

## WHEN HAVING A HOME IN NEW YORK BECOMES A CIVIL & CRIMINAL TAX LIABILITY

Thursday, March 5, 2009 / 6:00 p.m. to 8:30 p.m.

State and local tax authorities in New York have stepped up their civil and criminal enforcement against those who fail to file tax returns and pay taxes as residents of New York State and City. This program will provide the nuts and bolts of New York's laws on residency, including both its statutory residency and domicile rules, before moving to an interactive fact pattern that will address the handling of a civil audit involving a client who fails to pay residency tax, which spirals into a criminal investigation. Learn about New York's new regulations and how to advise clients in situations that involve individuals moving into New York, including employers with temporary New York work assignments, as well as advising clients with outbound issues, such as those who may have second residences out-of-state or spouses who spend longer periods of time in New York. The program will provide you with ideas on preventive planning and strategic negotiation.

### Program Co-chairs

**Gilda Mariani**

Chief, Money Laundering & Tax Crimes Unit  
New York County District Attorney's Office

**Fran Obeid**

Kostelanetz & Fink LLP

### Faculty

**Stephen Bercovitch**

Tax Counsel, Amper Politziner & Mattia LLP

**John J. Coniglio**

Section Head, Income/Franchise Field Audit  
Management, New York State Department of  
Taxation & Finance

**Noelle Geiger**

Marks Paneth & Shron LLP

**Bruce K. Kato**

Deputy Director of Investigations, Special  
Investigations Unit, Office of Tax Enforcement  
New York State Department of Taxation &  
Finance

**Michelle Merola**

Hodgson Russ, LLP

**Jack Trachtenberg**

Hodgson Russ, LLP

## Agenda

- 6:00–6:20 p.m.** Introduction & Brief Overview of New York Law on Statutory Residency & Domicile  
*Jack Trachtenberg*
- 6:20–6:30 p.m.** Ethical Issues for the Practitioner to Consider  
•Retaining a *Kovel* accountant  
•Representation of spouses; the innocent spouse  
*Michelle Merola & Fran Obeid*
- 6:30–7:10 p.m.** **Part I: The Audit Phase**  
Through a series of fact patterns, there will be a discussion by the tax auditor & practitioners who represent clients claiming temporary residency, maintaining a New York City *pied à terre*, or asserting a change in domicile.  
•Out-bound employee  
*Stephen Bercovitch, John J. Coniglio & Fran Obeid*  
•In-bound employee  
*John J. Coniglio, Noelle Geiger & Fran Obeid*  
•Changing domiciles  
*John J. Coniglio, Fran Obeid & Jack Trachtenberg*
- 7:10–7:20 p.m.** Questions & Answers
- 7:20–7:35 p.m.** Break
- 7:35–8:20 p.m.** **Part II: The Criminal Investigation Phase**  
Through a fact pattern that involves a “change of domicile,” there will be a discussion of how tax enforcement, the prosecutor and practitioners resolve issues when they become a criminal matter and the ethical issues that arise during such negotiations.  
*Bruce K. Kato, Gilda Mariani, Michelle Merola, Fran Obeid, & Jack Trachtenberg*
- 8:20–8:30 p.m.** Questions & Answers

**CLE credit:** 2.5 credits total: 1.0 skills, 1.0 professional practice & 0.5 ethics.  
This live program provides New York & California transitional/non-transitional credit to all attorneys.

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