UT LAW CLE

THE UNIVERSITY OF TEXAS SCHOOL OF LAW

64TH ANNUAL

# TAXATION CONFERENCE

November 30–December 1, 2016

Radisson Hotel and Suites Downtown ▪ Austin, Texas

Earn up to 14.00 Hours of Credit Including 2.00 Hours of Ethics Credit, and 16.50 Hours of CPE Credit (NASBA)

TX Legal Specialization Credit Expected for Estate Planning and Probate Law and Tax Law

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2016 STANLEY M. JOHANSON

# ESTATE PLANNING WORKSHOP

December 2, 2016

Radisson Hotel and Suites Downtown ▪ Austin, Texas

Earn up to 6.50 Hours of Credit Including 0.75 Hour of Ethics Credit, and 7.00 Hours of CPE Credit (NASBA)

TX Legal Specialization Credit Expected for Estate Planning and Probate Law and Tax Law

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TX Legal Specialization Credit Expected for Estate Planning and Probate Law and Tax Law

### WEDNESDAY MORNING, NOV. 30, 2016

**Presiding Officer:**
**Catherine C. Scheid, Attorney at Law, Houston, TX**

**7:30 a.m.** Registration Opens

Includes continental breakfast.

**8:20 a.m.** Welcoming Remarks

**8:30 a.m.** 2.00 hrs

**Recent Developments in Federal Income Taxation**

Review significant court decisions, rulings, and statutory and regulatory developments of the past year.

Bruce A. McGovern, Houston College of Law, Houston, TX

**10:30 a.m.** Break

**10:45 a.m.** 1.00 hr

**Traps and Pitfalls of the New Section 385 Regulations**

The Section 385 regulations are a sea-change event that will have profound impact given the three-year presumptions contained in the regulations and that they broadly apply to many deleveraging transactions and create a presumption of linkage. Explore the impact of Section 385 on debt pushdown strategies, potential workarounds to those impacts, scope limitations of the Section 385 regulations that define "tainted" debt versus "clean" debt, and the collateral damage of the Section 385 regulations to unanticipated situations.

Bret Wells, University of Houston Law Center, Houston, TX

**11:45 a.m.** Pick Up Lunch

Included in registration.

### WEDNESDAY AFTERNOON

**Presiding Officer:**
**Maxine Aaronson, Attorney at Law, Dallas, TX**

#### LUNCHEON PRESENTATION

**12:05 p.m.** 1.00 hr

**The 2016 Election and Prospects for Tax Reform**

The presidential election could radically shape tax policy in the United States because the two candidates have starkly different proposals. Explore the implications of the election for tax policy over the short and long run.

Leonard E. Burman, Tax Policy Center, Washington, DC

**1:05 p.m.** Break

**1:20 p.m.** 1.00 hr

**Distinguishing and Planning around Individual Goodwill**

Practitioners and appraisers once dismissed distinguishing and planning around "individual goodwill" as far from serious. Now the practice is increasingly accepted and is in widespread use in ways which are, in fact, only a step or two away from negligence, if not fraud. Review these concepts and their limits, especially as they relate to structuring and restructuring around corporate lockup of built-in gains.

Bruce A. Johnson, Munroe, Park & Johnson, Inc., San Antonio, TX
Kenton E. McDonald, Branscomb | PC, Corpus Christi, TX

**2:20 p.m.** 1.00 hr

**Civil and Criminal Employment Tax Enforcement—Employers Beware**

The Department of Justice Tax Division and the IRS have once again elevated employment tax non-compliance to the top of their priority lists. Examine the government's approach to businesses and individuals that fail to pay employment tax. Hear a discussion about IRS early action employment tax initiative, including often unexpected consequences of early IRS contact. Explore Professional Employer Organization certification, as well as the major risks and traps for the unwary in trust fund recover penalty investigations that may lead to and support a criminal prosecution. In addition to criminal investigations regarding employment tax matters, learn about injunctions which can actually result in a much shorter path to jail than a traditional criminal prosecution.

Josh O. Ungerman, Meadows, Collier, Reed, Cousins, Crouch & Ungerman, L.L.P., Dallas, TX

**3:20 p.m.** Break

**3:30 p.m.** 1.00 hr

**Welcome to America … Now What? U.S. Income Taxation and Other Reporting Requirements**

Identify the federal income tax and information reporting provisions that may apply to non-resident aliens, resident aliens, and U.S. persons receiving gifts from foreign persons.

T. Charles Parr III, Parr & Associates, San Antonio, TX

**4:30 p.m.** Adjourn

## THURSDAY MORNING, DEC. 1, 2016

**Presiding Officer:**
**Robert J. Peroni, The University of Texas School of Law, Austin, TX**

**7:30 a.m.** Conference Room Opens

Includes continental breakfast.

**8:30 a.m.** 1.00 hr | .25 hr ethics

### Personal Liability for Corporate Tax Assessments

It's your client's worst nightmare. After serving as an officer, a director, or in some cases, an employee of a failed business, there's a knock on the door. It's from a sheriff serving a lawsuit alleging the client is personally liable for his or her employer's unpaid Texas taxes. Learn the laws that impose personal liability and how best to defend against it.

James F. Martens, Martens, Todd, Leonard, Taylor & Ahlrich, Austin, TX

**9:30 a.m.** 1.00 hr

### New Partnership Audit Rules

Recently, Congress repealed the current TEFRA regime and replaced it with new audit and collection procedures at the partnership level. Hear an overview of the new partnership audit rules, with an emphasis on drafting considerations for partnership and LLC agreements, and other related documents.

Todd Keator, Thompson & Knight LLP, Dallas, TX
Mary A. McNulty, Thompson & Knight LLP, Dallas, TX

**10:30 a.m.** Break

## CONFERENCE ACCREDITATION

**CLE CREDIT**

This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 14.00 hours, of which 2.00 credit hours will apply to legal ethics/professional responsibility credit.

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).

**CPE CREDIT**

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Earn up to 14.00 credits in Taxes
Delivery Method: Group-Live
Program Level: Overview
Advance Preparation: None

**CFP CREDIT**

Certified Financial Planner credit approval expected

**10:45 a.m.** 1.00 hr | .75 hr ethics

### Crime and Marriage

What are the tax implications of crime on the family tax return? What is the impact of criminal gain by one partner in a marriage? Should a spouse have known the money was tainted? Is there an innocent spouse aspect to this? Consider these questions and more.

Ian M. Comisky, Fox Rothschild LLP, Philadelphia, PA
William Cotter, Internal Revenue Service, Criminal Investigation, San Antonio, TX
Mary T. Vidas, Blank Rome LLP, Philadelphia, PA

**11:45 a.m.** Pick Up Lunch

Included in registration.

## THURSDAY AFTERNOON

**Presiding Officer:**
**Christina A. Mondrik, Mondrik & Associates, Austin, TX**

**LUNCHEON PRESENTATION**

**12:05 p.m.** 1.00 hr

### Avoiding Tax Malpractice

Tax practitioners are continuously confronted with potential potholes and landmines when preparing tax returns for and advising a client with regard to tax matters. Hear a discussion of the malpractice landscape for attorney and CPA tax practitioners with a focus on identifying risks and steps that may be taken to avoid exposure.

Arthur J. "Kip" Dellinger, Cooper, Moss, Resnick, Klein & Co., LLP, Sherman Oaks, CA

**1:05 p.m.** Break

**1:20 p.m.** 1.00 hr

### Cancellation of Debt

Explore how the downturn in the energy industry has made COD issues of more frequent concern, as have issues arising in connection with restructuring of debt obligations of partnerships and LLCs.

Crawford Moorefield, Strasburger & Price, LLP, Houston, TX

**2:20 p.m.** 1.00 hr

### Using Your Estate Planning Family Limited Partnership for Income Tax Planning, Both at Death and While One is Living

Discover how to use the partnership income tax rules to transfer appreciated assets, currently owned by irrevocable trusts, either directly or through partnerships, to an individual who can obtain an income tax-free step-up in basis at death. Learn how to use partnerships to increase the basis in appreciated assets that a partnership or an irrevocable trust intends to sell while the senior family member is living.

Jerome M. Hesch Esq., Aventura, FL

**3:20 p.m.** Break

**3:30 p.m.** 1.00 hr ethics

### Data Security, Client Confidences, and Ethics Rules Applicable to the Protection of Client Information

Tax practitioners hold the keys—literally and figuratively—to some of their clients' most sensitive personal and financial information. Protecting this information has always been of paramount concern for practitioners and for the IRS. Explore the legal and regulatory context for the issue of data security from an ethics perspective. What do the ethics rules, including ABA Model Rule 1.6, require of practitioners in the area of data security and what are the consequences of violating those rules?

Fred F. Murray, Grant Thornton LLP, Washington, DC

**4:30 p.m.** Adjourn

## CONFERENCE FACULTY

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Tax Policy Center
Washington, DC

IAN M. COMISKY
Fox Rothschild LLP
Philadelphia, PA

WILLIAM COTTER
Internal Revenue Service,
Criminal Investigation
San Antonio, TX

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Sherman Oaks, CA

JEROME M. HESCH ESQ.
Aventura, FL

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Parr & Associates
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Dallas, TX

MARY T. VIDAS
Blank Rome LLP
Philadelphia, PA

BRET WELLS
University of Houston Law Center
Houston, TX

# 2016 STANLEY M. JOHANSON
# ESTATE PLANNING WORKSHOP

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## FRIDAY MORNING, DEC. 2, 2016

**Presiding Officer:**
**Stanley M. Johanson, The University of Texas School of Law, Austin, TX**

**7:30 a.m.** Registration Opens

Includes continental breakfast.

**8:20 a.m.** Welcoming Remarks

**8:30 a.m.** 1.25 hrs

**Recent Developments Affecting Estate Planning**

Consider recent cases, regulations, rulings, and other "hot" estate planning topics.

Stanley M. Johanson, The University of Texas School of Law, Austin, TX

**9:45 a.m.** Break

**10:00 a.m.** 1.00 hr

**The New Basis Consistency and Value Reporting Rules**

What hath Treasury wrought on executors? Learn the latest about the basis consistency rules and best practices for completing Form 8971 and reporting values on related Schedules A. Contemplate options for changing estate administration protocols to reduce this reporting burden. Join your colleagues in appreciating the challenges that this new reporting requirement brings to your practice!

Lora G. Davis, Davis Stephenson, PLLC, Dallas, TX

**11:00 a.m.** 1.00 hr

**Repairing Estate Plans That Are No Longer Appropriate**

Sometimes the best laid plans of clients and their estate planning lawyers go astray. Sometimes we devise the ideal plan for a client but, due to the occurrence of unforeseeable circumstances or a change in the law, the plan no longer is appropriate. Or rather, the plan works fine but unanticipated factors afford the opportunity to shift additional wealth for the client. Explore what tools we can bring to the table to modify or unwind an existing estate planning transaction to accomplish a client's current goal.

Jordan M. Ware, Winstead PC, Austin, TX

**12:00 p.m.** Pick Up Lunch

Included in registration.

## FRIDAY AFTERNOON

### LUNCHEON PRESENTATION

**12:20 p.m.** .75 hr

**Transfer-on-Death and Lady Bird Deeds**

What are you going to say when your new (or old) client asks you to prepare a TODD or Lady Bird Deed? Consider whether these documents are the latest "save-me-from-probate" cure-all or the newest wrecking ball to the well-coordinated estate plan.

Pamela D. Orsak, Law Office of Pamela Orsak, Victoria, TX

**1:05 p.m.** Break

**1:20 p.m.** 1.00 hr

**Washington Update: Counting Votes, Recounting Fables, and Discounting Values**

Assess the federal legislative and regulatory environment, with a special focus on finalizing the proposed section 2704 valuation regulations. Will minds be closed to real tax reform? Will the door be closed to valuation discounts in the family controlled entity? Will family businesses have to be closed because they can't pay the transfer tax? Will the bar be closed before Aucutt is finished? Hear answers to these questions and more.

Ronald D. Aucutt, McGuireWoods LLP, McLean, VA

**2:20 p.m.** Break

**2:30 p.m.** 1.50 hrs | .75 hr ethics

**Estate Planning Workshop**

Address practical and ethical concerns commonly faced by practitioners in the estate planning area, including hot-button issues stemming from recent cases, rulings, and regulations (final and proposed). Gain insight on current "hot" estate planning techniques.

**Moderator:**
Stanley M. Johanson, The University of Texas School of Law, Austin, TX

**Panelists:**
Stephen R. Akers, Bessemer Trust, Dallas, TX
Ronald D. Aucutt, McGuireWoods LLP, McLean, VA
Lora G. Davis, Davis Stephenson, PLLC, Dallas, TX
Mickey R. Davis, Davis & Willms, PLLC, Houston, TX
Jerome M. Hesch Esq., Aventura, FL
Pamela D. Orsak, Law Office of Pamela Orsak, Victoria, TX
Jordan M. Ware, Winstead PC, Austin, TX

**4:00 p.m.** Adjourn

## WORKSHOP ACCREDITATION

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Earn up to 14.00 credits in Taxes
Delivery Method: Group-Live
Program Level: Overview
Advance Preparation: None

**CFP CREDIT**

Certified Financial Planner credit approval expected

## WORKSHOP FACULTY

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STANLEY M. JOHANSON
The University of Texas School of Law
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PAMELA D. ORSAK
Law Office of Pamela Orsak
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# REGISTRATION FORM

**Online:**
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www.utcle.org/conferences/ES16

**Mail:**
The University of Texas School of Law
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Austin, TX 78713-7759

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512.475.6876

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512.475.6700

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## REGISTRATION

### TAXATION CONFERENCE—TX16

*Includes Electronic Course Materials and Wednesday and Thursday Luncheon Presentations*

**1. Select Registration Type**

- ❑ Individual registration by November 23. . . . . $495
- ❑ Individual registration after November 23. . . . . $545

**2. Select Course Materials Format**

- ❑ Electronic Course Binder Download (PDF) ONLY
- ❑ PURCHASE: Printed Course Binder (available through November 23) . . . . . . $27.06
  *Price of binder includes 8.25% sales tax*
- ❑ Printed Binder for Tax Exempt Registrants . . . . . $25
  *(e.g., nonprofits and government employees)*

**Taxation Conference Registration Total**. . . . . $________

### ESTATE PLANNING WORKSHOP—ES16

*Includes Electronic Course Materials and Friday Luncheon Presentation*

**1. Select Registration Type**

- ❑ Individual registration by November 23. . . . . $325
- ❑ Individual registration after November 23. . . . . $375

**2. Select Course Materials Format**

- ❑ Electronic Course Binder Download (PDF) ONLY
- ❑ PURCHASE: Printed Course Binder (available through November 23) . . . . . . $27.06
  *Price of binder includes 8.25% sales tax*
- ❑ Printed Binder for Tax Exempt Registrants . . . . . $25
  *(e.g., nonprofits and government employees)*

**Estate Planning Workshop Registration Total** . . . . . $________

**REGISTRATION SUBTOTAL** **$________**

**SAVE $50 WHEN YOU REGISTER FOR BOTH TAXATION CONFERENCE AND ESTATE PLANNING WORKSHOP** **-$50 $________**

## IN-HOUSE For Texas MCLE Credit

*ConferenceComplete package includes Audio CD Set plus a Printed Binder and MCLE Reporting Form for each participant. Available for delivery 3–5 weeks after conference date. Shipping included.*

### TAXATION CONFERENCE—TX16

❑ In-House CLE for 2 . . . . . $850

________ Additional participant(s) for $275 each . . . . . **$________**

**Taxation Conference In-House Total**. . . . . **$________**

### ESTATE PLANNING WORKSHOP—ES16

❑ In-House CLE for 2 . . . . . $500

________ Additional participant(s) for $175 each . . . . . **$________**

**Estate Planning Workshop In-House Total** . . . . . **$________**

**IN-HOUSE SUBTOTAL** **$________**

## CONFERENCECOMPLETE MATERIALS For Research and Self-Study

*Comprehensive Binder and Audio products from the live conference. Available for delivery 3–5 weeks after conference date. Shipping included. Texas customers add 8.25% sales tax.*

### TAXATION CONFERENCE—TX16

- ❑ eBinder Download (PDF). . . . . $225
- ❑ Printed Binder . . . . . $275
- ❑ Audio Download (MP3) . . . . . $175
- ❑ Audio CD Set . . . . . $225

**Taxation Conference ConferenceComplete Materials† Total** . . . . . **$________**

†Texas customers—add 8.25% sales tax or include Exemption Certificate . . . $________

*Sales tax will be invoiced separately on taxable materials orders for which payment does not include tax.*

### ESTATE PLANNING WORKSHOP—ES16

- ❑ eBinder Download (PDF). . . . . $125
- ❑ Printed Binder . . . . . $175
- ❑ Audio Download (MP3) . . . . . $75
- ❑ Audio CD Set . . . . . $125

**Estate Planning Workshop ConferenceComplete Materials† Total**. . . . . . **$________**

†Texas customers—add 8.25% sales tax or include Exemption Certificate . . . $________

*Sales tax will be invoiced separately on taxable materials orders for which payment does not include tax.*

**CONFERENCECOMPLETE MATERIALS SUBTOTAL** **$________**

## ORDER GRAND TOTAL **$________**

### METHOD OF PAYMENT

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# 64TH ANNUAL TAXATION CONFERENCE
# 2016 ESTATE PLANNING WORKSHOP
November 30, December 1–2, 2016 ■ Austin, Texas

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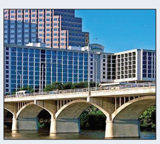
TX16-ES16

## AUSTIN
**November 30, December 1–2, 2016**

### CONFERENCE LOCATION



**Radisson Hotel and Suites Downtown**
111 E. Cesar Chavez Street
Austin, Texas
512.478.9611

**Special Room Rate: $159**
good through October 30, 2016
(subject to availability)

**Parking:**
$6 daily self-parking; $26 valet
$10 overnight self-parking
(subject to change)

### KEY DATES

**November 23, 2016**
*last day for early registrations*
add $50 for registrations
received after this time

**November 18, 2016**
*last day for cancellation (full refund)*

**November 21, 2016**
*last day for cancellation (partial refund)*
$50 processing fee applied

**November 30, 2016, 8:20 a.m.**
*Taxation Conference begins*

**December 2, 2016, 8:20 a.m.**
*Estate Planning Workshop begins*

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