2002 DISTINGUISHED SERVICE AWARD RECIPIENT:
JAMES P. HOLDEN
by Stefan F. Tucker, Washington, DC

On May 11, the American Bar Association Section of Taxation will present its Distinguished Service Award for 2002 to James P. Holden. Jim is a partner at the Washington, DC-based law firm of Steptoe & Johnson, LLP. He formerly served as Chair of the Firm and as head of its tax practice.

Jim has been an active member of the Tax Section for decades. He was an officer and Council Director and then, fortunately for all of us, he was the Chair of the Tax Section from 1989-1990. Subsequently, Jim served for a number of years as the Tax Section Delegate to the American Bar Association House of Delegates, representing the Tax Section in a number of matters highly important to us, including Ethics 2000.

Jim graduated from the University of Colorado, and he received his law degree at Georgetown University Law Center, where he was a member of the Board of Editors of the Georgetown Law Journal. He then joined Steptoe & Johnson, where he has spent his entire legal career.

Jim has had a truly phenomenal career in tax law. He began as a transactions lawyer chairing the Corporate Tax Committee of the ABA Tax Section. As Chair, Jim developed the "broad" and "narrow" legislative recommendations to amend section 368 of the Internal Revenue Code. Jim’s practice moved into audit, controversy, and litigation work, where he was successful in winning cases in the Tax Court, Claims Court, and Federal District Courts. Jim successfully litigated a number of decisions on behalf of the railroad industry authorizing the depreciation of grading and tunnel bores. These decisions led to legislation authorizing all railroads to depreciate these costs. Thus, while Jim’s tax practice initially involved pulling the laboring oars, he has over the years been the helmsman in many landmark cases that have dealt with, and often caused modifications in, IRS policies, thereby benefiting both taxpayers and the Service over the long term.

Jim has also dealt with tax policy issues throughout his career. He was instrumental in developing the “10-5-3” method of depreciation which was incorporated into the Economic Recovery Tax Act of 1981 (ERTA). While he has been a strong and effective advocate for his clients, Jim has typically likewise sought to bring order out of the potential chaos of the conflicting perspectives on tax policy that we have all encountered in our practices.

At this point, Jim is probably the leading expert nationally on standards of tax practice and legal ethics in the tax arena. He has represented many clients on ethical issues before the Director of Practice of the Internal Revenue Service. He has spoken and lectured on the subjects too many times to mention; however, if anyone reading this column has not heard Jim on one of these subjects, then he or she has certainly read something by Jim. Jim is the co-author of Standards of Tax Practice, which is now in its fifth edition. He is also the co-author of Ethical Problems in Federal Tax Practice, which is now in its third edition.

Many of us have benefited from Jim’s teaching, for he was an adjunct professor of tax law at Georgetown University Law Center from 1972 through 1992. In addition, he was the Chair of the Internal Revenue Service Panel on Integrity Issues from 1990 to 1991.

Jim served as the Chair of the Internal Revenue Service Commissioner’s Advisory Group from 1992 to 1993. Previously, he had been a member of the Advisory Group from 1978 through 1980, and, from 1984 to 1985, Jim was on the Advisory Group to the Senate Finance Committee Staff on the Subchapter C Revision, the fruits of which were an integral portion of the 1986 Tax Reform Act. In 1999 Jim received the Erwin Griswold award from the American College of Tax Counsel.

One ought not to think that the foregoing is a complete roster of Jim’s activities involving the tax law. Illustratively, he served as a Trustee...
The following legislative recommendation will be submitted for consideration by the ABA House of Delegates at the 2002 Annual Meeting in Washington, DC, contingent upon approval of the membership of the Section of Taxation at its May Meeting Plenary Session. To review the full report, please visit the Section’s website at www.abanet.org/tax/.

RESOLUTIONS

RESOLVED, that the American Bar Association recommends to the Congress that it provide adequate funding to the Low Income Taxpayer Clinic (“LITC”) program under Section 7526 of the Internal Revenue Code of 1986.

FURTHER RESOLVED, that Section 7526 be amended to clarify that LITC funding should not be considered only as seed money but also a source of continued funding.

FURTHER RESOLVED, that the LITC program should only fund organizations that engage in controversy matters on behalf of low-income taxpayers before the IRS and in federal courts and or perform educational outreach to taxpayers speaking English as a Second Language (ESL) regarding taxpayer rights and responsibilities; provided that ESL outreach does not include current year tax return preparation.

SUMMARY

This resolution proposes amendments to the Internal Revenue Code to (i) ensure adequate funding to the LITC program, (ii) clarify that funding under the LITC program is not to be considered only seed money, and (iii) clarify that the current IRS interpretation of Section 7526 authorizing the expenditure of LITC funds on ESL return preparation is incorrect.

RRA 98 gave taxpayers important rights to assist them in resolving tax disputes with the IRS and to assist them in satisfying their tax liabilities. These taxpayer rights provide particularly benefit low-income taxpayers. The LITC program is one of the hallmarks of RRA 98 and one of RRA 98’s most important provisions. The benefits of the LITC program inure to system as a whole. LITCs can play an important role in bridging low-income taxpayers’ knowledge gap and in assisting those taxpayers to exercise responsibility the rights granted them. Amending Section 7526 to allow Treasury to allocate adequate money to the LITC program under Section 7526 will help ensure that these rights remain meaningful by allowing existing LITCs access to needed resources and provide the means for the creation of new LITCs. In addition, amending Section 7526 to ensure that LITCs are engaged in controversy representation and outreach to the ESL population, rather than ESL tax return preparation, will help ensure that LITCs remain true to their central mission of direct representation.

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of the American Tax Policy Institute from 1989 to 1996, and was its President from 1993 through 1995. At almost the same time, Jim was a regent of the American College of Tax Counsel from 1989 through 1999.

Jim has written a number of tax articles, and has always shown an amazing ability to explain really difficult subjects in a manner that is easily understood.

So that no one thinks that his whole life has been tied to the practice of law, one ought to know that Jim is an ardent golfer and has the ability easily to relax and, from time to time, get away from it all. More importantly, Jim is married to Mary Holden and has three sons, Jim, Ted and Richard.

We have had a number of incredible recipients of the Distinguished Service Award, and Jim deserves, and has from the beginning deserved, to be right up there with all of the other recipients. It is with a great deal of pleasure, and in recognition of Jim’s unbelievable devotion to the practice of tax law, on a truly ethical basis, that the Tax Section will present the Distinguished Service Award to Jim at our May meeting.