

# DATE, TIME, & LOCATION

**DATE:** Wednesday, June 17, 2009

**TIME:** 8:00 a.m. – 2:00 p.m.

**LOCATION:** The Arizona Biltmore Resort  
2400 East Missouri Avenue  
Phoenix, AZ 85016  
602.955.6600

**COST:** \$125 per participant  
CFMA Members: \$100 per participant  
(Construction Financial Management Association)

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Steptoe & Johnson LLP  
201 E. Washington Street, Suite 1600  
Phoenix, AZ 85004

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# STEPTOE & JOHNSON LLP



## SIXTH ANNUAL Construction Industry Tax Issues Seminar

*Important Issues in a  
Distressed Real Estate Market*

The Arizona Biltmore Resort  
Wednesday, June 17, 2009  
8:00 a.m. – 2:00 p.m.

*CLE/CPE Credit Available*

## AGENDA

8:00 a.m. – 8:30 a.m.

Registration and Continental Breakfast

8:30 a.m. – 10:20 a.m.

- Setting the Stage: An Overview of Arizona's Unique Construction Sales Tax Regime —Tax the Prime Contractor and Exempt Sub-contractors and Building Materials (*Pat Derdenger*)
- Shouldn't City Sales Taxation of Contracting Square with the State Regime: Not in Arizona—the Major Differences (*Dawn Gabel*)
- The Typical or Sane Approach to Taxing Contractors—The Sale of Building Materials to Contractors: California, Nevada, Utah and Colorado (*Randal Evans*)
- The City Speculative Builder Tax: Successor Liability for Lenders on Foreclosure (*Pat Derdenger*)
- Important Property Tax Issues for Homebuilders and Developers (*Dawn Gabel*)
- Key Developments in the Marketing Arm—Contracting Arm Structure for Homebuilders: How Should the Land Deduction Be Calculated When the Construction Arm Owns the Land and Sells to the Marketing Arm: The Halls Custom Construction Board of Tax Appeals Case (April 2009) (*Pat Derdenger*)
- The "Preconstruction Services" Exemption: Make Sure to Jump Through All the Hoops to Qualify (*Frank Crociata*)

10:20 a.m. – 10:35 a.m.

Mid-session Break

10:35 a.m. – 12:45 p.m.

- *The Action Marine Case*: Personal Liability for Officers and Directors of a Retailer for Sales Tax Collected But Not Paid to the State — Does It Extend to Officers and Directors of Construction Companies? (*Benjamin Gardner*)
- Federal and State Tax Incentives for Renewable Energy Projects & Conservation Improvements (*Frank Crociata*)
- Impact of the Recession on the Department of Revenue and the Tax Departments of Arizona Cities (*Dawn Gabel*)
- The Income Tax Effects of Foreclosures and Debt Forgiveness (*Randal Evans*)
- Remediation Contracting: When is it Exempt? (*Frank Crociata*)
- Valuation of Brownfield Properties (*Wayne Mumphrey*)
- The Deduction for the Payment of Development & Impact Fees —What About a Deduction for Credits for the Cost of Constructing the Infrastructure? (*Benjamin Gardner*)

- Appealing Tax Cases to the Arizona Court of Appeals and the Supreme Court—Not All That Complicated (*Ben Cooper*)
- Common and Not-So-Common Misunderstandings of Arizona's Construction Tax Regime: (*Moderator: Pat Derdenger*)
  - *Used Burner Fuel: Is it Exempt?* (*Randal Evans*)
  - *Rental of Construction Equipment: Double Taxation?* (*Frank Crociata*)
  - *Form 5000 vs. 5005: Which One to Use?* (*Dawn Gabel*)
  - *Highway Construction Barricades: Taxable Rental or Exempt Subcontracting?* (*Randal Evans*)
  - *Construction Managers: Never Taxable on Their Fees?* (*Ben Gardner*)
  - *Sub-contractors: Always Exempt?* (*Dawn Gabel*)
  - *Crane and Concrete Pumping Activities: Exempt Sub-contracting?* (*Ben Gardner*)
  - *Construction Contracts With the Federal Government: Always Exempt?* (*Frank Crociata*)

12:45 p.m. – 2:00 p.m.

Luncheon/Question & Answer Session

## STEPTOE'S TAX PRACTICE

**STATE & LOCAL TAX** Our attorneys in the Phoenix, Los Angeles, and DC offices represent an array of business clients in state and local tax matters. Our state and local tax group advises clients of many types and sizes, including high-technology businesses, electric utilities, telecommunications companies, mining and railroad companies, manufacturers, retailers, banks, printers, mail order businesses, tax-exempt organizations, and resorts. Our attorneys represent these clients on complex and varied income, sales and use, and property tax matters, including litigation both at the administrative and judicial levels, both in state and federal courts. They also counsel the firm's clients on the multi-state tax implications of their business transactions. In addition, Steptoe advises its e-commerce industry clients on their complex multi-state income tax responsibilities and their sales and use tax collection obligations.

**FEDERAL TAX** Our attorneys are experienced in advising and representing clients on income tax matters, exempt organizations, corporate tax transactions, employment tax matters, independent contractor/employee issues, responsible officer penalties, information return filing penalties, and excise taxes, including both federal and state fuel excise taxes (motor, aviation and diesel), the transportation excise tax and the communications excise tax. Steptoe attorneys have extensive experience in advising clients on various employment tax and independent contractor issues, including the treatment of "leased employees" for employment tax purposes. We also represent business clients in tax controversy matters, income, employment and excise taxes with the Internal Revenue Service at the audit, appeals, and court levels, including the US Tax Court.

## PRESENTERS

**PAT DERDINGER** is a partner in the Phoenix office of Steptoe & Johnson LLP. He has extensive knowledge and more than 30 years of experience in federal and state taxation. In his multi-state tax practice, he advises and represents business clients on corporate income, sales and use, and property tax matters. His federal tax practice focuses on income tax, tax controversy employment and excise tax matters. Mr. Derdenger has been listed in *Best Lawyers in America*® since 1995 (published by Woodward/White, Aiken, SC) and *Southwest Super Lawyers* since 2007 for State, Local, and Federal Taxation.

**DAWN GABEL** is a partner in the Phoenix office of Steptoe & Johnson LLP. She has a broad background in state and local tax law, with considerable experience related to property tax matters, including advice and litigation on valuation, exemption and classification issues. She also represents clients in sales and use tax matters, encompassing audit and refund disputes, multi-state compliance, multi-state voluntary disclosure programs, and luxury and excise tax issues. She represents clients before the Department of Revenue, the various County Assessors, the State Board of Equalization, The State Board of Tax Appeals, the Office of Administrative Hearings, and the Arizona Tax Court and Court of Appeals.

**BEN COOPER** is a partner in the Phoenix office of Steptoe & Johnson LLP. Mr. Cooper handles a wide variety of appeals in state and local tax disputes, including property, transaction privilege, sales and use, and corporate and partnership income tax.

**RANDAL EVANS** is of counsel in the Phoenix office of Steptoe & Johnson LLP. His practice focuses primarily on state and local tax, exempt organizations, federal tax, general corporate advice, and American Indian law.

**FRANK CROCIATA** is an associate in the Phoenix office of Steptoe & Johnson LLP. His practice focuses on state and local taxation. Mr. Crociata has experience in advising retail vendors on nexus-establishing activities, assisting in corporate income tax apportionment litigation, and assisting in representing clients in both sales and use and property tax matters.

**BENJAMIN GARDNER** is an associate in the Phoenix office of Steptoe & Johnson LLP. His practice focuses on state and local taxation, including corporate income tax and sales and use tax matters.

**WAYNE MUMPHREY** is a valuation analyst in the Phoenix office of Steptoe & Johnson LLP. He has an extensive background and education in appraisal and valuation of high tech properties, manufacturing and industrial properties, retail, office and other commercial real property.