

# 11<sup>th</sup> Annual Higher Education Taxation Institute

## June 5-6, 2023 • Hotel ZaZa Austin Downtown • Austin, TX

### June 5-6, 2023 • Live Webcast

#### Monday Morning, June 5, 2023

##### **Presiding Officer:**

**Brittany Cvetanovich**, The Ohio State University - Columbus, OH

7:30 am In Austin Only	<b>Registration Opens</b>  Includes continental breakfast.
8:20 am	<b>Welcoming Remarks</b>
8:30 am 1.25 hrs	<b>Recent Developments in College and University Tax Law</b>  Review recent tax law developments that affect the higher education community, such as Congressional legislation, IRS enforcement measures and pronouncements as well as judicial decisions. Discuss the impact on prevalent tax issues, including unrelated business taxable income, compensation and fringe benefits, charitable contributions, international activities, endowments, and reporting requirements.  Benjamin A. Davidson, The University of North Carolina at Chapel Hill - Chapel Hill, NC Edward J. Jennings, University of Michigan - Ann Arbor, MI
9:45 am 0.75 hr	<b>Inflation Reduction Act—Part 1</b>  A discussion on significant tax credit opportunities under the Inflation Reduction Act, including the new direct pay election that allows schools to convert credits into cash. Focus on the credits most applicable to college and university campuses, such as credits for investing in solar, wind, and geothermal energy under sections 48 and 48E.  Michael W. Evans, K&L Gates LLP - Washington, DC Iain Tester, KPMG LLP - Austin, TX Christian Wood, RSM US LLP - Washington, DC
10:30 am	<b>15-Minute Break</b>
10:45 am 0.75 hr	<b>Inflation Reduction Act—Part 2</b>  A discussion on credit opportunities for electrifying campus fleets and installing electric vehicle charging stations, and hear a campus perspective on the new credit opportunities. Gain insight into the enhanced section 179D deduction allocation opportunity for green buildings, including a campus perspective.  Michael W. Evans, K&L Gates LLP - Washington, DC Rachael Golliet, Arizona State University - Tempe, AZ Tracy Watkins, RSM US LLP - Washington, DC


11:30 am 1.00 hr	<p><b>Sponsored Research in Tax-Exempt Facilities</b></p> <p>In today's economic environment, higher ed institutions are often looking for ways to maximize revenue, recruit and retain faculty, and form relationships with the private sector, and sponsored research and related arrangements often are one of the options considered. Sponsored scientific research, research joint ventures and third-party access occurring in tax-exempt financed facilities may give rise to private business use depending on various factors, including how rights to use intellectual property resulting from the research are managed. Discuss these arrangements, including the difference between basic and applied research and the IRS safe harbor rules relating to sponsored research as provided in Rev Proc 2007-47, within the context of managing overall PBU limits for tax-exempt bonds.</p> <p>Moderator: Alan Bond, BLX Group - New York, NY</p> <p>Panelists: Charles C. Cardall, Orrick, Herrington &amp; Sutcliffe LLP - San Francisco, CA Barbara Jane League, Orrick, Herrington &amp; Sutcliffe LLP - Houston, TX</p>
12:30 pm In Austin Only	<p><b>Pick Up Lunch (in Austin)</b></p> <p>Included in registration.</p>

## Monday Afternoon, June 5, 2023

### Presiding Officer:

**Jodi R. Kessler**, Massachusetts Institute of Technology - Cambridge, MA

### LUNCHEON PRESENTATION

	<p><b>Thank You to Our Luncheon Sponsor</b></p> 
12:50 pm 1.00 hr	<p><b>Congressional and Administrative UFOs and Their Impact on the Exempt Community?</b></p> <p>Understanding the goals of congressional policymakers may help organizations in explaining potential tax legislative or regulatory activities and changes to their communities and employees and assist with compliance and communication. This presentation provides unique access and background on congressional and administrative activities in an environment of debt and spending limits and the upcoming 2024 elections.</p> <p>Richard A. Grafmeyer, Capitol Tax Partners - Washington, DC</p>
1:50 pm	<p><b>15-Minute Break</b></p>

2:05 pm 0.75 hr	<p><b>First Looks, Incubators, and Other (Surprise!) Joint Ventures</b></p> <p>Focus on the application of key principles of tax and other law applicable to charitable organizations to joint venture arrangements and similar structures often encountered by higher education institutions. Revisit the IRS's joint venture guidance, UBTI rules, and state law in light of common commercialization transactions such as campus-affiliated incubators and accelerators, in-house venture funds, and affiliations with third-party venture funds, including first-look arrangements. Highlight how longstanding legal and tax principles apply to increasingly common university transactions.</p> <p>Brittany Cvetanovich, The Ohio State University - Columbus, OH Thomas C. Schroeder, Davis Wright Tremaine LLP - Seattle, WA</p>
2:50 pm 1.00 hr	<p><b>Nonresident Alien Tax Update</b></p> <p>Update on recent issues related to payments to foreign nationals and foreign entities, including forms, sourcing, and income tax treaty issues. Gain insight on: What questions to ask; Which forms to collect; How much tax to withhold; What to report; Which information to maintain; and What are your institution's responsibilities.</p> <p>Donna Kepley, Arctic International LLC - Austin, TX</p>
3:50 pm	<p><b>10-Minute Break</b></p>
4:00 pm 1.00 hr	<p><b>UBIT and UBTI: Communication and Techniques to Manage Risks</b></p> <p>A discussion surrounding unrelated business income in a post-TCJA world. Hear key issues from the perspectives of both public and private universities as well as practitioners. Gain insight into best practices surrounding both computation and communication to help you get ahead of potential tax and help you manage risks.</p> <p>Amy Bellanca, Crowe LLP - Dallas, TX Jackie Daniels, Massachusetts Institute of Technology - Cambridge, MA Matthew Shade, Penn State University - University Park, PA</p>
5:00 pm 0.75 hr	<p><b>Technical UBTI Session: Rent, License or Services - What is it Really for Tax Purposes?</b></p> <p>Discuss the many issues that an institution may face when departments submit a purported lease, license, or services agreement with multiple components. Is it a related lease? Does it qualify for the Rental Exclusion? Is it a license, and what are the implications - distinguishing royalties from rents and services income? Does it involve personal property or services? And what about debt financing? Also take a look at book UBI that was brought to life by the Inflation Reduction Act.</p> <p>Kyle R. ZumBerge, The University of Texas Accounting and Financial Management - Austin, TX Alexander L. Reid, Baker &amp; Hostetler LLP - Washington, DC</p>
5:45 pm In Austin Only	<p><b>Adjourn to Welcome to Texas Reception (5:45 p.m. - 6:45 p.m.)</b></p> <p>Join us for drinks and hors d'oeuvres with program faculty and attendees.</p>

## Tuesday Morning, June 6, 2023

### Presiding Officer:

**Joseph R. Irvine**, The Ohio State University - Columbus, OH

7:30 am In Austin Only	<b>Conference Room Opens</b>  Includes continental breakfast.
8:00 am 1.00 hr	<b>Remote Work: Help Your College or University Turn Challenges into Opportunities</b>  The employment landscape which has been forever changed by employees working remotely requires institutions to rethink their guiding principles for strategic workforce planning, raising challenging tax issues that may impact your institution's culture, operations, and resources. This presentation and panel discussion includes tax, legal and consulting professionals who will provide an analytical framework and summarize technical tax guidance on fundamental matters, such as providing supplies and equipment for the workstation, including commuting and meals, as well as exploring methods to address domestic and international remote work locations. Gain insight into the trends in higher education for remote faculty and staff and discuss development of policies, procedures and practices across diverse employee populations that may help your institution adjust to this new normal.  Karen Field, RSM US LLP - Washington, DC Lauren N. Gresh, The Ohio State University - Columbus, OH Edward J. Jennings, University of Michigan - Ann Arbor, MI
9:00 am 1.00 hr	<b>Evolving International Reporting Requirements in Higher Education</b>  Recent international tax developments with digital services (GST, VAT, equalisation levy, etc.) has impacted how many countries may view university reporting requirements with online programs, including how certain countries have begun proactive enforcement actions. Discuss trends with an evolving university workforce and considerations with remote workers based in foreign countries.  Moderator: Bob Lammey, Ernst & Young LLP - Boston, MA Panelists: Bill Allen, Cornell University - Ithaca, NY Nimit Mehrotra, Ernst & Young LLP - Pittsburgh, PA John Sanchez, Tufts University - Somerville, MA
10:00 am 1.00 hr	<b>Student Payments: Taxable or Not? And Other People Payments</b>  Colleges and Universities must navigate all types of payments to students, faculty, staff and external parties. Explore various payment types including compensation, grants, scholarships/fellowships, and "stipends" providing insight into categorizing the payment and determining appropriate tax withholding and reporting.  Jodi R. Kessler, Massachusetts Institute of Technology - Cambridge, MA Joel Levenson, University of Central Florida - Orlando, FL Tracy Paglia, Moss Adams LLP - Las Vegas, NV
11:00 am	<b>15-Minute Break</b>
11:15 am 0.75 hr	<b>Ask the Experts</b>  An open discussion of whatever questions you have related to higher education tax issues. Please submit your questions in advance to <a href="mailto:ConferenceQA@utcle.org">ConferenceQA@utcle.org</a> , or pick up a question card at the conference registration desk, or ask questions during the session.  Moderator: Joseph R. Irvine, The Ohio State University - Columbus, OH Panelists: Tracy Paglia, Moss Adams LLP - Las Vegas, NV Elinor Ramey, Steptoe & Johnson LLP - Washington, DC Alexander L. Reid, Baker & Hostetler LLP - Washington, DC

12:00 pm  
1.00 hr ethics

### **Unearthing Old Skeletons**

University officials sometimes discover that a tax position the school has taken may be incorrect. For example, a school may have treated the value of the President's residence as excludable under section 119 when facts indicate the contrary. Gain insight on how to deal with such situations, including the pros and cons of getting a third-party tax opinion and the different comfort levels for tax opinions (reasonable basis, more likely than not, etc.). If the tax position is wrong, what are the school's options? Do you fix it prospectively or is retroactive correction or even a voluntary disclosure required or recommended? Discuss the impact of Circular 230 (the IRS's rules of professional conduct).

Tom Greenaway, KPMG LLP - Boston, MA  
Timothy J. McCormally, Internal Revenue Service - Washington, DC

1:00 pm

### **Adjourn**