The Tax Section and Public Service—
A New Focus

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Any review of the history of the Tax Section shows that there has always been a concern with public service and providing tax-related legal services to the less fortunate. However, both the shape and size of this commitment “exploded” during the past 25 years, as pro bono activities became a major focus of the Tax Section as a whole and its leadership in particular. The Tax Section has committed both time and money to public service and pro bono activities, and the result has been to place the Tax Section at the forefront of providing tax assistance to those who need it but cannot pay for it.

The Tax Section certainly was involved in pro bono activities during its first 50 years (prior to 1989), although that involvement was on a smaller scale. The Section formed a Small Taxpayer Program Committee in 1976, and in the latter part of that decade the Section worked with law professors and law deans who were interested in establishing low-income taxpayer clinics (LITCs). At that time the ABA opposed law student representation of taxpayers. There was, however, support for allowing law students to be involved in assisting taxpayers outside of the legal process, and the Tax Section worked with the Service in organizing volunteer income tax assistance (VITA) programs at law schools. These programs were intended to allow law students to assist less-fortunate taxpayers to satisfy their compliance obligations. The Small Taxpayer Program Committee worked with a number of law schools in helping them establish VITA programs; it was a small step, but it was an important one.

Although the ABA had not officially supported tax clinics in which law students represented individual taxpayers involved in controversies with the Service, a number of individual members of the Section (who worked for law schools) took up the mantle and pressed forward with the cause. In particular, Professor Janet Spragens at American University Law School continued to push for the expansion of law school-based tax clinics, together with a number of other individuals at various law schools, which provided tax assistance on a pro bono basis. At the same time, Nina Olson was expanding the Community Tax Law Project, which also helped less-fortunate individuals who were involved in disputes with the Service. These two individuals were, collectively, the “godmothers” of the Tax Section’s involvement in pro bono services because their continuing efforts in this regard served as a constant

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reminder to the Tax Section leadership that there were pro bono needs that had to be fulfilled.

In 2000, Ms. Spragens and Ms. Olson published an article which drew attention to the importance of tax clinics. In this article, they acknowledged the role of the Tax Section in this endeavor:

[T]he American Bar Association Section of Taxation has also been a steady and important supporter of the LITC movement. One of the section’s contributions to the clinical movement is sponsorship, through its Committee on Low-income Taxpayers, of a treatise about to be published, entitled Effectively Representing Your Client Before the New IRS. Edited by Professor Jerome Borison of the University of Denver School of Law, this publication contains the collective wisdom of the most experienced tax controversy lawyers in the United States today and was written to be an handbook for LITCs as well as other practitioners. Further, the section has testified on multiple occasions in favor of LITC funding legislation, has underwritten an annual workshop (in partnership with American University) on tax clinics, has sponsored a NAPIL fellow to work on ESL issues at the Community Tax Law Project, and has provided seed money for a Low-income Tax Clinic Resource Center.1

At the same time, the leadership of the Tax Section started to become involved in obtaining support for tax clinics. As part of the Restructuring and Reform Act of 1998, Congress provided for the first time for public support of clinics established to provide tax-related legal assistance. However, this support was dependent upon appropriations from Congress. In a letter dated June 25, 1999, Stefan Tucker, then the Chair of the Section, wrote to the Chair of the House Appropriations Committee and its Ranking Member urging Congress to appropriate more money for the matching grants. He specifically requested that the first year’s appropriation of $2 million be increased to $4 million noting:

The American Bar Association Section of Taxation has a long history of supporting low income taxpayer clinics. The Section has worked with the clinics for over 10 years through its Committee on Low Income Taxpayers, and has testified in favor of the funding provision both before the Restructuring Commission and the Congress.2

The Tax Section’s focus on the needs of less fortunate citizens in complying with their obligations under our tax system became a more “formal” focus of the Tax Section during my term as the Chair of the Section (2001–2002). A Pro Bono Task Force, headed by Terry Hyde of Washington, was appointed to look at what the Section was doing in the pro bono arena and to make suggestions about what we could do to help Section members become more

2 Low-Income Taxpayer Clinic Program Needs More Money, Says ABA Tax Section, 1999 Tax Notes Today 140-37 (July 22, 1999).
involved in pro bono activities. At the same time, the Section expanded its efforts to support the law schools and their tax clinics, including providing sponsorship to the completion of *Effectively Representing Your Client Before the “New” IRS*, informally known as the “Low-Income Taxpayer Clinic Manual,” and financial support for a National Resource Center for LITCs.

The Pro Bono Task Force reported back to the Council in early 2002, and all of its recommendations were unanimously adopted. The primary recommendations of the Task Force were the formation of a standing committee within the Tax Section to focus on pro bono activities, the establishment of a Pro Bono Award to honor Section members involved in pro bono activities, and an outreach program through which the Section would not only help provide legal assistance to low-income taxpayers but also work to increase their awareness of their rights and responsibilities under the tax system.

I was fortunate enough to be able, as one of my last actions as Chair of the Section, to present the inaugural Tax Section Pro Bono Awards to Elizabeth Atkinson of Norfolk, VA, and Victoria Bjorklund of New York, NY. A number of other individuals have been honored since 2002, including Peter Lowy of Houston, TX, Karen Hawkins of San Francisco, CA, Diana Leyden of Hartford, CT, Janet Spragens of Washington, D.C., Leslie Book of Villanova, PA, Joseph Barry Schimmel of Miami, FL, Elizabeth Copeland of San Antonio, TX, Caroline Ciraolo of Baltimore, MD, Juan Vasquez, Jr. of Houston, TX, Frank Agostino of Hackensack, NJ, Mark Moreau of New Orleans, LA, Carlton Smith of New York, NY, and Judge Peter Panuthos of Washington, D.C. Upon Janet Spragens’ untimely passing, the award was renamed the Janet R. Spragens Pro Bono Award, to honor not only her memory but also her deep commitment to both the Tax Section and the pro bono community. As Professor Les Book stated when he accepted the Pro Bono Award on Janet’s behalf (she was too ill to attend), she was the inspiration for a generation of individuals who have been involved in public service in the tax community, and the Section was fortunate to have her as one of its leaders.

If the Tax Section had stopped at this point, the last 25 years would have been a success from the viewpoint of increased involvement and awareness of the need for public service. However, it did not settle there but rather continued to emphasize public service through the ongoing activities of its Pro Bono and Low-Income Taxpayer Committees, which recently merged to form the “Pro Bono and Tax Clinics Committee,” and through increased staff activity in the pro bono arena. On the volunteer side, the Tax Section formally sponsored a listserv available to members of the LITC community to enable them to quickly find answers to problems, and the Section has continued to sponsor and regularly update the “Low-Income Taxpayer Clinic Manual,” which is the fundamental resource used by the LITCs in training volunteers. The Section also hosts half-day workshops for LITCs each year at its May Meeting and at the Annual IRS LITC Conference, so that individuals involved in these activities can meet and work to further pro bono activities.
Another area where the Tax Section has been at the forefront is providing pro bono assistance at the “calendar calls” of the Tax Court to taxpayers who lack representation. Karen Hawkins—another recipient of the Janet Spragens Pro Bono Award—started this effort in San Francisco by making sure that at each session of the Tax Court a pro bono lawyer was available to assist taxpayers who lacked representation to understand their need for representation and their options in dealing with the Tax Court and the Service. Through extensive efforts of the pro bono committee, as well as Judge Peter Panuthos of the Tax Court (another recipient of the Janet Spragens Pro Bono Award), this effort resulted in full coverage of all of the calendar calls of the Tax Court in 2013, and it is the goal of the Section’s Pro Bono and Tax Clinics Committee to have this be a continuing commitment to assist taxpayers and the court in addressing the needs of pro se taxpayers who appear before the Tax Court.

In 2007, the Section increased its formal involvement in the pro bono arena. That year the Section for the first time hired a Pro Bono Staff Counsel who serves as a resource to the Section and to the LITC community. In 2009, the Section established a public service fellowship. Now officially known as the “Christine A. Brunswick Public Service Fellowship,” in honor of the Section’s late director, the program sponsors two fellows each year for two-year terms to assist underserved communities and to promote new ideas for serving the low-income taxpayer community. In 2011, the Tax Section started a program to provide scholarships to nonacademic clinicians to allow them to attend Tax Section meetings. Without financial assistance, attendance at the meetings is almost impossible for legal services clinicians and clinicians at independent clinics because budgets at their organizations contain insufficient funds to cover the cost. Through the scholarships—five at each meeting—the Tax Section has significantly increased participation and interest from a group of attorneys previously left out of the organized bar. By bringing this new group of clinicians into the ABA and getting them involved

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3 The first two fellows selected for the inaugural 2009–2011 term include: Vijay Raghavan, who worked with Prairie States Legal Services in Illinois, and Laura Newland, who worked with AARP and later served as the Section’s Pro Bono Staff Counsel. Fellows selected for the subsequent terms include the following individuals. For 2010–2012: Douglas Smith, who founded the Central PA Tax Help, and Katie Toller Jones, who worked with the Legal Aid Society of Middle Tennessee and the Cumberlands. Katie specifically worked with the Appalachian Community Partnership for Tax Advocacy, which is a new approach to working with low-income taxpayers. For 2011–2013: Sean Norton with Pine Tree Legal Service in Maine and Anna Tavis with South Brooklyn Legal Service, where she focuses on assisting Russian immigrants. For 2012–2014: Ana Cecilia Lopez who is reaching out to the quickly growing Hispanic community in the state of Washington through the University of Washington Tax Clinic, and Jane Zhao with the Center for Economic Progress in Chicago. For 2013–2015: Susanna Birdsong with the National Women’s Law Center in Washington, D.C., and Susanna Ratner with the SeniorLAW Center in Philadelphia, PA. For 2014–2016: Patrick Thomas with the Neighborhood Christian Legal Clinic in Indianapolis, IN, and Lany Villalobos with the Pennsylvania Farmworker Project (a division of Philadelphia Legal Assistance).

in projects assisting low-income taxpayers from a broader perspective, these clinicians benefit individually, and the bar benefits from the insights of this group of practitioners.

The hiring of a staff attorney and the fellowships represent a significant financial commitment for the Tax Section on an ongoing basis, but as of this time there is unanimous support within the Council for these expenditures. Pro bono activity has moved from being a “quiet cul de sac” within the Tax Section to a “major highway,” as time, money, and energy have been devoted to the expansion of the Tax Section’s role in providing assistance to low-income taxpayers and other individuals who need support in their dealings with the tax system. The fact that this effort is continuing is a testament to the Section leadership’s recognition of the importance of the Tax Section in the tax community because without the Tax Section’s support many of these activities would simply not exist. The expansion of pro bono activities of the Tax Section during the last 25 years is one of the achievements during that period of which the Tax Section should be most proud.