

Friday

Civil & Criminal Tax Penalties Luncheon

12:30PM – 1:30PM

Chair: Bryan C. Skarlatos, Kostelanetz & Fink LLP, New York, NY

Saturday

Civil & Criminal Tax Penalties

8:30AM – 11:30AM

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- 8:30am** Opening Remarks by the Chair.
- 8:35am** **Reports of Subcommittees.** Important Developments – Criminal Penalties: Megan L. Brackney, Kostelanetz & Fink LLP, New York, NY; Diana Erbsen, DLA Piper, New York, NY. Important Developments – Civil Penalties: Julie Bowling, Sutherland Asbill & Brennan, LLP, Atlanta, GA; Thomas A. Cullinan, Sutherland Asbill & Bennan LLP, Atlanta, GA. Sentencing Guidelines: Niles Elber, Caplin & Drysdale Chartered, Washington, DC. Monetary Violations and Forfeitures: James N. Mastracchio, Caplin & Drysdale Chartered, Washington, DC. Legislative and Administrative Developments: John Colvin, Chicoine & Hallett PS, Seattle, WA. International Tax Enforcement: Bruce Zagaris, Berliner Corcoran & Rowe LLP, Washington, DC. IRS Investigations and Practices: Josh Ungerman, Meadows Collier Reed Cousins & Blau LLP, Dallas, TX.
- 9:05am** **Tax Shelter Prosecution Update.** The Department of Justice has indicted principals from two of the big four accounting firms for their involvement in certain listed transactions. This up-date will provide information on the current status of the prosecutions in *US v. Stein* and *US v. Coplan*. *Panelist:* Kathryn Keneally, Fulbright & Jaworski LLP, New York, NY.
- 9:20am** **IRS Chief Counsel Penalty Update.** The IRS is continuing to focus attention on the assertion of civil penalties against taxpayers. This program will give an up-date on the Office of Chief Counsel's current areas of interest and penalty initiatives. *Panelists:* Deborah A. Butler, Associate Chief Counsel (Procedure and Administration), Office of Chief Counsel, IRS, Washington, DC; Henry Schneiderman, Office of Chief Counsel, IRS, Washington, DC.
- 9:50am** **Light at the End of the Tunnel or an Oncoming Train – Special Civil Penalties and Voluntary Disclosures of Undeclared Accounts.** This panel will discuss the substantial civil penalty implications of voluntary disclosures arising from previously undisclosed foreign bank accounts, especially when those accounts are held in the form of foreign trust or corporation, or when they involve inheritances and gifts. Among other matters, the panelists will discuss penalties for failing to file Form 3520s and Forms 5471 in this context. *Moderator:* Scott Michel, Caplin & Drysdale Chartered, Washington, DC. *Panelists:* TBD.
- 10:40am** **Experts on "Legal" Matters.** In connection with civil penalty disputes and statute of limitations issues, counsel for both the government and taxpayers have recently attempted to use experts on matters that some argue falls within the forbidden area of "legal conclusions." With varying degrees of success, taxpayers have attempted to use experts on the reasonableness of legal opinions, and their clients' reliance on such opinions. Parties have offered expert testimony to demonstrate that items were (or were not) properly disclosed on a tax return, or that reporting positions were designed to reduce the chance of audit. This panel will discuss the propriety of such expert testimony and will explore how are courts drawing the line between what is

admissible expert testimony and what is improper legal argument. *Moderator:* John Colvin, Chicoine & Hallett PS, Seattle, WA. *Panelists:* TBD.