

Neil Kimmelfield

Shareholder
kimmelfieldn@lanepowell.com
503.778.2196



Areas of Practice

Neil Kimmelfield has more than 30 years of experience as a tax attorney and chairs Lane Powell's Taxation Practice Group. Neil's practice emphasizes structuring corporate, partnership and real estate transactions (including structured tax financing of energy and community development projects using state and federal tax credits), counseling large and small businesses and exempt organizations in tax matters, litigating tax cases in federal courts, and handling administrative controversies before the IRS.

Before moving to Oregon in 1993, Neil was a partner in a Washington, D.C., tax law firm, where his practice emphasized business entity tax issues and tax controversies of large corporations, as well as lobbying the IRS and the U.S. Treasury Department on tax matters.

From 1984 to 1988, Neil served in the U.S. Treasury Department's Office of Tax Policy, where his responsibilities included portions of the Tax Reform Act of 1986 dealing with tax shelters and the alternative minimum tax, and tax matters relating to cooperative organizations and U.S. possessions. He is the author of the three-volume treatise *Taxation of Passive Activities*, as well as numerous articles on topics in taxation law.

Neil is the chair of Lane Powell's Mentoring Committee.

Admitted to Practice

Oregon
U.S. Tax Court
U.S. Court of Federal Claims
U.S. Supreme Court
U.S. Courts of Appeals for the Second, Fifth, Ninth and Federal Circuits

Academics

Harvard Law School (J.D., *cum laude*, 1979)
Vassar College (A.B., with honors, Political Science, Phi Beta Kappa, 1976)

Practice Group and Specialty Team Memberships

Member, Lane Powell Board of Directors
Chair, Taxation Practice Group
Chair, Mentoring Committee
Business
Cooperative Law
Diversity Committee
Native American Affairs
New Markets Tax Credits
Public/Private Partnerships
Real Estate
Renewable Energy
Sustainability and Climate Change

Representative Matters and Clients

- Metro One Telecommunications, Inc. v. Commissioner*, 135 T.C. 573 (2010), on appeal to the Ninth Circuit (No. 11-70819) (statutory construction involving alternative minimum tax temporary relief rule)
- Hutchinson, et al. v. Commissioner*, 116 T.C. 172 (2001) (represented developers of residential golf community; tax issues related to equitable allocation of acquisition and development costs)
- Abbott, et al. v. United States*, 76 F. Supp. 2d 236 (N.D.N.Y. 1999), *aff'd*, 231 F.3d 889, (2d Cir. 2000), *cert. denied*, 121 S. Ct. 1484 (2001) (represented 3,500 ex-IBM employees in consolidated refund actions; tax issues related to income and FICA tax treatment of payments made to departing employees to avoid potential lawsuits)
- Abrahamsen, et al. v. United States*, 44 Fed. Cl. 260 (1999), *aff'd*, 228 F.3d 1360 (Fed. Cir. 2000), *cert. denied*, 121 S. Ct. 1484 (2001) (companion case to *Abbott*)
- ASARCO, Inc. v. United States*, 96-2 USTC ¶50457 (S.D.N.Y. 1996), *aff'd*, 111 F.3d 10 (2d Cir. 1997) (tax refund action related to application of tax benefit rule to former corporate add-on minimum tax)
- Abramson Enterprises, Inc. v. Virgin Islands Bureau of Internal Revenue*, 994 F.3d 140 (3d Cir. 1993), *cert. denied*, 114 S. Ct. 441 (represented the Government of the Virgin Islands in opposing cert petition; tax issue related to application of the “mirror system” of taxation in the U.S. Virgin Islands)
- Bizcap, Inc. v. Olive*, 892 F.2d 1163 (3d Cir. 1989), *cert. denied*, 110 S. Ct. 2587 (1990) (represented the Government of the Virgin Islands in opposing cert petition; tax issue related to application of a targeted transitional rule in the Tax Reform Act of 1986)

2

Publications

- “Managing the Exit Tax Burden of the QALICB - Part Two of Two Parts,” *Novogradac Journal of Tax Credits* (May 2011)
- “Managing the Exit Tax Burden of the QALICB - Part One of Two Parts,” *Novogradac Journal of Tax Credits* (April 2011)
- “Grants in Lieu of Tax Credits Under the Recovery Act—A Square Peg in a Round Hole,” *Journal of Taxation* (January 2010)
- “Hit the Road, Jack - And Don't You Pay [Oregon] Tax No More?” Volume 12/Number 2, *Oregon State Bar Taxation Section Newsletter*, Co-author (Summer 2009)
- “The Oregon Business Energy Tax Credit,” *Oregon State Bar Taxation Section Newsletter* (Spring 2008)
- “New rules put pressure on private companies,” *Portland Business Journal*, Co-author (May 16, 2008)
- “Written Federal Tax Advice - Regulation and Risks,” Oregon/Washington Tax Institute (2008)
- “Oregon Credits - Contributions To a Trust for Cultural Development,” *Oregon State Bar Taxation Section Newsletter*, Co-author (2007)
- “Textron, the Work Product Doctrine, and the Impact of FIN 48,” *Tax Notes* (November 26, 2007)
- “FIN 48: Measuring Tax Benefits in The Real World,” *Tax Notes* (October 30, 2006)

-
- “Accounting for Uncertainty in Income Taxes -- The Effect of FASB Interpretation No. 48,” *The Tax Executive* (July-August 2006)
- “Critical Planning Points in Real Estate Partnerships and Joint Ventures,” *BUILDERnews* magazine, (2005)
- “The Devil is in the Details - New Tax Deduction for Construction Businesses,” *BUILDERnews* magazine (2005)
- “Federal Income Taxation - Selected Recent Developments,” 5th Annual Oregon Tax Institute (2005)
- “Tax Treatment of Employment-Related Damages, Settlement Agreements, and Early Retirement Incentive Payments,” *55 N.Y.U. Inst. on Fed. Tax. 20-1* (1997)
- “Recent Developments in the Income Tax Treatment of Employment-Related Damages,” *54 N.Y.U. Inst. on Fed. Tax. 35-1* (1996)
- Taxation of Passive Activities*, Prentice Hall Law & Business (1989 Supp. 1995)
- “Corporate Alternative Minimum Tax,” *52 N.Y.U. Inst. on Fed. Tax. 4-1* (1994)
- “Application of the New Section 469 Regulations in a Real Estate Development Scenario,” *48 N.Y.U. Inst. on Fed. Tax. 4-1* (1990)

Speaking Engagements

- “Partnership Tax Issues in Real Estate Joint Ventures,” Oregon State Bar’s Mid-Valley Tax Forum Luncheon (May 15, 2012)
- “Understanding Tax Consequences of the NMTC Put Option,” New Markets Tax Credit Conference (January 26-27, 2012)
- “Codification of the Economic Substance Doctrine — The Impact on Tax Practice,” Oregon State Bar Association’s 11th Annual Oregon Tax Institute (June 2, 2011)
- “Policy and Incentive Updates,” The Seminar Group’s Third Annual Solar Power Projects and Permitting Conference (February 2, 2011)
- “Reporting Considerations for Troubled Debt,” Novogradac & Company’s New Markets Tax Credit Conference, Panelist (January 27, 2011)
- “Maximizing the Bottom Line: Working Through the Partnership Tax Issues,” Seminars International Workshop, Real Estate Joint Ventures, Current Challenges, Strategies and Opportunities (November 3, 2010)
- “Combining the Subsidies - Twinning PTC, ITC or Treasury Grants with New Markets Tax Credits,” Novogradac’s Financing Renewable Energy Conference, Panelist (April 30, 2010)
- “Energy Project Financing Fundamentals,” Northwest Environmental Business Council’s Future Energy Conference, Panelist (April 21, 2010)
- “Federal Incentives: Tax Credits, Depreciation and ARRA Funds,” The Seminar Group’s Solar Power Conference (March 25, 2010)
- “Back-End Structuring of New Markets Tax Credit Transactions,” Novogradac & Company’s Pre-Conference Workshop: NMTC Basics (January 2010)

-
- “Return Preparer Penalties and Circular 230 - Selected Topics for Tax Advisors,” Oregon State Bar Tax Section luncheon program (November 12, 2009)
- “Treasury Guidance for Cash Grants in Lieu of Tax Credits Under Section 1603 of the American Recovery and Reinvestment Act of 2009,” Strafford Teleconference/Webinar on “Renewable Energy Projects: New Treasury Guidance for Grants in Lieu of Tax Credits, Leveraging the New Option for Financing Renewable Energy Projects” (September 2009)
- “From Credits to Cash: Selling NMTCs, HRTC’s, and RETC’s in Today’s Market,” Novogradac & Company’s “Tax Credit Immersion 2009: Innovations in Energy, New Markets, and Historic Development” Conference (April 2009)
- “Combining State and Federal Tax Subsidies - Avoiding Tax Surprises,” Lane Powell’s “Spending the Stimulus: Federal Guidelines and Accountability” Conference (March 2009)
- “Rebates, RETC’s, State Tax Credits & More,” Novogradac & Company’s Financing Renewable Energy Conference (November 2008)
- “Written Federal Tax Advice - Regulation and Risks,” Oregon/Washington Tax Institute (May 2008)
- “Monetizing Tax Credits,” OLI Conference - Going Green: Advising Clients in the New World of Sustainability (April 2008)
- “Making Sense of FIN 48,” Oregon Society of CPAs Accounting & Auditing Conference (June 2007)
- “Reading Partnership and LLC Agreements,” Oregon Society of CPAs Real Estate Conference (June 2007)
- “FIN 48 Reality Check: Compliance in the Real World,” Lane Powell/KPMG Conference (December 2006)
- “New Markets Tax Credits Basics,” Novogradac New Markets Tax Credit Investors Conference (October 2006)
- “FIN 48 Compliance: Are you Ready? New Accounting Methods For Uncertain Income Tax Positions,” Strafford Tax CPE Briefings (September 2006)
- “Federal Income Taxation - Selected Recent Developments,” Oregon Tax Institute (May 2005)
- “Tax Treatment of Employment-Related Damages, Settlement Agreements, and Early Retirement Incentive Payments,” NYU Institute on Federal Taxation (1997)
- “Recent Developments in the Income Tax Treatment of Employment-Related Damages,” NYU Institute on Federal Taxation (1996)
- “Corporate Alternative Minimum Tax,” NYU Institute on Federal Taxation (1994)
- “Application of the New Section 469 Regulations in a Real Estate Development Scenario,” NYU Institute on Federal Taxation (1990)

Awards and Honors

- Named as an “Oregon Super Lawyer,” *Super Lawyers* magazine, Tax (2006-2011)
- Named as one of *The Best Lawyers in America*®, Tax Litigation & Controversy, Tax (2006-2012)
- Peer Review Rated “AV” in Martindale-Hubbell

Professional and Community Activities

Chair, Taxation Section of the Oregon State Bar (2012)

Member, Multnomah Bar Association

Member, Business & Finance Committee, Oregon Business Association

Member, Education Committee, Oregon Business Association (Chair, 2009-2010)

Secretary and Board Member, Old Library Studio (2005-2009)

Board Member, Irvington Community Association (2001-2004)

Co-president, Irvington Elementary School PTA (2001-2002)