entity elections in multiple states (including Georgia and North Carolina), observations from the first set of returns filed for electing entities and some crystal ball predictions for the future of these taxes.

**Brian Sengson**, Bennett Thrasher LLP, Atlanta, GA

**Matt Gentile**, Dixon Hughes Goodman LLP, Raleigh, NC

4:30-5:30 **MANAGING ANTI-ABUSE RULES - IN PLANNING AND CONTROVERSIES** - IRS regulations are filled with anti-abuse provisions intended to limit tax planning. Some are understandable and navigable, while others are unpredictable and not tethered to the statutory language or purpose. Planning transactions with confidence, and defending them against IRS challenge, requires knowing which anti-abuse rules represent serious impediments for taxpayers, and which ones are mere shots across the bow. This presentation will explore the varieties of anti-abuse rules and the effect they could have in both planning and controversies.

**Gary B. Wilcox**, Mayer Brown LLP, Washington, DC

5:30-7:00 **Cocktail Reception**

# BUSINESS TAXATION

## TUESDAY MORNING, OCTOBER 25, 2022

James B. Sowell, Presiding

7:30-8:30 Breakfast

8:30-9:30 **DISGUISED SALES – WHAT THE GENERAL TAX PRACTITIONER NEEDS TO KNOW TO AVOID RUNNING AFOUL OF THESE PROVISIONS** – When is a capital contribution not a contribution but a sale? While most tax practitioners would say that they know a sale when they see one, they may be surprised when it comes to partnerships. The disguised sale rules can provide a trap for the unwary where common transactions between a partnership and its partner(s) are recast as a disguised sale, triggering unexpected tax consequences and disclosure obligations. This presentation will provide a case study that explains how the general rules and presumptions of disguised sales can be applied to trip up a practitioner, and techniques that may be available to avoid their application.

**Amanda Wilson**, Lowndes, Orlando, FL

9:30-10:30 **HOT TOPICS IN PARTNERSHIP AND REAL ESTATE TAXATION** – This presentation will discuss recent developments in the areas of partnership and real estate taxation, including authorities addressing disguised sales under Section 707, debt-equity analysis, debt workouts, and other important guidance.

**Kendal A. Sibley**, Hunton Andrews Kurth LLP, Richmond, VA

10:30-10:45 Break

10:45-12:00 **A ROADMAP FOR FUTURE IRS AUDITS? NEW PARTNERSHIP DISCLOSURES AND THEIR ROLE IN PARTNERSHIP AUDITS** – Historically, the odds of a partnership being subject to an IRS audit have been extremely low. At the same time, more and more businesses have been choosing to operate in partnership form. In 2015, Congress provided the IRS with new partnership audit rules, and the past few years have brought an avalanche of additional reporting requirements that seem to be crafted to provide the IRS with better information to select partnerships for audit. This presentation will discuss how these new partnership reporting requirements could be utilized by the IRS in the audit process and will also consider how partnerships can navigate the increased reporting requirements to mitigate audit risk and scrutiny.

**Matthew Busta**, KPMG LLP, Washington, DC

**Michael J. Desmond**, Gibson, Dunn & Crutcher, LLP, Los Angeles, CA

12:15-1:05 **Mid-Day Program: TBD**

## TUESDAY AFTERNOON, OCTOBER 25, 2022

R. David Wheat, Presiding

1:15-2:15 **HOT TOPICS IN CORPORATE TAX** – This presentation will provide an overview of recent developments in corporate tax, including administrative and legislative developments. For example, this presentation could cover corporate provisions in recently passed or proposed legislation, updates to the corporate PLR program, and regulations under section 163(j).

**Lisa M. Zarlenga**, Steptoe & Johnson LLP, Washington, DC

2:15-3:15 **DISTRIBUTIONS BY CLOSELY HELD CORPORATIONS** – For shareholders of closely held C corporations, withdrawing cash or other property from a corporation via a distribution can result in significant tax. This presentation covers planning considerations to enhance the tax-efficiency of corporate distributions. Topics include managing E&P to limit dividend treatment, maximizing basis recovery through dividend-equivalent redemptions, structuring redemptions to qualify for capital gain treatment, and distributing contingent value rights.

**Shane J. Kiggen**, EY, Washington, DC

3:15-3:30 Break

3:30-4:30 **S CORPORATIONS – BUSTED S ELECTIONS AND OPTIONS TO REMEDIATE** – When choice-of-entity status as an S corporation is desired, the importance of filing and maintaining a valid S-election cannot be overstated. Severe tax consequences can result if an S-election is ineffective or if a valid S-election is inadvertently terminated. This presentation considers the potential impact of an invalid or inadvertently terminated S-election, and reviews some of the potential options which may be at the disposal of the entity in remediating against such consequences.

**Robert S. Keller**, KPMG LLP, New Orleans, LA

4:30-5:30 **SECTION 1202 QUALIFIED SMALL BUSINESS STOCK: A POWERFUL TAX INCENTIVE FOR EARLY-STAGE COMPANIES** – Section 1202 of the Code provides the potential for significant U.S. federal income tax benefits to certain shareholders that acquire “qualified small business stock” (“QSBS”) at original issuance and then later sell such stock after a holding period of at least 5 years. Section 1045 of the Code also provides the potential for the rollover of certain gains realized upon the sale of QSBS into newly acquired QSBS. This presentation will provide an overview of Section 1202 and Section 1045, as well as highlight a variety of potential planning opportunities and traps for the unwary or ill-advised. Section 1202 of the Code can be a powerful tax incentive for specified types of early-stage companies seeking equity financing and attendees will learn how to successfully navigate the relevant requirements for their clients.

**David Strong**, Wilson Sonsini Goodrich & Rosati, Palo Alto, CA and Boulder, CO

# ACCOUNTING, ERISA, ETHICS, ET CETERA

## WEDNESDAY MORNING, OCTOBER 26, 2022

George A. Hani, Presiding

7:30-8:30 Breakfast and Registration

8:30-9:45 **EMPLOYEE FRINGE BENEFITS AND PAYROLL TAX DEFERRALS AND CREDITS DURING AND BEYOND THE PANDEMIC: Q&As FOR EMPLOYERS, AND EXPECTED AUDIT QUESTIONS FROM THE IRS** – The work-from-home programs that started during the coronavirus pandemic have created a wide variety of questions about tax exclusions, as well as tax withholdings and the corresponding deposits, from both employers and employees. Questions arise not just about reimbursements for in-home expenses and commuting expenses, but also about the design of benefits intended to attract employees back to the office (from free food to loan forgiveness, enhanced dependent care assistance, wellness benefits, athletic facilities, leave-sharing and charitable donations). Where benefits and reimbursements are taxable, Federal and state withholding and tax deposit questions are presented. In addition, pandemic era legislation provides various tax deferrals and credits through payroll tax relief. This presentation will discuss worker benefit program design considerations, as well as ways to mitigate payroll tax exposure to the benefit-providing employer, with a particular focus on both pandemic-related issues and, more generally, on withholding and deposit-timing issues that commonly arise during payroll tax audits.

**Mary B. Hevener**, Morgan, Lewis & Bockius LLP, New York, NY

**Jonathan Zimmerman**, Morgan, Lewis & Bockius LLP, Washington, DC

9:45-10:45 **TAX IMPLICATIONS REGARDING THE EVOLUTION OF THE NEW DIGITAL ASSET INDUSTRY** – Over the past decade the digital asset industry has quickly evolved into a financially powerful and fast moving investment class. After a brief primer on digital assets, this presentation will predominately focus on the tax implications of the new protocols and financial products continuously being created within this brave new world.

**Navin Sethi**, EY, San Francisco, CA

10:45-11:00 Break

11:00-12:00 **INDOPCO REGULATIONS 20 YEARS LATER – STILL A TANGLED WEB AFTER ALL THESE YEARS** – The year 2022 marks 20 years since regulations on costs to acquire, create, or enhance intangible assets, known as the “INDOPCO regulations” were first proposed. What have we learned and what questions remain? This presentation will explore the current state of affairs including the continuing turmoil around transaction costs.

**Mary Duffy**, Andersen Tax LLC, Washington, DC

12:15-1:05 **Mid-Day Program: TBD**

## WEDNESDAY AFTERNOON, OCTOBER 26, 2022

John W. Hackney, Presiding

1:15-2:15 **“BUT MY ACCOUNTANT SAID I COULD.” WHAT HAPPENS IF MY CLIENT BLAMES ME?** – We all have longstanding clients we trust. In turn, our clients trust us to provide reliable and accurate tax advice. But what happens when a client faces IRS scrutiny? Pointing the finger at an accountant or other tax advisor is an all too familiar defense for anyone under IRS audit or investigation. This presentation will cover the basics and the nuances of reliance defenses as well as the IRS’s recent enforcement efforts against accountants and other tax professionals, including promoter penalty investigations and criminal investigations.

**George Abney**, Alston & Bird LLP, Atlanta, GA

*(Submitted for 1.0 hour of ethics credit.)*

2:15-3:15 **TAX ENFORCEMENT IN AN ERA EVOLVING GLOBAL TAX RULES, INCREASED IRS PROGRAMMING RESPONSIBILITIES, AND UNCERTAIN FUNDING** – Since passage of the Tax Cuts and Jobs Act in 2017, tax rules around the world have continued to evolve rapidly. While tax enforcement typically follows behind this evolution, the rapid pace of change places the IRS in a challenging position in deciding where to deploy its limited enforcement resources. A focus on transfer pricing makes less sense in an era of global minimum taxes, for example, while committing too many resources to “listed” and other potentially abusive transactions may allow problematic new issues to emerge unchecked. Meanwhile, the leading role the IRS played in delivering pandemic-related economic relief, added to its responsibility for administering a growing number of other socio-economic programs, will further strain enforcement resources in coming years and limit the IRS’s ability to perform its traditional tax collection function. Against this enforcement backdrop, IRS funding prospects remain uncertain and challenges on that front are compounded by tight labor markets and rising costs. This presentation from the former IRS Chief Counsel will draw from these emerging trends to discuss what the future holds for tax enforcement.

**Michael J. Desmond**, Gibson, Dunn & Crutcher, LLP, Los Angeles, CA

3:15-3:30 Break

3:30-4:30 **LET’S MAKE A DEAL: STRATEGIES FOR SUCCESS IN APPEALS** – The Taxpayer First Act of 2019 changed the name of the IRS Office of Appeals to the IRS Independent Office of Appeals. The title change was intended to stress that the office serves to resolve disputes between taxpayers and the government in an impartial manner, independent of the larger compliance mission of the IRS. But did this title revision bring about substantive change in the manner in which cases are prosecuted in Appeals? This presentation will examine what has changed and what remains the same in securing successful outcomes through this critical administrative avenue.

**Elizabeth Tucker**, PricewaterhouseCoopers LLP, Washington, DC

**Kevin Brown**, PricewaterhouseCoopers LLP, Washington, DC

4:30-5:30 **HOW YOUR BOOM BOX PLAYLIST “QUALIFIES” FOR APPRAISAL DEFENSE** – Some of the most memorable songs blaring from our old boom box can provide exceptional insight into how to analyze the latest Tax Court cases and out-of-tune Form 8283 issues from litigation and appraisal perspectives. What to avoid and why.

**David P. Adams III**, Adams Capital, Atlanta, GA

**Charles E. Hodges II**, Jones Day, Atlanta, GA

5:30-6:30 **Exhibitors’ Cocktail Hour**

# TAILOR THE INSTITUTE

## TAILOR THE INSTITUTE TO YOUR SPECIFIC NEEDS

**THE SOUTHERN FEDERAL TAX INSTITUTE OFFERS PRACTITIONERS THE ABILITY TO CHOOSE A REGISTRATION PACKAGE THAT BEST MEETS THEIR NEEDS.**

### THE FIVE-DAY INSTITUTE:

■ ■ ■ This package includes admission to all sessions and is ideal for the general tax practitioner and others who want a full week of first-rate tax instruction from the country's leading tax practitioners. This remains the favorite choice for most of our registrants and is a great way to sharpen your expertise in a broad range of tax areas.

### MONDAY THROUGH WEDNESDAY:

■ ■ ■ This three-day package combines the Recent Federal Income Tax Developments and Hot Tax Topic sessions on Monday, the Pass-Through, Real Estate, Corporate, and Other Business Tax Topics sessions on Tuesday, and the Employee Benefits, Tax Accounting, Tax Controversy, and Ethics and Professionalism sessions on Wednesday. Specifically, this package includes presentations on Recent Federal Income Tax Developments, Protection of Taxpayer Data and Cybersecurity Failures, International Tax Structuring for Non-Publicly Traded Clients, Benefits and Traps of SALT Pass-Through Entity Elections, Managing Anti-Abuse Rules in Planning and Controversies, What the General Tax Practitioner Needs to Know to Avoid Running Afoul of the Disguised Sales Rules, Hot Topics in Partnership and Real Estate Tax, New Partnership Disclosure Rules and Their Use in Future IRS Partnership Audits, Hot Topics in Corporate Tax, Distributions by Closely Held Corporations, Busted S Corporation Elections and Options to Remediate, Section 1202 Qualified Small Business Stock as a Powerful Tax Incentive for Early-Stage Companies, Employee Fringe Benefits and Payroll Tax Deferrals and Credits During and Beyond the Pandemic, Tax Implications Regarding the Evolution of the New Digital Asset Industry, INDOPCO Regulations 20 Years Later, Tax Advisor Concerns When Your Client Uses the "My Tax Advisor Said I Could" Defense, Tax Enforcement Emerging Trends in an Evolving Era, Strategies for Success with the IRS Independent Office of Appeals, and Defending Valuations.

### WEDNESDAY THROUGH FRIDAY:

■ ■ ■ This three-day package combines the Estate, Gift, and Generation-Skipping Planning sessions on Thursday and Friday with the Employee Benefits, Tax Accounting, Tax Controversy, and Ethics and Professionalism sessions on Wednesday. In particular, Wednesday includes presentations on Employee Fringe Benefits and Payroll Tax Deferrals and Credits During and Beyond the Pandemic, Tax Implications Regarding the Evolution of the New Digital Asset Industry, INDOPCO Regulations 20 Years Later, Tax Advisor Concerns When Your Client Uses the "My Tax Advisor Said I Could" Defense, Tax Enforcement Emerging Trends in an Evolving Era, Strategies for Success with the IRS Independent Office of Appeals, and Defending Valuations. The Estate, Gift, and Generation-Skipping Planning Sessions on Thursday and Friday include presentations covering Recent Estate and Gift Tax Developments, a Review of Recent Fiduciary Cases, Planning for Retirement Benefits After the Proposed RMD Regulations, Estate Planning Strategies for Large QTIP Trusts, Spousal Lifetime Access Trusts, Update on Split Dollar, Ethics of Fixing Mistakes, Beneficiary Deemed Owner Trusts, Business Succession Planning, Private Foundation Self-Dealing Rules, and Benefits, Burdens, Traps and Pitfalls of Non-Grantor Trusts.

### THURSDAY AND FRIDAY:

■ This two-day session, which includes the Thursday and Friday presentations described in the package above, focuses exclusively on topics relevant to practitioners working primarily in the area of wealth transfer planning.

## LET US HELP YOU...

*The Southern Federal Tax Institute, Inc. is a non-profit corporation organized for the exclusive purpose of developing and presenting annually a professional institute covering current federal tax problems and issues at the post-graduate level.*

*This program is designed for the practitioner who must frequently anticipate and handle tax matters. Emphasis is placed on subjects that are new and current, including in-depth coverage of recent developments and problems which often prove difficult in planning clients' affairs and transactions.*

## WHAT WE DO...

*The speakers are tax practitioners and scholars from every section of the country. Each speaker has been selected based on his or her competence on the subject matter and the ability to communicate ably and clearly.*

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# ESTATE PLANNING - DAY I

## THURSDAY MORNING, OCTOBER 27, 2022

*Farhad Aghdami, Presiding*

7:00-8:00 Breakfast and Registration

8:00-9:30 **RECENT ESTATE AND GIFT TAX DEVELOPMENTS** – In an always lively and informative fashion, this presentation details significant court decisions, rulings, and statutory and regulatory developments relating to trust and wealth transfer taxes over the past twelve months.

**Samuel A. Donaldson**, Georgia State University College of Law, Atlanta, GA

9:30-10:30 **REVIEW OF THE PAST YEAR'S SIGNIFICANT, CURIOUS, OR DOWNRIGHT FASCINATING FIDUCIARY CASES** – This presentation will review selected reported fiduciary litigation decisions from 2021 that relate to multiple areas of estate planning, estate and trust administration, the fiduciary duties of agents, administrators, trustees, and other fiduciaries, and related trial practice, and identify and discuss navigating contemporary fiduciary challenges.

**Dana G. Fitzsimons, Jr.**, Bessemer Trust, Atlanta, GA

10:30-10:45 Break

10:45-12:00 **PLANNING FOR RETIREMENT BENEFITS: TREASURY'S PROPOSED SECURE REGULATIONS** – Proposed SECURE regulations make RMD compliance positively fiendish, but improved “RMD trust rules” make estate planning for IRAs somewhat clearer. This presentation will review the new RMD landscape while identifying practical responses to the RMD mess.

**Natalie B. Choate**, Ataxplan Publications, Wellesley, MA

12:15-1:05 **Mid-Day Program: HOT TOPICS IN ESTATE PLANNING FROM A BUSINESS VALUATION EXPERT'S PERSPECTIVE** – MPI expert Todd Povlich will discuss the valuation implications of the IRS Chief Counsel Advice Memorandum 202152018, which describes the impact of a pending merger/acquisition of an operating business and how its valuation is affected in the IRS' eyes. Mr. Povlich will also share lessons from recent IRS audits and discuss any other important valuation issues that are pressing. Sponsored by **MPI** and presented by **Todd G. Povlich**.

## THURSDAY AFTERNOON, OCTOBER 27, 2022

*Kimberly H. Stogner, Presiding*

1:15-2:15 **ESTATE PLANNING STRATEGIES FOR LARGE QTIP TRUSTS – DO GOOD THINGS COME TO THOSE WHO DEFER?** – The assets of a large QTIP trust may be a substantial part of a client's estate that are subject to estate taxes on his or her death. The provisions of the trust instrument and tax law, however, complicate the use of typical estate planning strategies for QTIP trust assets. This presentation will address the special gift tax and estate tax rules that apply to QTIP trusts and discuss strategies to minimize wealth transfer taxes for QTIP trust assets in light of these special tax rules as well as typical governing instrument provisions and limitations.

**M. Read Moore**, McDermott Will & Emery LLP, San Francisco, CA

2:15-3:15 **SPOUSAL LIFETIME ACCESS TRUSTS (“SLATS”) – THE GOOD AND THE BAD** – Spousal lifetime access trusts (“SLATS”) have been widely promoted in recent years as the best “have-your-cake-and-eat-it-too” estate planning strategy out there. In this presentation, we will explore what is the purpose of a SLAT, the tax consequences that flow from creating and administering a SLAT, who is a good candidate for a SLAT, how to design a SLAT, who to name as Trustee of a SLAT and how best to avoid the problems a SLAT can sometimes create.

**Charles A. “Clary” Redd**, Stinson LLP, St. Louis, MO

3:15-3:30 Break

3:30-4:30 **WHAT'S NEW, WHAT'S DIFFERENT, AND WHAT'S THE SAME IN SPLIT DOLLAR?** – In recent years, caselaw, IRS audits and programs such as these, have changed the way individuals and companies use (or don't use) split dollar transactions. This presentation addresses what split dollar arrangements look like now and how they could become very important as a part of planning to address current financial and estate planning trends.

**Mary Ann Mancini**, Loeb & Loeb LLP, Washington, DC

4:30-5:30 **SO YOU THINK YOU CAN DANCE? THE ETHICS OF FIXING BAD MOVES** – Practicing law, particularly tax law, can feel like dancing on the head of a pin at times. We are all human, and errors will occur. The panel will explore ethics considerations in managing mistakes and will present practical solutions for dancing your way out of danger.

**Stephanie Loomis-Price**, Winstead PC, Houston, TX

**Lauren J. Wolven**, Levenfeld Pearlstein, LLC, Chicago, IL

*(Submitted for 1.0 hour of ethics credit.)*

5:30-7:00 **Cocktail Reception**

# ESTATE PLANNING - DAY II

## FRIDAY MORNING, OCTOBER 28, 2022

David C. Sojourner, Jr., Presiding

7:00-8:00 Breakfast

8:00-9:00 **SECTION 678 AND BENEFICIARY DEEMED OWNER TRUSTS (BDOTS)** – The fiduciary income tax system taxing non-grantor trusts can be complex. The loss of certain benefits and highly compressed tax rates often seems unfair. This presentation will explore how settlors can avoid the application of these fiduciary income tax rules by including a power that forces a beneficiary (including another trust) to be deemed the owner for income tax purposes – even after the settlor's death. This presentation also will examine how this can be accomplished with a power to withdraw only the taxable income without the more drastic power to withdraw the entire corpus itself and when this approach will produce dramatically superior tax results to standard non-grantor trust designs.

**Edwin P. Morrow III**, Huntington National Bank, Dayton, OH

9:00-10:00 **BUSINESS SUCCESSION PLANNING: THE MORE THINGS CHANGE, THE MORE THEY STAY THE SAME** – The regulatory environment and taxation of private companies is an ever-changing landscape, but the humans who own them are driven by the same desires. How different generations within the life-cycle of a business express and achieve these goals may be quite different, though they face the same issues. This presentation will discuss the human elements behind succession of a business and current strategies for legally and tax efficient options to achieve the client's goals.

**Joshua E. Husbands**, Holland & Knight LLP, Portland, OR

10:00-10:15 Break

10:15-11:30 **A PRACTICAL PRIMER ON THE PRIVATE FOUNDATION SELF-DEALING RULES** – The self-dealing rules for private foundations impose a dangerous set of unanticipated and counter-intuitive traps for even well-intentioned family members and fiduciaries of private foundations. This presentation will provide an overview of these rules, including a discussion of their history and intent and ways to help clients and fiduciaries identify and avoid the pitfalls, with a special focus on employment of family members, family offices and coordinated services among family entities, and co-investments.

**Brad Bedingfield**, Hemenway & Barnes LLP, Boston, MA

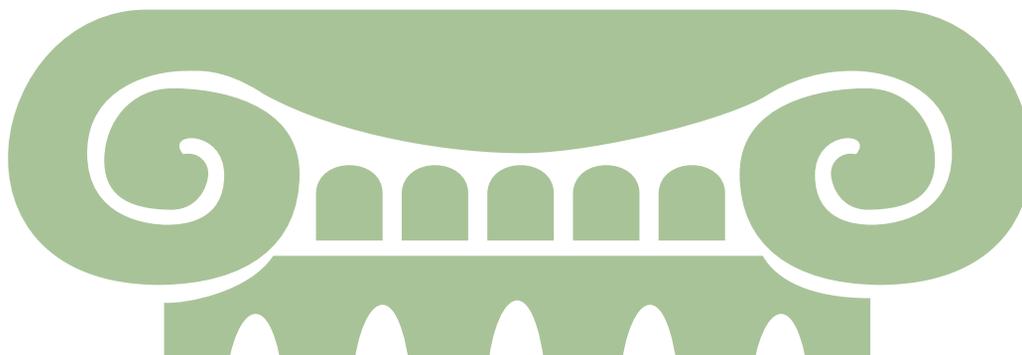
11:30-1:00 **BENEFITS, BURDENS, TRAPS AND PITFALLS OF NON-GRANTOR TRUSTS** – Although many lifetime estate planning strategies are built on the chassis of grantor trusts, it may be preferable, in some cases, to use non-grantor trusts. Moreover, the Biden Administration, following several Congressional bills introduced last year, has proposed limitations on the efficient use of grantor trusts. In all events, grantor trust status will terminate no later than when the grantor dies. In some cases, a non-grantor trust will be preferable to a grantor trust. However, non-grantor trusts face the top federal income tax bracket and face the net investment income tax at just \$13,450 of income, while individuals face these at much higher thresholds. This presentation will discuss when it may be appropriate to terminate grantor trust status even before the grantor dies, what the consequences may be of doing so and ways in which the income tax burden on non-grantor trusts may be alleviated.

**Jonathan G. Blattmachr**, Pioneer Wealth Partners, LLC, New York, NY

**Diana S.C. Zeydel**, Greenberg Traurig, P.A., Miami, FL

1:00 Adjourn

**EASY ONLINE REGISTRATION**  
**WWW.SFTI.ORG**



# IN & AROUND ATLANTA

## LOCATION AND HOTEL ACCOMMODATIONS

### **Grand Hyatt Atlanta in Buckhead** **3300 Peachtree Rd. NE, Atlanta, GA 30305**

Conveniently located in the Buckhead district, the Grand Hyatt Atlanta in Buckhead is accessible to Atlanta's finest dining, shopping and nightlife for you and your colleagues. Moreover, the Grand Hyatt Atlanta melds seamless service with elegant décor and haute cuisine to provide an ideal setting for networking with your associates. All this plus Atlanta's tradition of warm Southern hospitality makes a stay at the Grand Hyatt Atlanta an unforgettable experience. To provide a quality Institute at the best possible cost, SFTI has negotiated special room rates and has committed to a block of rooms at the Grand Hyatt Atlanta in Buckhead. Your support allows us to keep our registration fees reasonable. Single or double occupancy rooms are available at the SFTI group rate of \$265. To make your reservation, please call 1-800-233-1234 and *identify yourself as attending the Southern Federal Tax Institute conference*. You may also book online at [www.sfti.org](http://www.sfti.org); click on the General Info tab. We urge you to make your hotel and travel plans early. Hotel rooms can sell out prior to the cut-off date. These rooms will be held as a block, unless exhausted, until September 30, 2022, at which time they will be released to the general public.

## THE HEART OF ATLANTA

Join your friends and colleagues in Buckhead, Atlanta's destination for great food, abundant shopping and exciting nightlife. Home to many of the most popular restaurants in Atlanta, Buckhead provides a friendly atmosphere and boasts a wide spectrum of casual to elegant dining options, from French and Italian to Asian, New American, and Eclectic.

## RESTAURANTS

- Antica Posta (Italian) • Aria (American Contemporary)
- Atlanta Fish Market (Seafood) • Atlas (New American)
- Bone's (Steakhouse) • Café Sunflower (Vegetarian/Gluten Free)
- The Capital Grille (Steakhouse) • King & Duke (New American)
- Restaurant Eugene (American Contemporary)
- South City Kitchen (Southern)

## ATTRACTIONS

Buckhead has a variety of attractions including the Atlanta History Center and the Georgia Governor's Mansion. Other Atlanta attractions include the High Museum of Art, Atlanta Botanical Garden, Center for Civil and Human Rights, the College Football Hall of Fame & Fan Experience, Georgia Aquarium, World of Coca-Cola, Inside CNN Studio Tour or the Skyview Ferris Wheel. All are minutes away and easily accessible by Marta. *Advance online tickets are recommended for all attractions.*



## SHOPPING

Shopping enthusiasts can join friends and colleagues at two upscale malls that are within walking distance of the hotel — Lenox Square and Phipps Plaza. Enjoy boutiques as well as grand department store shopping at Nordstrom, Saks Fifth Avenue, Neiman Marcus, Williams-Sonoma, Brooks Brothers, and many other fine establishments. Or venture a few blocks away to the Shops of Buckhead Atlanta.

# SPONSORS

SFTI acknowledges the generous support of the following sponsors for their involvement in this year's Institute.

## PLATINUM



## SPEAKER/TRUSTEE DINNER



## MID-DAY



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## REGISTRATION

Please see page 15 for all registration packages and rates. **Registration is available online only** - please visit [www.sfti.org](http://www.sfti.org) to register for in-person or virtual attendance. Credit card payments only. Please contact Mallory Decker ([mdecker@brammgmt.com](mailto:mdecker@brammgmt.com)) with questions regarding payments or registering groups of 6 or more.

## HOTEL RESERVATIONS

The 57th Annual SFTI is delighted to return to the **Grand Hyatt Atlanta in Buckhead** (3300 Peachtree Road NE, Atlanta, GA 30305). A reduced rate of \$265/night has been made for our attendees. In order to receive this rate, please go to [www.sfti.org](http://www.sfti.org); click on the General Info tab. If reserving by phone, please call (800) 233-1234 and *identify yourself as attending the Southern Federal Tax Institute conference*. We urge you to make your hotel and travel plans as early as possible. Please note these rooms will be held as a block, unless exhausted, until **September 30, 2022**, at which time they will be released to the general public.

## VIRTUAL ATTENDANCE

If registering for the virtual Institute, please note only one individual email address may be used per registrant. Links for each day will be sent approximately 1-2 weeks prior to the Institute. Please check your Spam folder if you do not see the links in your Inbox. *If you have not received your session links within one week of the Institute, please contact [info@sfti.org](mailto:info@sfti.org) or [mdecker@brammgmt.com](mailto:mdecker@brammgmt.com).* We will be utilizing Zoom Webinars as our virtual platform. Please ensure Zoom is accessible and operates on your device. Please note a \$100 technology fee will be added to your total amount due upon checkout.

## CONFERENCE MATERIALS

Every registrant will receive a password protected link to access the online materials prior to the Institute. Please contact [info@sfti.org](mailto:info@sfti.org) or [mdecker@brammgmt.com](mailto:mdecker@brammgmt.com) if you do not receive your link within one week of the Institute. Bound hard copies of the course materials will be available to **in-person registrants only** for an additional \$50 per book. Volume 1 contains Mon-Wed. materials; Volume 2 contains Thur/Fri materials. Orders must be placed when registering online in advance of the Institute.

## COVID-19 SAFETY PROTOCOLS

The health and safety of all SFTI attendees remains our top priority. We are closely monitoring government mandates and policy changes, Centers for Disease Control and Prevention (CDC) guidelines, and public health advancements. Currently, we will rely upon the hotel's policy for large group gatherings in regards to COVID-19 precautions. As information pertaining to the virus continues to develop, we will adjust our approach as needed and keep you up to date with new developments to ensure a coordinated effort and a safe environment for all SFTI attendees.

## ADMISSION TO SESSIONS & MEALS

SFTI will provide an identification badge for each registrant. Badges must be worn to gain admittance to all sessions and other functions of the Institute.

## MID-DAY PROGRAM

Those registrants who sign up for an optional mid-day program no later than 10:00 AM the day of the program will be provided a box lunch free of charge when they attend. Gluten free and vegetarian options will be available. Please indicate your preference on each day's sign up sheet.

## CANCELLATION POLICY

A written request for cancellation must be emailed to [info@sfti.org](mailto:info@sfti.org) by October 10, 2022. You will receive 100% refund (less \$75 administrative fee). No refunds will be made after October 10, 2022.

## FUTURE INSTITUTES

October 30-November 3, 2023

October 21-25, 2024

# CONTINUING EDUCATION

SFTI is an advanced seminar for tax professionals versed in the field based on education in law, accounting, or business programs, or the equivalent in practical experience. The seminar consists of a series of lectures on specific topics grouped by subject matter, for which no specific advance preparation is required. In past years, the Institute's program has been approved for CPE/CLE/CFP accreditation by states with mandatory requirements.

## ACCOUNTANTS (CPE)

SFTI is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education of 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.nasbaregistry.org](http://www.nasbaregistry.org).

Amount of Recommended CPE credit: **40.5 tax hours**

**PROGRAM LEVEL:** Advanced; **Program Prerequisites:** General knowledge with tax and estate planning; **Delivery Method:** Group Live and Group Internet Based; **Recommended Field of Study:** Tax and Ethics; **Advance Preparation:** None; **Learning Objectives:** Acquisition of knowledge and skills to develop proficiency as a practitioner; maintenance of professional competence as a practitioner; development of proficiency in performance of intricate and complex legal, accounting, estate, and trust law tasks.

## Certified Financial Planners (CFP)

The 2022 program will be submitted for **40.5 hours** to the CFP Board of Standards.

## Attorneys (CLE)

The 2022 program will be submitted to the state bars in Alabama, Florida, Georgia, Indiana, Kentucky, Louisiana, Mississippi, North Carolina, Ohio, Pennsylvania (in-person only), South Carolina, Tennessee and Virginia.

Various forms required by each organization/state will be available at [www.sfti.org](http://www.sfti.org) (Continuing Education page) closer to the Institute start date.

SFTI strives to present programs that will meet most state continuing education requirements for attorneys and CPAs, and will continue to submit all of its offerings for approval by the various states' legal and accounting boards. The Institute seeks to offer programs that will allow registrants to satisfy their obligation to receive continuing education credit including ethics. However, each state licensing organization has specific requirements for these programs. The Institute cannot guarantee that the programs it designates as addressing ethics will be credited by all continuing education certifying organizations.

For more information regarding refunds, concerns and program cancellation policies, please contact [info@sfti.org](mailto:info@sfti.org) or (770) 640-8300.

## TOTAL COURSE HOURS\*

■ ■ ■  
33.75 (60-minute hours)  
40.50 (50-minute hours)  
2.00 hours ethics

## COURSE HOURS FOR MONDAY - WEDNESDAY\*

■ ■  
21.25 (60-minute hours)  
25.50 (50-minute hours)  
1.00 hour ethics

## COURSE HOURS FOR WEDNESDAY - FRIDAY\*

■ ■  
19.75 (60-minute hours)  
23.70 (50-minute hours)  
2.00 hours ethics

## COURSE HOURS FOR THURSDAY AND FRIDAY\*

■  
12.50 (60-minute hours)  
15.00 (50-minute hours)  
1.00 hour ethics

\* Not including Mid-day presentations.

REGISTER ONLINE AT  
[WWW.SFTI.ORG](http://WWW.SFTI.ORG)

# SCHEDULE AT A GLANCE

## MONDAY, OCTOBER 24

**7:15-9:00**

Registration

**8:00-9:00**

Breakfast

**9:00-10:30**

RECENT FEDERAL INCOME TAX DEVELOPMENTS

**10:30-10:45**

Break

**10:45-12:00**

RECENT FEDERAL INCOME TAX DEVELOPMENTS (Cont'd)

**12:15-1:05**

Mid-day Program:

TAX CONTROVERSY FROM THE TRENCHES

Sponsored by Chamberlain, Hrdlicka, White, Williams & Aughtry

**1:15-2:15**

WHY CYBERSECURITY PROGRAMS FAIL

**2:15-3:15**

INTERNATIONAL TAX STRUCTURING FOR NON-PUBLICLY TRADED CLIENTS

**3:15-3:30**

Break

**3:30-4:30**

STATE PASS-THROUGH ENTITY ELECTIONS – BENEFIT OR TRAP FOR THE UNWARY?

**4:30-5:30**

MANAGING ANTI-ABUSE RULES – IN PLANNING AND CONTROVERSIES

**5:30-7:00**

Cocktail Reception

## TUESDAY, OCTOBER 25

**7:30-8:30**

Breakfast

**8:30-9:30**

DISGUISED SALES – WHAT THE GENERAL TAX PRACTITIONER NEEDS TO KNOW TO AVOID RUNNING AFOUL OF THESE PROVISIONS

**9:30-10:30**

HOT TOPICS IN PARTNERSHIP AND REAL ESTATE TAXATION

**10:30-10:45**

Break

**10:45-12:00**

A ROADMAP FOR FUTURE IRS AUDITS? NEW PARTNERSHIP DISCLOSURES AND THEIR ROLE IN PARTNERSHIP AUDITS

**12:15-1:05**

Mid-Day Program:

TBD

**1:15-2:15**

HOT TOPICS IN CORPORATE TAX

**2:15-3:15**

DISTRIBUTIONS BY CLOSELY HELD CORPORATIONS

**3:15-3:30**

Break

**3:30-4:30**

S CORPORATIONS – BUSTED S ELECTIONS AND OPTIONS TO REMEDIATE

**4:30-5:30**

SECTION 1202 QUALIFIED SMALL BUSINESS STOCK: A POWERFUL TAX INCENTIVE FOR EARLY-STAGE COMPANIES

## WEDNESDAY, OCTOBER 26

**7:30-8:30**

Breakfast and Registration

**8:30-9:45**

EMPLOYEE FRINGE BENEFITS AND PAYROLL TAX DEFERRALS AND CREDITS DURING AND BEYOND THE PANDEMIC: Q&As FOR EMPLOYERS, AND EXPECTED AUDIT QUESTIONS FROM THE IRS

**9:45-10:45**

TAX IMPLICATIONS REGARDING THE EVOLUTION OF THE NEW DIGITAL ASSET INDUSTRY

**10:45-11:00**

Break

**11:00-12:00**

INDOPCO REGULATIONS 20 YEARS LATER – STILL A TANGLED WEB AFTER ALL THESE YEARS

**12:15-1:05**

Mid-day Program:

TBD

**1:15-2:15**

“BUT MY ACCOUNTANT SAID I COULD.” WHAT HAPPENS IF MY CLIENT BLAMES ME?

**2:15-3:15**

TAX ENFORCEMENT IN AN ERA EVOLVING GLOBAL TAX RULES, INCREASED IRS PROGRAMMING RESPONSIBILITIES, AND UNCERTAIN FUNDING

**3:15-3:30**

Break

**3:30-4:30**

LET'S MAKE A DEAL: STRATEGIES FOR SUCCESS IN APPEALS

**4:30-5:30**

HOW YOUR BOOM BOX PLAYLIST “QUALIFIES” FOR APPRAISAL DEFENSE

**5:30-6:30**

Exhibitors' Cocktail Hour

## THURSDAY, OCTOBER 27

**7:00-8:00**

Breakfast and Registration

**8:00-9:30**

RECENT ESTATE AND GIFT TAX DEVELOPMENTS

**9:30-10:30**

REVIEW OF THE PAST YEAR'S SIGNIFICANT, CURIOUS, OR DOWNRIGHT FASCINATING FIDUCIARY CASES

**10:30-10:45**

Break

**10:45-12:00**

PLANNING FOR RETIREMENT BENEFITS: TREASURY'S PROPOSED SECURE REGULATIONS

**12:15-1:05**

Mid-day Program:

HOT TOPICS IN ESTATE PLANNING FROM A BUSINESS VALUATION EXPERT'S PERSPECTIVE  
Sponsored by MPI

**1:15-2:15**

ESTATE PLANNING STRATEGIES FOR LARGE QTIP TRUSTS – DO GOOD THINGS COME TO THOSE WHO DEFER?

**2:15-3:15**

SPOUSAL LIFETIME ACCESS TRUSTS (“SLATS”) – THE GOOD AND THE BAD

**3:15-3:30**

Break

**3:30-4:30**

WHAT'S NEW, WHAT'S DIFFERENT, AND WHAT'S THE SAME IN SPLIT DOLLAR?

**4:30-5:30**

SO YOU THINK YOU CAN DANCE? THE ETHICS OF FIXING BAD MOVES

**5:30-7:00**

Cocktail Reception

## FRIDAY, OCTOBER 28

**7:00-8:00**

Breakfast

**8:00-9:00**

SECTION 678 AND BENEFICIARY DEEMED OWNER TRUSTS (BDOTS)

**9:00-10:00**

BUSINESS SUCCESSION PLANNING: THE MORE THINGS CHANGE, THE MORE THEY STAY THE SAME

**10:00-10:15**

Break

**10:15-11:30**

A PRACTICAL PRIMER ON THE PRIVATE FOUNDATION SELF-DEALING RULES

**11:30-1:00**

BENEFITS, BURDENS, TRAPS AND PITFALLS OF NON-GRANTOR TRUSTS

**1:00**

Adjourn



## FOLLOW US FOR THE LATEST UPDATES!



**October 24-28, 2022**

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**REGISTRATION PACKAGES**

		<b>EARLY: Received by 8/22/22</b>	<b>STANDARD: Received by 10/3/22</b>	<b>LATE: Received after 10/3/22</b>
■ ■ ■ <b>FIVE-DAY REGISTRATION</b>	<b>10/24-10/28 (Mon - Fri)</b>	<b>\$995</b>	<b>\$1,045</b>	<b>\$1,125</b>
■ ■ <b>THREE-DAY REGISTRATION</b>	<b>10/24-10/26 (Mon, Tues, Wed)</b>	<b>\$795</b>	<b>\$845</b>	<b>\$925</b>
■ ■ <b>THREE-DAY REGISTRATION</b>	<b>10/26-10/28 (Wed, Thurs, Fri)</b>	<b>\$795</b>	<b>\$845</b>	<b>\$925</b>
■ <b>TWO-DAY REGISTRATION</b>	<b>10/27-10/28 (Thurs &amp; Fri)</b>	<b>\$695</b>	<b>\$745</b>	<b>\$825</b>

■ ■ ■ **MONDAY-FRIDAY:**

(available for up to 40.5 hours including 2.0 hours ethics)  
 Includes Income Taxation and Hot Topics,  
 Business Entity Taxation, Accounting, Employee Benefits,  
 Tax Controversy & Estate Planning

■ ■ **MONDAY-WEDNESDAY:**

(available for up to 25.5 hours including 1.0 hour ethics)  
 Includes Income Taxation and Hot Topics, Business Entity  
 Taxation, Accounting, Employee Benefits & Tax Controversy

■ ■ **WEDNESDAY-FRIDAY:**

(available for up to 23.7 hours including 2.0 hours ethics)  
 Includes Accounting, Employee Benefits,  
 Tax Controversy & Estate Planning

■ **THURSDAY-FRIDAY:**

(available for up to 15.0 hours including 1.0 hour ethics)  
 Includes Estate Planning

**DISCOUNTS**

- 50% discount for first time attendees (in-person only).
- 50% discount for IRS/Government Employees (in-person only).
- 15% discount for groups of 6 or more (in-person only).
- Additional discounts for full-time tax/law professors - contact [mdecker@brammgmt.com](mailto:mdecker@brammgmt.com).
- Please note there are no discounts available for virtual attendance.
- Discounts may not be combined.

**TECHNOLOGY FEE**

If attending the Institute virtually, an additional \$100 technology fee will be added to your total amount due upon checkout.

**MATERIALS**

Every registrant will receive a password protected link to access the online materials prior to the Institute. Printed materials are available for **in-person attendees only** for an additional \$50/book. Volume 1 contains Mon-Wed; Volume 2 contains Thur-Fri. Books must be purchased in advance when registering online.

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