The 2011 J. Nelson Young Tax Institute

A Program in Continuing Legal/Professional Education

APRIL 28 – 29, 2011
THE CAROLINA CLUB IN THE
UNC GEORGE WATTS HILL ALUMNI CENTER
CHAPEL HILL, NORTH CAROLINA

14.5 hours of CLE credit
17.5 hours of CPE credit

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About the
J. NELSON YOUNG TAX INSTITUTE

The Tax Institute is an annual professional continuing education program covering current federal tax problems and issues at the post-graduate level of knowledge. The program is designed for the practitioner who frequently handles federal tax matters. Emphasis is placed on subjects that are new and current, including in-depth coverage of recent developments and problems that often prove difficult in planning clients’ affairs and transactions. The teaching method employed is lecture. No prerequisites or advanced planning are required. The speakers at the program are tax practitioners and scholars from throughout the country who have been selected for their technical expertise and speaking ability. They will address any recently enacted or pending legislation relevant to their areas of expertise.

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Thursday, April 28

8:00 a.m.   Continental Breakfast

8:30 a.m. – 10:30 a.m.  Recent Federal Income Tax Developments  
Martin J. McMahon, Jr., Stephen C. O'Connell Professor of Law, Fredric G. Levin College of Law, University of Florida

This session will provide an examination of the legislation, court opinions, and regulations and rulings of the past year.

10:30 a.m. – 10:40 a.m.   Break

10:40 a.m. – 11:40 a.m.  Defined Value Transfers  
Brant Hellwig, Professor of Law, University of South Carolina School of Law

While the use of family owned partnerships or LLCs as wealth-transfer vehicles offers the prospect of significant estate and gift tax savings given the broad acceptance of valuation discounts, these transfers are subject to challenge by the government over the amount of the allowable discount. Individuals have increasingly turned to transfers of "defined value" as a means of avoiding valuation disputes in this setting, as a successful challenge to the value of the transferred property will operate to reduce the percentage interest that is effectively transferred. Recent cases have sustained defined-value transfers the government's challenge that the technique violates public policy. As a result, defined-value transfers have becoming increasingly popular. After reviewing existing case law in this area, this presentation will discuss a number of approaches to using defined valuation clauses.

11:50 p.m. – 12:50 p.m.  Payroll Tax and Executive Compensation Audits, Voluntary Error Corrections and Refund Claims  
Mary B. Hevener, Morgan, Lewis & Bockius LLP

This session summarizes the IRS's audits during the first two years of operation of the IRS's "National Research Program" (designed to extend to 6,000 employers in 2010-2012), covering fringe benefits, business expenses, executive compensation, and employment taxes (including worker classification issues, where the IRS is collecting data which may be used to support repeal of the "section 530 moratorium" in place since 1978). The effect of Congress's six-fold increase in penalties for wrong information returns, and its effect on employers' decisions to file voluntary corrections of information returns will also be discussed, together with various pending FICA tax refund claims.

12:50 p.m. – 1:30 p.m.   Lunch (provided)

1:30 p.m. – 2:30 p.m.  Life Insurance in the Wild: Tax Issues in Life Insurance  
John F. Mitchell, Wealth Management Advisor with Northwestern Mutual Wealth Management Company

Having spent 17 years in private practice, the speaker has spent 17 years “in the wild” helping clients and their advisors identify insurance and investment needs or opportunities and solving related planning issues. In this session, he will address various issues affecting life policies, including recently enacted rules on corporate owned life insurance, traps with tax-free exchanges, unexpected tax consequences of taking withdrawals from life policies, benefits of combining GRATs/ILITs, insurance planning with Roth conversions, and Stretch IRA planning. This will enable the prudent planner to recognize and solve tax issues in real world planning situations.

2:40 p.m. – 3:40 p.m.  Recent Developments in Pass-Through Taxation  
Gregg D. Polsky, Willie Person Mangum Professor of Law, UNC School of Law

This session will discuss significant tax law developments in subchapters K and S, with an emphasis on developments that have occurred in the past 12 months. It will address any significant pending developments, such as pending bills and proposed regulations that affect partnerships and S corporations.

3:40 p.m. – 4:00 p.m.   Break

4:00 p.m. – 6:00 p.m.  2011 Professional Ethics and Conduct  
Dr. Joanne Rockness, Cameron Professor of Accountancy, Cameron School of Business, UNC Wilmington

This course examines the CPA's role in the modern economy, standards of ethical conduct for management accountants, the four basic concepts of ethics in accounting, and the AICPA's rules on independence. Also highlighted are the ten most common violations of North Carolina statutes and rules for CPAs. In addition, the course examines current problems with earnings management in financial statements. (This session qualifies for 2 hours of both CLE and CPE ethics credit).
Friday, April 29

8:00 a.m.  Continental Breakfast

8:30 a.m. – 9:45 a.m.  Transfer Tax Reform: Is It For Real?*
Sanford J. Schlesinger, Schlesinger Gannon & Lazetera, LLP

This session will focus on the estate tax, gift tax and generation-skipping transfer tax aspects of the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010, explaining how such tax legislation affects estate planning and the administration of estates. The speaker will also discuss recent IRS developments and case law developments regarding estates and trusts.

9:45 a.m. – 10:00 a.m.  Break

10:00 a.m. – 11:15 a.m.  Codification of the Economic Substance Doctrine
Mitchell Gans, Professor of Law, Hofstra University School of Law and Gregg D. Polsky, Willie Person Mangum Professor of Law, UNC School of Law

The speakers will discuss new section 7701(o), which codified the economic substance doctrine and imposes strict liability penalties if the doctrine is violated. In addition to describing the history and mechanics of the new provision, panelists will analyze several ambiguities in the statutory language and predict how the provision would be applied to previous economic substance cases and to new fact patterns.

11:15 a.m. – 12:15 p.m.  Red Flags in International Transactions
Sean M. King, Williams Mullen

This program will explore the potential pitfalls and the many opportunities associated with conducting business across borders. Participants can expect to review best practices with respect to nationalistic tax authorities, exposure to cross-border taxable presence tests, cultural considerations and the heightened importance of due diligence in international transactions.

12:15 p.m. – 1:00 p.m.  Lunch (provided)

1:00 p.m. – 2:00 p.m.  State Budget Struggles and Tax Reform
Andrew J. Haile, Assistant Professor, Elon University School of Law

North Carolina, like many other states, is confronted with a significant budget shortfall heading into fiscal year 2011-2012: out of a total budget of approximately $19 billion, the state anticipates a $3.7 billion shortfall. This session will discuss steps that North Carolina might take to modernize its tax system and reduce the unpredictable fluctuations in tax revenues the state has experienced over the last several years. We will also examine tax reforms implemented by other states in response to their own budget problems, and whether North Carolina might benefit these reform ideas.

2:10 a.m. – 3:10 p.m.  Insights From the Inside of the North Carolina Department of Revenue
Dr. Linda Stryyk Millsaps, Chief Operating Officer, North Carolina Department of Revenue

In this session, Dr. Millsaps will provide an overview of current happens at the agency, as well as some insights into the legislative process and progress, and provide information about trends in other states and our own state's tax revenue outlook. Specific topics will include new agency initiatives, corporate tax issues, and economic development.

3:15 p.m. – 3:30 p.m.  Break

3:30 p.m. – 4:30 p.m.  Guidance and Perspectives from the NC DOR Collection Division
Charles H. Helms, Director of the Collection Division, North Carolina Department of Revenue

The North Carolina Offer In Compromise (OIC) Program allows qualifying, financially distressed taxpayers the opportunity to put overwhelming tax liabilities behind them by paying a lump sum amount in exchange for the liability being settled in full. The law provides specific requirements for accepting an offer, and the program’s goal is to resolve a liability in a way that is in the best interest of both the State and the taxpayer. In this session, Helms will talk about the OIC program and current collection program activities.

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*The School of Law is greatly appreciative of the Marvin K. and Florence T. Blount Lecture, which was established in 1973 by Marvin (J.D. 1916) and Florence Blount to promote greater professional and public awareness of estate planning and tax issue.
Mitchell Gans
Gans is a professor at Hofstra University School of Law. Gans had been an associate in the Tax and Trust and Estates Departments at the New York City law firm of Simpson, Thacher & Bartlett and law clerk to Associate Judge Jacob D. Fuchsberg, New York State Court of Appeals. He is an Academic Fellow at the American College of Trust and Estate Counsel. He is also an Adjunct Professor of Law at the NYU School of Law. He currently serves on an advisory committee to the New York State legislature that is studying the revision of trust law in New York. Gans has published articles in the Boston University Law Review, Emory Law Journal, University of Georgia Law Review, Notre Dame Law Review, Virginia Tax Review, Florida Tax Review and Tax Notes, among others. He is the coauthor of a book on the ethical obligations the Treasury imposed by Treasury on tax practitioners.

Andrew J. Haile
Haile is an assistant professor at Elon University School of Law, where he teaches tax and business courses. Prior to teaching, he was a partner at the law firm of Brooks, Pierce, McLendon, Humphrey & Leonard, LLP in Greensboro. His research interests focus on state and local tax issues. While in practice, he represented clients in mergers and acquisitions as well as in matters involving complex tax planning and tax litigation. He served as judicial clerk to Judge Frank W. Bullock, Jr., former chief judge of the United States District Court for the Middle District of North Carolina from 2000-2001. Haile received his J.D. from Stanford Law School, where he was a member of the Stanford Law Review and was awarded the Order of the Coif. He has an article forthcoming in the North Carolina Law Review relating to states’ efforts to collect sales and use tax on internet transactions.

Brant J. Hellwig
Hellwig is a professor at the University of South Carolina School of Law, where he has been a member of the faculty since 2002. He graduated summa cum laude from Wake Forest University with a bachelor of science in mathematical economics, after which he attended the Wake Forest University School of Law as a Carswell Scholar. After receiving his J.D., he practiced estate planning with Bell, Davis and Pitt, P.A. in Winston-Salem. He left practice in 1999 to pursue his LL.M. in Taxation at New York University School of Law, where he received the Harry J. Rudick Memorial Award for distinction in the Graduate Tax Program. Prior to joining the faculty at South Carolina, Hellwig served as a law clerk to the Honorable Juan F. Vasquez of the United States Tax Court and as an Acting Assistant Professor in the NYU Graduate Tax Program.

Charles H. Helms
Helms is the Director of the Collection Division for the North Carolina Department of Revenue. He is a graduate of North Carolina State University with majors in Business Management and Economics and earned designation as a Certified Public Manager in 2001 from the National Certified Public Manager Consortium. He is actively involved in professional organizations, including the Federation of Tax Administrators, the South Eastern Association of Tax Administrators, the Government Revenue Collectors Association and the North Carolina Society of Certified Public Managers. As Director of Collections, he administers sections of the NC General Statutes pertaining to collection of past due taxes. He has oversight responsibilities for the compliance program areas including field operations, central collection services, bankruptcy processing and offers-in-compromise and leads a 271 member staff of professionals and paraprofessionals.

Mary B. Hevener
Hevener is a partner in the employee benefits group at Morgan, Lewis, whose practice focuses on benefits provided to employees and independent contractors outside of qualified retirement plans, including stock options and other stock-based compensation; executive income deferrals; golden parachutes; and a range of fringe benefits, from health and life insurance to employee loans, cars, planes, and prizes. She advises large U.S. and multinational companies on minimizing payroll taxes and maximizing corporate deductions with respect to worker benefits. She also counsels on information reporting, compensation plan design, employment contracts, corporate and payroll tax audits and penalty abatements. She served as an attorney advisor for the U.S. Treasury Department's Office of the Tax Legislative Counsel, and is a frequent writer and lecturer on tax issues affecting current and deferred employee benefits. She received a J.D. from the University of Virginia School of Law.

Sean M. King
King is a partner in Williams Mullen and is chair of the firm’s International Tax Practice Group. He focuses his practice on international business transactions and taxation. He has extensive experience in the representation of private and publicly traded corporations; development and implementation of tax strategies for structuring international mergers and acquisitions; restructing and disposition of foreign investments, including the formation and use of foreign tax credit planning; and effective utilization of income tax treaties. King consults with clients on a wide array of international tax issues, including complex reorganization transactions, investment in emerging markets, bankruptcy workouts, private equity and IRS controversies. He earned a J.D. from the Michigan State University College of Law and an LL.M from Chicago-Kent College of Law.

Dr. Linda Struyk Millsaps
Millsaps serves as the chief operating officer for the North Carolina Department of Revenue. She oversees the operations of facilities and assets for the entire department. Prior to this position she was the assistant secretary for tax administration in the North Carolina Department of Revenue. She had direct management responsibilities over the operations of six divisions of the department and assisted the Secretary of Revenue in carrying out the mission of the department. She holds a masters degree in public policy from the Kennedy School of Government, Harvard University and a Ph.D. in policy analysis and political science from West Virginia University. Her publications include several articles in the field of public affairs and public policy.
Speakers

Martin J. McMahon, Jr.
McMahon is the Stephen C. O’Connell Professor of Law for Fredric G. Levin College of Law at the University of Florida. He is the coauthor with Boris Bittker and Larry Zelenak of Federal Income Taxation of Individuals, 3d Ed., and the coauthor of text books on federal income taxation, taxation of corporations, and taxation of partnerships. He received a J.D. from Boston College Law School and an LL.M. in taxation from Boston University Law School.

John F. Mitchell
Mitchell is a Wealth Management Advisor with Northwestern Mutual Wealth Management Company. After graduating from University of North Carolina School of Law in 1975, he clerked for Federal Judge Franklin Dupree, EDNC, joined Petree Stockton Law Firm (now Kilpatrick, Townsend & Stockton, LLP), where he practiced until 1993. Mitchell has remained active in the North Carolina Bar, Estate Planning and Tax Sections, and is a member of the North Carolina Bar and NC Bar Foundation Investment Committees. A Certified Financial Planner since 2000, and member of Northwestern Forum, he works with individuals, business owners, and their advisors on creative solutions to retirement, investment, insurance and financial planning issues.

Gregg D. Polsky
Polsky is the Willie Person Mangum Professor of Law at the University of North Carolina School of Law, where he teaches tax courses and writes primarily in the areas of tax and business law. Before joining the UNC faculty, he practiced tax law in the Miami office of White & Case LLP and later became a tenured member of the law faculties at Florida State University and the University of Minnesota. During the academic year of 2007-2008, he served as the Professor-in-Residence at the Internal Revenue Service Office of Chief Counsel in Washington.

Joanne W. Rockness
Rockness is the Cameron professor of accountancy at the Cameron School of Business, University of North Carolina Wilmington. She has received numerous teaching awards including the Distinguished Teaching Professorship, the Chancellor’s Teaching Excellence Award, membership in the Academy of Outstanding Teachers at North Carolina State University and the 1996–1997 NCACPA Outstanding Accounting Educator of the Year. Her writings on ethics, accounting education, independence, financial reporting, social responsibility and accountants’ liability have appeared in various academic and professional publications. She received a Ph.D. in business administration from the University of North Carolina at Chapel Hill and a masters degree from Western Michigan University.

Sanford J. Schlesinger
Schlesinger is a founding partner of the law firm of Schlesinger Gannon & Lazetera, LLP and chair of its wills and estates department and family business group. He is a nationally recognized expert in the areas of estate and tax planning, estate administration, family-owned business planning, charitable planning and all related areas. He also handles all aspects of contested and litigated estate and trust matters. In addition to being a frequent lecturer, he has authored three books and numerous publications on trusts, estates, taxation, closely held business and family succession planning, charitable giving and related matters. He received a J.D. from Fordham University School of Law.
General Information AND REGISTRATION

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Registration

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*The registration fee includes a continental breakfast each day, morning and afternoon breaks, and conference materials.

Registrations will be accepted at the door on a space-available basis. To check space availability, please contact the CLE Office before April 27 at (919) 962-1679 or unclawcle@unc.edu.

Cancellations
Cancellations received on or prior to April 1 will be honored and registration fees refunded, less a $50.00 processing fee. Cancellations received after April 1 but before April 16 will be honored and registration fees refunded, less a $65.00 charge for processing and unrecoverable expenses. Cancellations will not be honored after April 15. Confirmed participants who do not attend the program are responsible for the entire fee unless other arrangements have been made with the School of Law's director of continuing legal education at (919) 962-7815.

Location
The Tax Institute will be held at the Carolina Club in the George Watts Hill Alumini Center on the UNC campus.

Course Credit
CLE Credit for Attorneys: The Tax Institute is accredited for 14.5 hours (including 2.0 hours of ethics) under the N.C. State Bar Mandatory Continuing Legal Education requirements.

CPE Credit for CPAs: The Tax Institute is recommended for 17.5 hours of CPE credit (including 2 hours of ethics). UNC School of Law is registered with the N.C. State Board of CPA Examiners as a sponsor of continuing professional education. Complaints or comments regarding registered sponsors may be addressed to the N.C. State Board of CPA Examiners, P.O. Box 12827, Raleigh, NC 27605-2827.

CLE and CPE Credit in Other States:
Please indicate states in which you would like to receive credit on your registration form, and we will assist in that process. Payment of out-of-state fees is the responsibility of the attendee.
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Program Fees Enter Amount

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Additional Copies of the Tax Institute Manuscript

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