

## PRO BONO MATTERS

# "A Chain Is Only As Strong As Its Weakest Link"

By Francine J. Lipman\*

These are challenging times. With record unemployment and skyrocketing debt levels, many communities are suffering financially. Unfortunately, too many law students are finding themselves with a diploma in hand, but without a job. During challenging times, communities work together to provide safety nets for those members that are struggling. The Tax Section is such a community. As members of this community we should reflect on what we can do, individually and as a team, to be part of the solution. I encourage you to reach out to tax law students, as well as young tax lawyers, in your local communities to ensure that they do not become part of the lost generation. Neither the Section nor the broader communities in which we work and live can afford to lose these bright, motivated, driven young lawyers. While young tax lawyers might be a minority of our Section population, they are 100% of our future.

As you consider how you can get involved, it is my pleasure to introduce you to an impressive Section member working on one solution. Douglas Smith was a lawyer in private practice in Lancaster, Pennsylvania, before he was awarded a 2010–12 Public Service Fellowship. Today Doug is working with the Community Action Program (CAP) of Lancaster County, Pennsylvania, developing a low-income taxpayer clinic in an area that did not have taxpayer legal services for its significant low-income population. Not surprisingly, Doug is extremely busy assisting clients in controversy matters, providing education and tax services to immigrant and low-income taxpayers, working with English as a Second Language and elderly taxpayers on their particular tax

issues, increasing the public service involvement of private attorneys, and training other legal service attorneys in tax law.

"Having an LITC available to our clients enhances the breadth and depth of services we're able to provide to low-income taxpayers in southeast and central Pennsylvania," said Mark Esterbrook, CEO of CAP. "Doug brings a great deal of experience, along with a strong commitment to public service work," Esterbrook continued. "His efforts through this fellowship will have a significant impact on the lives of low-income taxpayers in this area."

In Doug's own words:

**NQ** What inspired you to apply for the Tax Section's Public Service Fellowship?

**DS** I learned about the Public Service Fellowship soon after I began to seriously explore the possibility of starting a low-income taxpayer clinic in central Pennsylvania. I was at the ABA Tax Section meeting in May 2009, talking to members of the Pro Bono and Low Income Taxpayer committees, when several people mentioned the Fellowship and advised me to look into it. As I learned more about the Fellowship, it seemed like the perfect springboard for getting the tax clinic off the ground.

**NQ** What made you choose CAP as your Sponsoring Organization?

**DS** I approached CAP early in the process of setting up the tax clinic, before I even knew about the Fellowship, in hopes of obtaining financial or like-kind support for the tax clinic. The decision to locate the tax clinic at CAP made sense for several reasons, not



Douglas Smith

the least of which were that the tax clinic had similar target populations as CAP and CAP was already heavily involved in the local Volunteer Income Tax Assistance program. Once it was clear that the tax clinic would be located at CAP, it was natural to choose them as the Sponsoring Organization. Despite being an entirely new venture, it has worked out to everyone's benefit.

**NQ** What are the types of projects on which you're working?

**DS** I spend a substantial amount of time working on tax controversies, but I am also responsible for conducting education and outreach programs for taxpayers with limited English proficiency. In addition, I maintain the tax clinic's pro bono panel, handle fundraising for the clinic, and take care of the clinic's administration and reporting requirements.

**NQ** Can you give examples of the types of issues you deal with in providing tax assistance to low-income taxpayers?

**DS** The issues range broadly and it's very rare that a taxpayer has just one. On my desk at the moment are cases involving identity theft, disallowed business expenses, challenges to

\* Visiting Professor of Law, William S. Boyd School of Law, University of Nevada, Las Vegas, NV, and Chair of the Section's Pro Bono Committee. Professor Lipman welcomes your pro bono suggestions at [Francine.Lipman@unlv.edu](mailto:Francine.Lipman@unlv.edu).

claims for the earned income tax credit, innocent spouse relief, and trust fund recovery penalty. Many cases involve unfiled returns from prior years. Often, clients need assistance in non-tax areas, such as housing, bankruptcy, divorce, or credit counseling.

**NQ** What have been your biggest challenges in the position?

**DS** The biggest challenges have nothing to do with tax. Rather, they involve identifying and securing additional sources of funding for the tax clinic and recruiting new members for the tax clinic's pro bono panel. Obviously, in today's economy, everyone is reluctant to part with spare time and money, but there is no more important time to do so. Developing support takes patience and persistence because, for many people, the connection between tax debt and homelessness among the working poor does not seem to be intuitive. In fact, the tax clinic was recently denied a grant request because, incredibly, the funding agency thought the clinic was "weakly aligned" with financial stability.

**NQ** What are the most rewarding experiences you've had during the Fellowship?

**DS** Without question, the most rewarding moment comes when you reach a favorable outcome for the client. Although this often means the client receives some financial benefit, this is not always the case. Sometimes the client's biggest relief comes simply as a result of having someone else handle his or her tax problem—it's a weight off the client's shoulders. My current favorite involves a taxpayer who was a victim of identity theft and whose refunds were being held by the Service. After more than a year of phone calls and correspondence, the case was finally resolved, the refunds were released, and the taxpayer immediately booked a flight to visit his ailing mother.

**NQ** What, if any, influence has your Fellowship work had on your career plans?

**DS** The Fellowship has given me an opportunity to appreciate the benefits of public service, but has also made me aware of how vulnerable a fledgling nonprofit can be. If not for the Fellowship, I do not think the tax clinic would have survived into its second year.

**NQ** Do you have any advice for other lawyers or law students who may be interested in public service or pro bono work?

**DS** I would encourage them to pursue their interests since the work is valuable and can be very rewarding. But I would also caution them to ensure that funding for the organization and their position is stable since a steadily increasing caseload will not automatically result in an equivalent increase in funding. I would also point out that it may be easier to move from private practice to public service than the other way around.

**NQ** You have attended several Tax Section meetings. Have they helped you in your work?

**DS** The Tax Section meetings are very useful. In particular, the Low Income Taxpayer committee meetings and workshops always provide substantive tax information that I can apply to current cases. In addition, the many opportunities to network have given me a chance to meet other practitioners, including the other Public Service Fellows, and to learn from their experiences.

**NQ** Do you have any immediate plans after the Fellowship?

**DS** I plan to continue to run the tax clinic, but this depends on raising additional funds. Ideally, I would like to see it develop into a stable organization that receives broad-based financial and volunteer support across the area it serves.

**P**ublic service has been an integral part of the Section's activities for many years. The Section actively encourages member participation in various public service efforts, holds numerous

training sessions to that end, and devotes meaningful resources to providing legal services to those in need. The Section recognizes the need for fostering and funding recent law school graduates or judicial clerks who wish to dedicate some portion of their professional careers to public service in tax. The Public Service Fellowship program, which began in 2008, not only reflects the Section's desire to advance public service efforts, but facilitates a more equitable tax system through access to tax justice.

The Section awards up to two Fellowships to recent law school (J.D. or LL.M.) graduates every year, providing an unrestricted grant covering salary, payroll taxes, and benefits to the sponsoring organization. In addition, the Section will provide assistance with educational loans (covering interest accrued for the period) for those Fellows who are not covered by a law school low-income-protection plan. Each Fellow is expected to serve a two-year term involving taxation or the administration of tax law with a public-interest, non-profit organization. Each applicant must identify and secure a position with a sponsoring organization before applying for the Fellowship.

As a Section member, please consider this opportunity as an applicant, as a mentor supporting and encouraging applicants, or as a sponsoring organization. Pro bono matters—just ask Doug Smith or any of the other notable Public Service Tax Fellowship Awardees:

- Laura Newland (AARP's Legal Counsel for the Elderly, 2008–10)
- Vijay Raghavan (Prairie State Legal Services, 2008–10)
- Katie Tolliver (Appalachian Community Partnership for Tax Advocacy, 2010–12)
- Sean Norton (Pine Tree Legal Assistance, Inc., 2011–13)
- Anna Tavis (South Brooklyn Legal Services/Immigrant Workers' Tax Advocacy Project, 2011–13). ■