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"1984 Schedule" (1984). *William & Mary Annual Tax Conference*. 548.
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TAX CONFERENCE

MARSHALL-WYTHE SCHOOL OF LAW
COLLEGE OF WILLIAM AND MARY

THIRTIETH ANNUAL CONFERENCE

SELECTED TAX SUBJECTS

- Selected Current Developments in
Subchapter C *Donald V. Moorehead, Esq.*
- *Cafeteria Plans in Transition *Leon E. Irish, Esq.*
- Impact of Death of a Partner on
Income and Estate Taxes *Stefan F. Tucker, Esq.*
- Interest Free Loans *Waller H. Horsley, Esq.*
- Tax Shelters: The New Compliance
Environment *D. French Slaughter, III, Esq.*
- Post Mortem Estate Planning *Malcolm A Moore, Esq.*

College of William and Mary in Virginia
Williamsburg, Virginia

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PREFACE

TAX CONFERENCE

This publication records the papers presented at the Thirtieth Annual Tax Conference held in Williamsburg December 1, 1984. These Conferences are conducted by the Marshall-Wythe School of Law of the College of William and Mary as an adjunct to the graduate program in Law and Taxation. A list of prior Tax Conference publications may be noted on page 163.

These Conferences have for their objective the discussion of policy, technical and procedural matters of an advanced nature in the area of Federal, State and local taxation by recognized authorities for the enrichment of the Law School curriculum, and as a service of practical application to Virginia attorneys, accountants and representatives of business and industry.

It may be observed that those serving as speakers and discussion leaders for this and prior Conferences are distinctively representative Federal and State tax officials, tax practicing attorneys and accountants, and members of law school faculties. The College acknowledges with deep appreciation their significant contribution to these Conferences, and commends their participation in this leadership opportunity as a recognized exemplification of public service in the highest tradition.

The College also records its appreciation to the many attorneys, accountants, and representatives of business and industry who have responded so graciously by their participation in and support of these Conferences.

The printing of this publication is made possible by funds from private sources and the College gratefully acknowledges the support for such a worthy endeavor.

Thomas A. Graves, Jr., *President*
The College of William and Mary
In Virginia

Williamsburg, Virginia
January, 1985

LAW AND TAXATION AT THE COLLEGE OF WILLIAM AND MARY

The Marshall-Wythe School of Law

A chair of law was established at the College of William and Mary by action of the Board of Visitors under the leadership of Thomas Jefferson, an alumnus and then Governor of the Commonwealth of Virginia, on December 4, 1779. The present Law School takes its name from the first occupant of this chair—George Wythe, signer of the Declaration of Independence, leading attorney of the age and later Justice of the Chancery Court in Richmond; and John Marshall, one of Wythe's first students and subsequently the great chief justice of the United States.

The first phase of the law program at the College of William and Mary extended from 1779 to 1861. Following the long years of suffering and devastation after the Civil War, the Law School reopened its doors in 1922. It became a member of the Association of American Law Schools in 1936.

The Program in Law and Taxation

The Marshall-Wythe School of Law of the College of William and Mary established a program leading to the Degree of Master of Law and Taxation in September 1954.

This program is designed to fill a need for competently trained persons to serve the nation in any capacity where a thorough comprehension of all phases of taxation is an essential requirement. In the present complex status of our tax laws it requires joint consideration by a lawyer, an accountant, an economist, and an expert in business management in order to analyze properly all aspects of a tax matter. While the program does not presume to accomplish expertness in each of these fields, it is intended to equip the student with fundamental groundwork in all and as much of advanced study in each as relates directly to the field of taxation. All candidates for admission to this program must have received a baccalaureate degree and a professional degree in law from approved colleges or universities, and have attained grades indicative of their ability to do graduate work in law. Applicants who have completed the following courses as part of their baccalaureate work will be given preferential consideration:

Business Administration: Financial Management and twenty-four semester hours credit in courses in Accounting.

Economics: Principles of Economics, Money and Banking, Principles and Methods of Statistics, Public Finance, Fiscal Policy, International Trade and Policies, or the equivalent in content.

The graduate program then offers them a broad range of courses in Federal and State tax policy, tax law and procedures. Upon completion of the program, the successful candidates are awarded the Degree of Master of Law and Taxation. The College follows with great interest the service rendered by all recipients of this advanced professional degree. An outline of the requirements and a description of the courses are shown in the Appendix beginning on page 159.

**WILLIAM AND MARY TAX CONFERENCE
ADVISORY COUNCIL**

**Lucius H. Bracey
Charlottesville, Virginia**

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**G. Nelson Mackey
Staunton, Virginia**

**Don L. Ricketts
Washington, D. C.**

**T. Howard Spainhour
Norfolk, Virginia**

**David O. Williams
Arlington, Virginia**

The tax advisory council has been most helpful in the selection of subject matter and speakers for the program. We are deeply grateful for the valuable time they have given to the Conference.

THIRTIETH ANNUAL TAX CONFERENCE

Program Participants

LAPSLEY W. HAMBLEN, JR.—Member, West Virginia, Ohio and Virginia Bars; member, Order of the Coif, Raven Society, Omicron Delta Kappa, Phi Alpha Delta, Phi Delta Theta; B.A., University of Virginia, 1949; LL.B., University of Virginia, 1953; Trial Attorney, Office of Chief Counsel, Internal Revenue Service (Atlanta, Georgia), 1955-56; Attorney-Advisor, Tax Court of the United States, 1956-57; private practice of law, Caskie, Frost, Hobbs & Hamblen and predecessors, Lynchburg, Virginia, 1957-82; Deputy Assistant Attorney General, Tax Division, U.S. Department of Justice, 1982; former Chairman, Tax Section Board of Governors, Virginia State Bar; former Trustee, Southern Federal Tax Institute, Atlanta, Georgia; past Co-Director, Annual Virginia Conference on Federal Taxation, University of Virginia; Fellow, American College of Tax Counsel and American College of Probate Counsel; member, Virginia, Federal and American (Tax Section) Bar Associations and Virginia State Bar; Judge, U.S. Court, 1982-present.

WALLER H. HORSELY—Member, Virginia Bar; member, Order of the Coif; Editorial Board, Virginia Law Review; LL.B., University of Virginia, 1959; Lecturer in Taxation, University of Virginia Law School, 1961-65, 1969; Board of Regents, American College of Probate Counsel, 1980-present; Chairman, *Crown* Loan Task Force delegation of the Committee on Estate and Gift Taxes, ABA Section of Taxation, 1981-84; Editorial Board, Taxation for Lawyers, Probate Notes; Board of Advisors, Virginia Tax Review; President, Virginia State Bar, 1982-83; frequent speaker at continuing legal education programs and tax institutes; presently a member in the firm of Hunton & Williams, Richmond, Virginia.

LEON E. IRISH—Member, California and District of Columbia Bars; member, Order of the Coif; Note and Comment Editor, Michigan Law Review; B.A., Stanford University, 1960; J.D., University of Michigan, 1964; D.Phil. in Law, Oxford, 1973; Law Clerk, United States Supreme Court, 1967; Consultant, Office of Foreign Direct Investments, Department of Commerce, 1967-68; member, American Law Institute; Chairman, Task Force on Sanctions and Simplifications, Employee Benefits Committee, ABA Section of Taxation; Chairman, Plan Terminations, Mergers, Asset Transfers and Termination Insurance Committee, Real Property, Probate and Trust Section; founding member, ABA Joint Committee on Employee Benefits; Vice-Chairman, Employee Benefits Committee, ABA Section of Taxation; frequent contributor to legal periodicals; presently Adjunct Professor, Georgetown University Law Center, and a member in the firm of Caplin & Drysdale, Chartered, Washington, D.C.

MALCOLM A. MOORE—Member, Washington Bar; undergraduate degree, Princeton University; J.D., Harvard University; past Chairman, Real Property, Probate and Trust Law Section, ABA; Fellow and member, Board of Regents, American College of Probate Counsel; Chairman, Estate and Gift Tax Committee, American College of Probate Counsel; member, American Law Institute; member, Joint Editorial Board for the Uniform Probate Code; member, Advisory Committee, Institute on Estate Planning, University of Miami; lecturer and panelist at various national estate planning and tax institutes; Visiting Adjunct Professor, University of Miami; presently a member in the firm of Davis, Wright, Todd, Riese & Jones, Seattle, Washington.

DONALD V. MOOREHEAD—Member, California and District of Columbia Bars; B.A., University of Virginia, 1965; J.D., George Washington University, 1968; Chief Minority Counsel, Committee on Finance, United States Senate, 1975-76; Adjunct Professor of Law, Georgetown University, 1974-80; presently a partner in the firm of Patton, Boggs & Blow, Washington, D.C.

D. FRENCH SLAUGHTER, III—Member, Virginia State Bar; B.A., University of Virginia, 1977; J.D., University of Virginia, 1980; Associate, Mays, Valentine, Davenport & Moore, Richmond, Virginia, 1980-82; Special Assistant, Assistant Attorney General, Tax Division, U.S. Department of Justice, 1982-84; member, ABA Section of Taxation; author of articles in various tax journals; presently a member of the firm of McGuire, Wood & Battle, Charlottesville, Virginia.

STEFAN F. TUCKER—Member, District of Columbia Bar; B.B.A., University of Michigan; J.D., University of Michigan; Clerk, U.S. Tax Court, 1963-64; member of firm of Arent, Fox, Kintner, Plotkin & Kahn, 1964-74; member, ABA Section of Taxation, Real Estate Tax Problems Committee (Chairman, 1977-79), Committee on CLE (1980-present), Committee on Legislative Recommendations (1980-present), and Real Property Section, Real Estate Financing Committee; member, Federal Bar Association; member, District of Columbia Bar Association; member, Editorial Board, *Taxation for Lawyers*, 1972-present; member, Editorial Advisory Board, *Journal of Real Estate Taxation*, 1975-present; member, Advisory Committee, Annual Institute on Estate Planning, University of Miami Law Center, 1978-present; member, National Committee, Law School Fund, University of Michigan, 1972-78; member, Advisory Board, *BNA Housing and Development Reporter*, 1973-76; former Adjunct Professorial Lecturer at Law, University of Miami, 1975-78; former member, Steering Committee, District of Columbia Bar Taxation Division, 1980-82; author of tax articles in numerous law reviews and tax journals; lecturer at various professional forums; presently Professorial Lecturer at Law, George Washington University and a member in the firm of Tucker, Flyer, Sanger & Lewis, Washington, D.C.

CONFERENCE ADMINISTRATORS

William B. Spong, Jr., *Dean, Marshall-Wythe School of Law*

Emeric Fischer, *Professor of Law, Conference Director*

Glenn E. Coven, Jr., *Professor of Law*

John E. Donaldson, *Professor of Law*

John W. Lee, *Professor of Law*

Arthur White, *Professor of Law*