

Committee on Ways and Means Tax Counsel Moving to Miller & Chevalier

Miller & Chevalier Chartered announced that Loren C. Ponds will join the firm as a member in the Tax Department, effective Oct. 29, 2018. Previously, Ponds served as tax counsel to the U.S. House of Representatives Committee on Ways and Means, where she was instrumental in the development of the international tax provisions included in the Tax Cuts and Jobs Act of 2017 (TCJA).

“Miller & Chevalier is known for tax excellence,” Ponds said. “I was drawn to the firm’s outstanding reputation and talented practitioners, who are able to provide specialized tax guidance across varied issues, an important factor given my interdisciplinary practice.”

Prior to her role with the Committee on Ways and Means, Ponds worked in Ernst & Young LLP’s National Tax Department, with a focus on transfer pricing. She advised multinational companies on international tax planning projects, including intellectual property planning, supply chain optimization, and restructuring projects. In addition, Ponds regularly counseled companies on a wide variety of controversy matters, including advance pricing agreements, mutual agreement procedure cases, and Internal Revenue Service audit defense projects. She also spent two years working directly with the leader of Ernst & Young’s global transfer pricing practice in Germany.

At Miller & Chevalier, Ponds will focus her practice on the implementation of the TCJA and other tax policy matters. She will also work with clients on transfer pricing and broader international tax issues.

“Loren’s first-hand experience at the Committee on Ways and

Means, especially the critical role she played in drafting the international tax provisions of the TCJA, makes her one of the most well-equipped lawyers to advise clients navigating the new legislation,” said George A. Hani, Chair of Miller & Chevalier’s Tax Department. “Her counsel is grounded in deep knowledge of the underlying policies and her perspective from inside the process. She offers unique, detailed insight that few in the field can provide.”

“From executing complicated supply-chain restructurings, to guiding companies through transfer pricing dispute resolution, to drafting international tax legislation, Loren has gained vital experience and will be a tremendous resource to our clients. Her legislative experience, combined with her technical expertise, makes her uniquely situated to assist our clients as they seek to implement the TCJA, as well as pursue related technical corrections and administrative guidance,” said Marc J. Gerson, Chair of Miller & Chevalier’s Executive Committee. “We are thrilled to welcome her to the firm.”

Ponds earned an LL.M. in Taxation from the Georgetown University Law Center, a J.D. from the American University Washington College of Law, and an A.B. from Davidson College.

**How IRS Taxes Kill
Plaintiff's \$289M Monsanto**

Weedkiller Verdict



Even if the \$289 verdict against Monsanto last week survives the appellate process, the plaintiff will see much of his award go the IRS because of taxes imposed by the a new tax law involving legal fees, according to tax lawyer Robert W. Wood, a *Forbes* contributor.

In his article, Wood explains: “Under President Trump’s tax bill passed in late 2017, there is a new tax on litigation settlements: no deduction for legal fees. Amazingly, many legal fees simply can’t be deducted. That means [plaintiff Dewayne] Johnson must pay tax even on monies his attorney collects. That is so even though the attorney must also pay tax on the same money.”

Johnson’s suit claimed Monsanto’s Roundup weedkiller caused his cancer.

[Read the *Forbes* article.](#)

Supreme Court Closes Sales Tax Loophole in E-Commerce



The Supreme Court ruled Thursday that states can force retailers to collect state and local sales taxes no matter where the seller operates its business, saying those taxes support local police and fire departments and other services.

“The decision, in *South Dakota v. Wayfair Inc.*, was a victory for brick-and-mortar businesses that have long complained they are put at a disadvantage by having to charge sales taxes while many online competitors do not,” explains [The New York Times](#). “And it was also a victory for states that have said that they are missing out on tens of billions of dollars in annual revenue.”

Justices split 5-4 on the ruling, with Anthony M. Kennedy, Clarence Thomas, Ruth Bader Ginsburg, Samuel A. Alito Jr. and Neil M. Gorsuch in the majority.

[Read the Times article.](#)

Lawyer Convicted of Abetting Tax Evasion By Wall Street Executive's Adult Children

The lawyer who taught New York's first family of tax evasion the tricks of the trade might be spending his golden years in prison, according to [Crain's New York Business](#).

A Manhattan jury found Michael Little, 67, guilty of helping the adult children of a Wall Street executive tap into their Swiss bank accounts, which held millions in inheritance money, without alerting the IRS.

Reporter [Aaron Elstein](#) writes that the case appears to mark the end of an extensive government crackdown on wealthy families and their advisers who avoided paying taxes by parking money offshore. Federal authorities have charged more than 60 account holders with tax evasion and 30 bankers or lawyers with enabling them during the past eight years.

Little's troubles began in 2001 when the children of Harry Seggerman, who'd made his fortune at Fidelity investing in Japanese and later Korean companies wanted to access their late father's \$24 million estate, about half of which was tucked away in a Zurich vault.

"Little advised the Seggermans that they could get their inheritance dollars back into the United States without alerting authorities by taking 'little chunks' using travelers checks or disguising transfers by saying they were related to sales of art or jewelry," writes Elstein.

[Read the *Crain's* article.](#)

'Tax Case of the Millennium'

Hits High Court: A Primer



Oral arguments in the biggest U.S. Supreme Court tax case in years are just days away, reports [Bloomberg Law](#).

Oral arguments in *South Dakota v. Wayfair* are scheduled for Tuesday, April 17.

Reporter [Ryan Prete](#) writes that the case directly challenges the 1992 decision in *Quill Corp. v. North Dakota*, prohibiting states from imposing sales tax collection obligations on vendors lacking an in-state physical presence.

“The case has set off perhaps the largest amount of state and local tax-related activity in the past decade as states have tried to ‘kill Quill’ as online commerce has replaced traditional brick-and-mortar markets,” according to Prete.

He quotes Max Behlke, director of budget and tax at the National Conference of State Legislatures, as saying the South Dakota case is the “tax case of the millennium.”

[Read the Bloomberg article.](#)

Dear Employer, You Could Owe the IRS Millions of Dollars



The first batch of employers are getting estimates from the IRS of penalties they owe for not providing health coverage to employees in 2015. Some of the estimates are in the millions, [reports Bloomberg](#).

Kristen Ricaurte Knebel writes that the IRS won't say how many "226-J" letters have gone out or who's getting them.

"But some practitioners expect Industries like trucking, restaurant, and staffing to see a high proportion of them," she explains. "That's because there is a high turnover rate inherent in those industries, which makes it challenging to keep track of workers, Alden J. Bianchi, a member at Mintz, Levin, Cohn, Ferris, Glovsky & Popeo PC in Boston, told Bloomberg Law."

The Affordable Care Act in 2015 required employers with 100 or more full-time employees to offer minimum essential coverage to at least 70 percent of full-time workers. Failure to do so could result in a penalty of \$2,080 for every full-time employee, with penalties sometimes reaching \$10 million.

[Read the Bloomberg article.](#)

Cryptocurrency Tax Webinar Covers New IRS Scrutiny on Reporting



Earlier this month, tax attorneys Steven Toscher and Michel R. Stein, principals at Hochman Salkin Rettig Toscher & Perez P.C., delivered a [presentation](#) titled “[New IRS Scrutiny on Cryptocurrency Reporting: Filing Requirements and Exchange Treatment.](#)”

Toscher and Stein’s presentation explains, “Cryptocurrency is drawing increased attention from government regulators.” They note that in November 2017, Coinbase was ordered to release information on approximately 14,000 customers.

They also discuss the means of obtaining virtual currency, problems posed by “fair market value,” and issues that are unresolved.

[Read the article.](#)

**Jackson Walker Lawyers
Squeeze Tax Law Options Onto**

One-Page Interactive Graphic



Tax lawyers at [Jackson Walker LLP](#) have reduced the details of the new U.S. tax law to a [one-page interactive graphic](#) to help businesses, individuals and their accountants sort out the new law's complexities.

The one-page interactive graphic is linked to a 233-page PowerPoint presentation for the webcast "2018 Tax Reform: What You Need to Know Now." Dallas tax lawyer [William "Willie" Hornberger](#) of Jackson Walker and Jason B. Freeman of Freeman Law made the presentation to the State Bar of Texas.

The Jackson Walker tax lawyers studied an array of situations and options to provide guidance on the kinds of adjustments companies and certain individuals may want to make this year as they look ahead to 2019 under the new Tax Cuts and Jobs Act.

"What will the law mean for partners in my LLC? How should I handle depreciation of equipment? What expenses can I write off? These are some of the questions we address," said Hornberger, who advises corporations and partnerships. "Our audience is businesses, investors, individuals in partnerships, CPAs and lawyers."

"This law has many complexities, and we will be taking deeper and deeper dives into it to advise our clients," Hornberger said. "It will save many of our clients money, but it isn't always simple to figure out."

[Download the graphic and slides.](#)

Sexual Harassment Settlements are No Longer Tax Deductible

Confidential sexual harassment settlements and accompanying attorney's fees are no longer tax deductible under the new tax reform bill, according to [a new post](#) by Natalie Lynch of Lynch Law Firm in Austin.

In short, companies will no longer be able to use confidential settlements pertaining to sexual harassment as a tax-deductible settlement, she explains.

Non-confidential settlements can still be used for tax deductions. While the reform bill makes it clear that sexual harassment settlements that carry non-disclosure agreements can no longer be used as tax deductions, it stops short of making all confidential settlements non-deductible. Language that would include gender discrimination, retaliation, or Title IV is entirely absent in the bill.

[Read the article.](#)

Tax Reform Impact On Energy?

Short Answer: MLPs Are Fine



Baker Botts partner Mike Bresson told listeners at the beginning of the law firm's recent webinar that "Master limited partnerships [MLPs] did just fine on tax reform."

[Joseph Markman](#), writing in [Oil and Gas Investor](#) about the webinar presentation, quoted Bresson: "The first big [change], which is definitely a positive, is a reduction in tax rates," said Steve Marcus, partner and Dallas-based department chair in taxes. "The corporate tax rate's been reduced from 35% to 21%."

Another change, however, may have a slightly negative impact, now that interest deductions are limited. The limitation amounts to about 30% of an MLP's adjusted taxable income. How this affects the typical MLP depends on its tax shield.

Markman explains: "For an MLP to calculate the 30% limitation on its ability to deduct its own net business interest expense, it must determine its share of 'excess taxable income' allocated to it from a subsidiary partnership. An MLP's unitholder would then determine 'excess taxable income' in calculating the limitation with respect to its net business interest expense."

[Read the article.](#)

Corporations May Dodge Billions in U.S. Taxes Through New Loophole: Experts



Reuters [is reporting](#) that a loophole in the new U.S. tax law could allow multinational corporations like Apple Inc to avoid paying billions of dollars in taxes on profits stashed overseas, according to experts.

Reporter [David Morgan](#) explains that the loophole involves the tax rates – 15.5 percent or 8 percent – that companies must pay on \$2.6 trillion in profits they are holding abroad.

Stephen Shay, a senior lecturer at Harvard Law School, said the loophole clearly is the result of rushed legislation. He explained that a U.S. multinational could manipulate its foreign cash positions and potentially save money by shifting profits to the lower rate from the higher one.

[Read the Reuters article.](#)

Companies Have Up to a Year

for New U.S. Tax Bill Reporting: SEC



U.S. financial regulators said that because the new tax bill could make timely financial reporting difficult, public companies can make reasonable estimates when uncertain of the impact of the new tax law in financial reports, and will have up to a year to report final numbers, [Reuters reports](#).

“The \$1.5 trillion tax bill, signed into law on Friday by U.S. President Donald Trump, will significantly affect many companies’ year-end financial statements because listing rules oblige them to flag any potential material risks or changes to their operations and financial outlook to shareholders,” according to the report.

Regulators gave public companies a “measurement period” to study the new law.

[Read the Reuters article.](#)

Dykema’s Chicago Office Adds Tax Attorney Richard L.

Lieberman

National law firm [Dykema](#) announced the addition of Richard L. Lieberman to its Taxation Practice Group as senior counsel in the firm's Chicago office.

Lieberman joins Dykema after spending more than eight years as a partner with Burke, Warren, MacKay & Serritella, P.C., where he served as Chair of the firm's Tax and Employee Benefits practice. Prior to that, he was a principal at Deloitte Tax LLP for more than a decade.

In a release, the firm said Lieberman has more than 30 years of experience in a broad range of federal and state tax matters, with emphasis on tax issues related to real estate, mergers & acquisitions, joint ventures, restructurings, partnerships, limited liability companies, and S corporations. He also advises clients on the tax aspects of executive compensation arrangements, including designing and advising on the implementation of executive, equity, and deferred compensation programs.

In addition, Lieberman has been actively involved in representing not-for-profit organizations in both obtaining and retaining exemption from federal, state, and local taxes, avoiding unrelated business income tax, and addressing private inurement and intermediate sanctions issues. He has long represented clients in connection with adjustments proposed by the Internal Revenue Service and a myriad of state Departments of Revenue.

"Richard brings much needed state and local tax, as well as transactional, experience to our Chicago office and the firm's national platform," said Mike Cumming, Leader of Dykema's Taxation Practice Group.

Lieberman earned a J.D., with high honors, from IIT/Chicago-Kent College of Law, an LL.M. (International Legal Studies)

from New York University School of Law, an LL.M. (Taxation) from DePaul University College of Law, and a B.B.A. from the University of Wisconsin-Madison.

Tax Reform Plan Makes C Corporations More Appealing



The Republican tax reform plan released this week proposes changes that are likely to make C corporation structures more appealing to U.S. business owners and investors, according to a post on the website of [Androvett Legal Media & Marketing](#).

“The reduction of the top corporate tax rate from 35 percent to 20 percent could certainly lead to a renewed interest in C corporations,” said Dallas tax lawyer [Nathan Smithson](#) of [Jackson Walker LLP](#). “An investment in a corporation is subject to two levels of federal income taxation – once at the corporate level, and then again when a distribution is made out of the corporation to the investor. The proposed 20 percent corporate tax rate would make this investment far more palatable.

“The plan also lowers rates for partnerships and LLCs. However, investors and business owners who do not want to subject themselves to the more complex partnership tax rules –

including paying taxes on their share of entity-level income – may now want to convert their entities to corporations,” said Smithson, who advises corporations, LLCs and partnerships on federal tax planning.

“An original investment in stock of a qualifying small business corporation can be sold tax-free if held for five or more years. A drop from a 35 percent to a 20 percent rate may make this type of investment a no-brainer for investors looking to minimize their overall taxes on corporate income.”

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Abbie Shindler Joins Buchalter in Scottsdale Office

[Buchalter](#) announced that Abbie Shindler has become a member of the firm’s Corporate and Tax & Estate Planning Practices in Arizona.

Shindler focuses her practice on estate planning, probate, trusts, corporations and business organizations, and business law. Her experience includes the preparation of estate plans, administration of trusts/estates, obtaining appointments of guardians/conservators for adults and minors, formation of corporate entities, assisting with corporate transactions, and the preparation of pre-nuptial and post-nuptial agreements.

“Abbie is a welcome and strong addition to our growing Scottsdale office,” said Adam Bass, President and Chief Executive Officer of Buchalter. “As a well-known and experienced tax and estate attorney, her practice is an excellent fit for us.”

Outside of her practice, Shindler is a member of the Society of Financial Service Professionals, serves on the Professional Advisory Board of Arizona Community Foundation, and is a committee member of the Phoenix Children’s Hospital.

“I have known many of the Buchalter attorneys in Scottsdale for years,” said Shindler. “I am eager to continue representing my clients at Buchalter, and offer them the full-service business solutions the firm is known for providing.”

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Former Tax Judge Sentenced To Prison for Tax Fraud



Former Minnesota Tax Court Judge Diane Kroupa is headed to prison for tax fraud, reports [Minnesota Lawyer](#). Her husband, a self-employed lobbyist and political consultant, also received a shorter sentence.

Judge Wilhelmina M. Wright in U.S. District Court in St. Paul sentenced Kroupa to 34 months in prison and Robert Fackler to

24 months. They must pay \$457,104 in joint restitution, writes reporter [Barbara L. Jones](#).

Both defendants entered guilty pleas, admitting to conspiring to obstruct the IRS by claiming personal expenses as business expenses. Those expenses included vacations, Pilates classes, upkeep and renovation and utilities for their home, and more.

[Read the *Minnesota Lawyer* article.](#)

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The Whistleblower Behind Caterpillar's Massive Tax Headache Could Make \$600 Million

[BloombergBusinessweek](#) reports on the story behind the accountant who might end up the best-paid whistleblower of all time, with a potential paycheck of \$600 million, while Caterpillar, the 92-year-old pride of American industry, will experience something unfamiliar: public humiliation.

“In a 2011 deposition, a Caterpillar attorney asked [accountant Daniel] Schlicksup if his actions threatened to hurt shareholders. write [Bryan Gruley](#), [David Voreacos](#) and [Joe Deaux](#).

“It is absolutely in the shareholders’ best interests to have the most accurate financial statements they can have,” Schlicksup replied. “I don’t think that the shareholders of Enron would think it would have been such a bad deal if somebody would have caught that before it bankrupted the company and they lost everything they had.”

[Read the BloombergBusinessweek article.](#)

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Blank Rome Expands Tax Group with Two Additions in New York

Blank Rome LLP announced that David J. Moise and Jill E. Misener have joined the firm in the Tax, Benefits, and Private Client group in New York.

Moise joins the firm as a partner with more than 30 years of experience and a federal, state, and local tax practice. Joining Blank Rome as of counsel, Misener also has experience in tax procedure and controversy. Both come to Blank Rome from Withers Bergman LLP.

“We’re thrilled that David and Jill have joined Blank Rome,” said Alan J. Hoffman, Chairman and Managing Partner of the

Firm. "David's team is well-known for its straightforward and honest approach to tax controversy. I know that our clients will appreciate David's pragmatism as well as his understanding of the risks and rewards associated with our clients' most sensitive tax issues."

In a news release, the firm said:

Mr. Moise focuses on federal, state, and local tax examinations, appeals, and litigation matters, as well as federal and multi-state voluntary disclosures. He also has significant experience with tax collection procedures, including tax liens and levies, as well as collection administrative appeals, installment agreements, and offers in compromise. Further, he has extensive capabilities with regards to various treaty issues, such as disputes between the United States and the United Kingdom, resolving key issues and working with Competent Authority to avoid duplicative taxes.

"We're excited to join Blank Rome," said Mr. Moise. "Blank Rome has a terrific, national platform that will enable us to expand upon the work we do and the clients we serve, particularly as it relates to partnership and corporate controversy matters. With offices across the country and a wide range of practices that are challenged by tax issues, we're eager to begin collaborating with our new colleagues at Blank Rome."

Ms. Misener represents high-net-worth individuals and entities before federal and state tax authorities in controversy resolution matters, bringing her experience in examinations, administrative appeals, voluntary disclosures, and collection matters with her to Blank Rome. Ms. Misener has also advised and represented clients residing outside the United States with U.S. tax issues, and has guided numerous clients through the IRS's various offshore voluntary disclosure programs.

“David and Jill will be great additions to the practice as they are respected attorneys who are extremely well-versed in tax law at both the federal and state levels,” said Cory G. Jacobs, Chair of the Tax, Benefits, and Private Client group. “On a daily basis, David and Jill handle tax issues that require interface with the IRS, and they know federal procedures inside and out. With tax reform forthcoming, David and Jill are well-positioned to help our clients navigate any future changes to U.S. tax policy.”

Mr. Moise received his B.A. from Syracuse University, his J.D. from Pace University Law School, and his LL.M. in Taxation from Boston University School of Law. He is a member of the American Bar Association Tax Section and the New York Bar Association Tax Section.

Ms. Misener received her B.S. from Washington & Lee University, her J.D. from the University of Kansas School of Law, and her LL.M. in Taxation from New York University School of Law. She is also a member of the American Bar Association Tax Section, the New York Bar Association, and the Federal Bar Association.

Amazon.com Wins \$1.5 Billion Tax Dispute Over IRS



Image by
[Aurelijus
Valeiša](#)

Amazon.com scored a big victory Thursday against the IRS in a case that the company says could have cost it about \$1.5 billion, [reports *The Seattle Times*](#).

The IRS contended that the e-commerce giant had inappropriately brought down its U.S. tax bill by grossly undervaluing the assets it transferred to its Luxembourg subsidiary, which the company created more than a decade ago.

“Judge Albert Lauber of the U.S. Tax Court ruled that the IRS’ determination of those assets’ worth was ‘arbitrary, capricious, and unreasonable.’ He also broadly sided with Amazon on the way the U.S. company calculates how it shares costs with its European subsidiary,” writes reporter [Ángel González](#). “The ruling, in favor of Amazon, untangles part of the complex web of tax litigation the retailer faces as authorities in the U.S. and Europe review how they deal with global companies that straddle many jurisdictions seeking advantageous tax deals.”

[Read the *Seattle Times* article.](#)

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The U.S. Tax Reform and the Energy Sector

Reforms in the U.S. tax code proposed by President Donald Trump and Republican Congressional leaders could have significant implications for the energy industry in the U.S., and worldwide, according to [an article](#) published on the website of Hogan Lovells.

Authors of the article are Washington partners Jamie Wickett, John Stanton and Robert Glennon.

“Full expensing of capital expenditures and a reduction in the U.S. corporate tax rate from the current 35 percent to 20 percent or 15 percent will on balance significantly reduce the tax cost of doing business in the U.S.,” they write. “On the other hand, the loss of the deduction for net interest expense proposed in the Blueprint – will raise the cost of debt in the U.S.”

Also, “The ability for U.S.-based corporations to repatriate profits from foreign subsidiaries on a tax free basis (after paying a one-time tax on all accumulated earnings and profits of foreign subsidiaries) should significantly increase the incentive for these companies to repatriate cash and use it to make U.S. investments (or perhaps to pay down debt or pay dividends).”

[Read the article.](#)