The Section of Taxation honors **M. CARR FERGUSON, JR.** as the 2008 recipient of its *Distinguished Service Award* in recognition of his outstanding career in the tax law and contributions to our profession and the Section.

Carr was Chair of the Section in 1993-94. Along with his signature bow-tie, Carr brought to the Section his experience as an outstanding teacher of the tax law, a distinguished public servant, and senior partner in a major New York law firm. He successfully led the Section’s efforts to comment effectively on the Clinton tax proposals for 1993. Before becoming our Chair, Carr led our Section’s committees on Simplification and on Court Procedure as well as committees of the New York State Bar Tax Section. He currently serves as a member of the Editorial Advisory Board of *The Tax Lawyer*.

A longtime friend, Marty Ginsburg, recalls that when he first met Carr as a Cornell undergraduate, Carr was a member of the Cornell wrestling team. At over six feet and less than 120 pounds, Marty believes that Carr was the skinniest wrestler in the Ivy League and must have seemed like a “four-limbed spider” to his opponents. After undergraduate years that included participation in the Big Red Band and the Seal and Serpent Society, Carr graduated from Cornell University in 1952. In 1954, he received his LL.B. from Cornell Law School and was elected to the Order of the Coif. He then returned home to Washington, D.C., as one of the original 30 lawyers in the Department of Justice Honors Graduate Program. (Carr’s father had been a Tax Division trial attorney about twenty years before Carr joined the Division in 1954.) From 1954 to 1959, he served as a trial attorney and special assistant to the Attorney General in the Tax Division of the Department of Justice.

Carr would later return to Washington to head the Tax Division as Assistant Attorney General from 1977 to 1981. In that role he argued cases before the Supreme Court and several Courts of Appeal and led the fight against the late-1970’s wave of tax shelters. Marty Ginsburg recalls a game of golf with Carr while both were speaking at a tax conference in...
Hawaii during Carr’s second tour at the Justice Department. A local real estate developer asked to join their threesome (consisting of Carr, Marty, and Gordon Henderson) and promptly began boasting about his involvement in many clever tax schemes. The developer then asked the three what work they did. Marty replied that he taught, and Gordon said he practiced, tax law in New York City. Carr paused, then said, “My name is Ferguson and I live in Washington, D.C., where I am the Assistant Attorney General in charge of the Tax Division at the Justice Department. I’d really like to know your name.” The developer blanched, jumped in his golf cart, and drove off, nameless. Carr turned to the others and said, “We’ll play faster as a threesome.”

After leaving the Justice Department for the first time in 1959, he earned an LL.M. in Taxation from New York University Law School in 1960. For the next 17 years he was a professor of tax law at Iowa, Stanford, and New York University where he inspired a generation of future tax lawyers including future Tax Section Chairs Dick Shaw and Susan Serota. At NYU, he held the Charles L. Denison Chair and also found time to be of counsel to Wachtell, Lipton, Rosen & Katz from 1968 to 1977. During the academic phase of his career, he wrote several books and many articles on federal taxation, including the original edition of Federal Income Taxation of Estates and Beneficiaries and Federal Tax Legislation in Perspective (ALI, 1965). In 1975, he was part of the legal team that found a way to save New York City from financial collapse.

At the end of his service as Assistant Attorney General in the Carter Administration in 1981, Carr joined Davis, Polk & Wadwell in New York City as a partner (and he remains active today as a senior counsel to that firm). One of his remarkable achievements as a tax litigator was Dunn Trust v. Commissioner, 86 T.C. 745 (1986), in which he not only persuaded the Tax Court that no part of AT&T’s spin off of the PacTel Group constituted taxable “other property,” but also persuaded the Internal Revenue Service that that decision should be applied to all AT&T shareholders receiving distributions. In 1992, he demonstrated that it is not always a bad idea to be your own lawyer when he persuaded the Tax Court to enforce the terms of a Form 872-A against the Service in a case involving his own return, Ferguson v. Commissioner, T.C. Memo. 1992-451.

Over his distinguished career, Carr has been quoted on tax issues in Time and the New York Times, served as a consultant to the United States Department of Justice and the Secretary of the Treasury of the Commonwealth of Puerto Rico, appeared as a witness before Congressional tax-writing and judiciary committees, and litigated many tax cases. He once described Subchapter C as “a meaningless minuet danced to a meaningless tune.”

In recent years, he has returned to the teaching of law at the University of San Diego. His interest in and support of legal education has been a hallmark of his career. He serves on the council of Cornell University and the board of visitors of Cornell Law School; he is vice chair of the board of trustees of Lewis & Clark College in Oregon and chair of the board of visitors of the Lewis & Clark Law School; and is a trustee of the New York University Law Center Foundation. He regularly serves on law school accreditation teams for the American Bar Association and the Association of American Law Schools.

Along the way, he and his wife, Marian, also managed to raise four daughters and play a little golf. (Carr and Marian were the 2001 Net Champions of the International Husband & Wife Golf Championship.) Their four daughters and their spouses have increased the Ferguson clan to include eleven grandchildren.

Carr’s outstanding career in academia, government, private practice, and service to the bar, and his continuing dedication to the development of young lawyers, is an inspiration to us all and an outstanding role model for aspiring tax lawyers. The Tax Section is pleased to present him with the 2008 Distinguished Service Award in recognition of a remarkable career of achievement that we hope will continue to enrich us all for many years to come.

– Kenneth W. Gideon, Washington, D.C.