

NTA NETWORK

AUGUST 2006

PRESIDENT'S MESSAGE

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NTA BOARD OF
DIRECTORS**

This issue of the *NTA Network* arrives just in time to remind all of us about the exciting lineup of fall events sponsored by the National Tax Association.

Coming up next month in D.C. is the special NTA conference—co-sponsored by the Office of Tax Policy Research, with funding provided by Tax Analysts—that has the snappy title of “The 5 Key Perspectives You Can Learn from Other Professions and Disciplines about Tax Policy.” It will feature an interactive panel format designed to provide useful and digestible information and perspectives from people in a variety of tax-related positions.

The agenda has now been set, and is included in this issue of the *NTA Network*. The panelists include leading academics and practitioners from accounting, economics, and law, tax administrators on the federal and state levels, plus tax directors of leading corporations and economics journalists from major and influential media organizations such as *Business Week*, *The Wall Street Journal*, *The Economist*, and *State Tax Notes*. The “5 Keys” conference will convene on September 29 at the Holiday Inn Capitol. There is some serious buzz about this event, and the space is filling up fast, so now is a good time to register for the fun at the NTA Web site at www.ntanet.org.

Then, in November, we will meet in Boston for our 99th Annual Conference. Bill Gentry and George Plesko are now putting the finishing touches on a terrific program that includes sessions on the practice and theory of taxation and public finance at all levels, featuring the leading thinkers and doers from academia, government, and the private sector. The student sessions that were such a hit last year in Miami will be back, this year organized by Donald Bruce. And, to top it off, Bill and George have arranged for an absolutely outstanding pair of luncheon speakers — Michael Dukakis and Jeanne

Shaheen — plus they have persuaded Larry Summers to join us as a featured speaker at the general session on the first day. More details will come your way soon, but please make sure the dates of November 16 through 18 are reserved for the NTA on your calendar.

This issue of the *NTA Network* has lots of goodies. Page down for a nice piece about Seymour Fiekowsky, the 2006 recipient of NTA's Davie-Davis Public Service Award. There is a thought-provoking article by Steven Maguire on the federal estate tax and small business, an issue that has managed to stay on the front burner of the Washington legislative calendar for quite a while, and will probably stay there for a good while longer.

And, of course, there's our usual features of “members on the move,” a summary of recent writings in tax policy, and announcements of professional interest, including job postings and calls for papers that have been sent to us by various groups.

Last, but by no means least, this issue of the *NTA Network* has actual digital pictures taken at last May's Spring Symposium. In case you were wondering about the photogeneity (not to be confused with endogeneity!) of our Davie-Davis award winner Sy Fiekowsky, our luncheon speaker and current CEA chair Edward Lazear, or even your current president, take a look.

I look forward to seeing many of you in D.C. this September and in Boston in November.

Joel Slemrod

Special NTA September Conference: 5 Key Perspectives You Can Learn from Other Professions and Disciplines about Tax Policy

In keeping with NTA's recent focus on enhancing the benefits of NTA membership, on September 29, 2006 the National Tax Association, in partnership with the Office of Tax Policy Research at the University of Michigan and with funding provided by Tax Analysts, is sponsoring a one-day conference at the Holiday Inn Capitol in Washington, D.C. The topic of the conference is "5 Key Perspectives You Can Learn from Other Professions and Disciplines about Tax Policy." Representatives of several different disciplines and professions will highlight the five key perspectives others should know from their discipline or profession – and what they could do differently in their area as a result.

This conference is an opportunity to absorb some important insights about the various disciplines and professions that comprise the tax community. The conference will provide meaningful discussion about teaming across disciplines and professions to more effectively achieve common tax policy and tax administration goals. Plus, we think it will be a unique and fun interchange among colleagues. The registration fee for NTA members is \$15, which will help defray the cost of the continental breakfast, breaks, and lunch. For those coming from out of town, a group of rooms has been reserved at the Holiday Inn Capitol. Visit the NTA Web site for a registration form at <http://www.ntanet.org/>. A copy of the conference Agenda is listed below. The first session begins at 8:45 a.m.

AGENDA

Five Key Things Non-Lawyers Should Know about Tax Law and Its Policy Implications (and what non-lawyers could do differently as a result)

Moderator: Len Burman (Urban Institute)
Panelists: Pam Olson (Skadden Arps)
Wally Hellerstein (University of Georgia)
George Yin (University of Virginia)

Five Key Things Non-Economists Should Know about Tax Economics and Its Policy Implications (and what non-economists could do differently as a result)

Moderator: Ken Gideon (Skadden Arps)
Panelists: Tom Barthold (Joint Committee on Taxation)
William Fox (University of Tennessee)

Five Key Things Non-Accountants Should Know about Tax Accounting and Its Policy Implications (and what non-accountants could do differently as a result)

Moderator: Laura Kalambokidis (University of Minnesota)
Panelists: Lillian Mills (University of Texas)
Chris Ohmes (Ernst & Young)
Douglas Shackelford (University of North Carolina)

Five Key Things Non-Tax-Administrators Should Know about Tax Administration and Its Policy Implications (and what non-tax-administrators could do differently as a result)

Moderator: Matthew Murray (University of Tennessee)
Panelists: Mary Jane Egr Edson (State of Nebraska)
Michael Keen (International Monetary Fund)
Don Korb (Internal Revenue Service)

Five Key Things That U.S. Tax Policy Analysts Should Know about Business Perspectives on Tax Issues and Its Policy Implications (and what non-business tax policy analysts could do differently as a result)

Moderator: Howard Gleckman (*Business Week*)
Panelists: Annabelle Canning (Verizon Wireless)
Dan Kostenbauder (Hewlett-Packard)
Timothy McCormally (Tax Executives Institute)

Five Key Things Non-Journalists Should Know about Media and Its Policy Implications (and what non-journalists could do differently as a result)

Moderator: Joel Slemrod (University of Michigan)
Panelists: Zanny Minton-Beddoes (*The Economist*)
Doug Sheppard (*State Tax Notes*)
David Wessel (*Wall Street Journal*)

The conference will conclude at 4:15 p.m. with a brief capstone session, and end at 4:30 p.m.

Congratulations to Seymour Fiekowsky, Winner of the 2006 Davie-Davis Award

Before retiring in 1991, Sy served for 24 years in the Office of Tax Analysis. Upon his retirement he was Assistant Director for Business Taxation.

Sy is a leading expert in business taxation. He

- provided the links between depreciation policy and amortization policy that were crucial in developing Treasury's 1984 tax reform proposals;
- coordinated a multiagency project team that revamped the treatment of tax expenditures in the federal budget;
- was instrumental in the development of enterprise zones in the Reagan Administration;
- developed new analyses of issues relating to the time value of money, and was an early proponent of applying economics to the analysis of tax accounting issues;
- was a nationally recognized expert on issues of normalization with respect to income accounting by utilities.

Sy was the recipient of two Meritorious Service Awards while at Treasury.

This is the official side of Sy. Sy also has a distinctive personality and was something of a character in OTA.

An audience with Sy was a memorable, as well as an edifying, experience. Sy was an enthusiastic pipe smoker. As a result, he had constant tobacco-related computer problems and was even known, on infrequent occasions, to have minor problems with unintended conflagrations. With Sy you never knew whether you would be exposed to a fiery intellect, or just a fire.

Sy had an idiosyncratic filing system that relied not on a prosaic alphanumeric ordering of items stored in conventional file cabinets, but rather on mnemonic cues such as the color of the paper, the number of rubber bands around a document, and the type of office furniture that was adorned by the document. Sy's system might be thought of as a perfect melding of form and function, as his entire office became a literal repository of tax policy knowledge. What's more, however mysterious it seemed to outside eyes, Sy's filing system worked, as he was consistently able to snatch obscure documents from apparently even more obscure locations whenever they were needed.

Sy had a uniquely loquacious way of writing and speaking. In Sy's view, *War and Peace* is little more than a short

story. But Sy's "little" memos were well worth the read, and, of course, were very helpful in stimulating the U.S. timber industry.

While Sy could be intimidating, he also was kind to and tolerant of those of us who lacked his keen insight into business tax issues and was generous in giving us his time. I recall fondly many hours talking with Sy about capital gains, the cost of capital, the meaning of income, and the mysteries of excise tax offsets. These talks were often the highlight of my day. Although Sy retired 15 years ago, I still miss talking with him.

Sy's influence on tax policy has been deep and lasting. He has influenced legislation, regulations, and the received wisdom that informs tax analysis. The crowd at his retirement party was a virtual Who's Who of the Washington tax policy community, and perhaps gives some indication of the esteem in which Sy was held in the upper echelons of the tax policy world. At a more mundane level, I note in closing that I am not alone among my Treasury colleagues in beginning an analysis of a tax problem by asking, "What would Sy have thought?"

James Mackie



Joel Slemrod, NTA President, and Sy Fiekowsky,
the 2006 Davie-Davis Award Recipient.

Recent Writings in Tax Policy

Articles noted in this section are generally limited to those released since the last newsletter issue. The somewhat eclectic nature of the following group has the broad theme of articles that focus on the modeling or measurement of tax policy behavioral responses.

If you or your organization has a recent publication (on any tax-related topic) that you would like to share with the NTA membership, please send the cite and/or link to NATLTAX@aol.com or Pamela.Moomau@mail.house.gov.

<http://www.federalreserve.gov/pubs/feds/2006/200619/200619abs.html>

Darrel Cohen and Jason Cummins, *A Retrospective Evaluation of the Effects of Temporary Partial Expensing*

<http://www.federalreserve.gov/pubs/feds/2006/200606/200606abs.html>

Byron F. Lutz, *Taxation with Representation: Intergovernmental Grants in a Plebiscite Democracy*

<http://www.treasury.gov/offices/tax-policy/> (click on first link)

Office of Tax Analysis, U.S. Department of the Treasury, *Treasury Report on Dynamic Analysis of Permanent Tax Relief*, July 25, 2006

<http://www.house.gov/jct/x-19-06.pdf>

Staff of the Joint Committee on Taxation, *Exploring Issues in the Development of Macroeconomic Models for Use in Tax Policy Analysis*, June 16, 2006

<http://www.taxpolicycenter.org/publications/template.cfm?PubID=1000944>

C. Eugene Steuerle, *Do Incentives Affect Behavior? Would an Economist Know?* April 3, 2006

<http://www.nber.org/papers/w12342>

Zhonglan Dai, Edward Maydew, Douglas A. Shackelford, Harold H. Zhang, *Capital Gains Taxes and Asset Prices, Capitalization or Lock-In?*, NBER Working Paper No. 12342, June 2006

Pam Moomau

Minimizing the Impact of the Estate Tax on the Family Business

The modern estate tax was born 90 years ago. In that year, 1916, Congress imposed the estate tax to help finance the anticipated costs of World War I. At that time, the federal government was financed primarily with indirect consumption taxes such as excise taxes and tariffs. The burden of these taxes does not vary directly with income, leading Congress to conclude that:

No civilized nation collects so large a part of its revenue through consumption taxes as the United States, and it is conceded by all that such taxes bear most heavily upon those least able to pay them. (U.S. Congress, H. Rept. No. 922, July 5, 1916, p. 3.)

Faced with the need to raise revenue, Congress sought to find the revenue stream that would not only raise needed revenue, but also create a more equitable tax regime. The inequitable distribution of federal tax burden was seen as a primary reason for imposing a progressive estate tax (and income tax) rather than increase regressive tariffs or excise taxes.

Under the initial estate tax in 1916, the exemption was set at \$50,000 (equivalent to \$930,730 in 2006) and the tax rates ranged from 1 percent on net estates (i.e., after the exemption and "valid claims against the estate") valued at less than \$50,000 to 5 percent for net estates valued over \$450,000. The relatively high exemption, excluding all but the wealthiest decedents, achieved the redistributive objective Congress intended. Since then, however, the estate tax has changed significantly as has the revenue structure of the United States. Today, the federal government is financed primarily by income taxes (and debt) and federal consumption taxes comprise a relatively small share of federal receipts. The estate tax has been modified significantly since its inception including a significant increase in the tax rate. Note the personal income tax rates have also increased significantly since 1916 when they ranged from 2 percent to 15 percent.

Opposition to the federal estate tax became vocal enough in the late 1990s and early 2000s to compel Congress to act. In 2001 Congress enacted (and the President signed into law) the first of several tax cuts which included the gradual phase out of the estate tax. Under the Economic Growth Tax Relief Reconciliation Act of 2001 (EGTRRA), after a gradual increase in the exemption amount to \$3.5 million in 2009 and reduction in rates to 45 percent, the estate tax is scheduled to be repealed in 2010.

The 2001 EGTRRA tax provisions sunset, however, so that absent a change making them permanent the estate tax will revert in 2011 to prior pre-2001 law. Proposals to make the repeal permanent, or to significantly increase the exemptions and lower the rate, are under consideration.

One of the central themes in the debate surrounding the estate tax is the tax's effect on family businesses. This burden arises because much of the estate value in family businesses is held in illiquid assets, e.g., land, buildings, and equipment. In some extreme cases, the estate tax may even force the liquidation of family businesses. Even though the previous analysis concluded that very few family businesses would encounter this situation, addressing this concern seem reasonable. Following is a solution targeted on the liquidity problem without generating as large a revenue loss of less targeted approaches.

Evidence suggests, however, that only a small fraction of estates with small or family business interests have paid the estate tax (about 3.5 percent for businesses in general, and 5 percent for farmers, compared to 2 percent for all estates). Recent estimates suggest that only a tiny fraction of family-owned businesses (less than half of 1 percent) are subject to the estate tax, but do not have readily available resources to pay the tax. (Jane G. Gravelle and Steven Maguire, *Estate Taxes and Family Businesses: Economic Issues*, updated June 23, 2006, Congressional Research Service Order Code RL33070.)

Thus, while the estate tax may be a burden on those families, the problem is confined to a small group. Nonetheless, if the estate tax does continue, modifications will likely include special provisions to help reduce the burden on family businesses. Optimally, the estate tax should not force a family business (or farm) to liquidate business assets that generate income, particularly if the business is to continue in the family after the original owner dies.

This option establishes a business exemption based on the availability of nonbusiness assets to pay the tax. In this case, the business exemption would be a function of both the size of the estate and the share of the estate that is held in business assets. One approach would be to limit the business exemption so that the tax is no more than the liquidated value of the nonbusiness assets. The reasoning behind this policy objective is readily apparent. In this scenario, the tax on the entire estate should match the value (at most) of nonbusiness assets. This approach is illustrated below using a simplified example with a flat rate estate tax rate.

For example, consider an estate where the total value of all assets in the estate is \$10 million, the regular exemption is one million dollars, and assume the tax rate is a flat 55 percent (a simplified version of the pre-2001 tax law rules).

Further assume that three-quarters of the value is held in business assets. If all business assets were exempted, there would be an exemption of \$8.5 million (\$7.5 million business assets and an additional one million dollars regular exemption) and the tax due would be \$825,000. Suppose instead that an exemption is set precisely so that the tax equals the liquidated value of all nonbusiness assets (or \$2.5 million). This outcome requires a total exemption of \$5,454,545 (\$2.5 million divided by the tax rate of 55 percent plus the \$1 million regular exemption). Or, stated differently, the tax on what is left in the estate after the business exemption and the regular exemption amount must generate \$2.5 million in taxes at the 55 percent rate.

The estate tax is .55 times (\$10,000,000 – \$1,000,000 – \$4,454,545), or \$2.5 million, which is exactly the value of nonbusiness assets. In this case, the effective tax rate is 25 percent (\$2.5 million divided by \$10 million). No business faces a liquidity problem, there is no cliff, and the revenue cost of the exemption is less than what would be the case if all business assets were exempt from the estate tax.

In contrast, if exemptions are allowed for all estates, the revenue loss is larger than necessary to target the liquidity issue. If estates are excluded based on a fixed share of business assets (a "cliff" at 50 percent of total asset value in business assets for example), as in the now expired qualified family-owned business interest deduction (QFOBI), the rules create very powerful incentives to shift assets to business uses to meet the qualification threshold. Under QFOBI, an estate could deduct up to an additional \$675,000 of qualified business interests. This effect will become more powerful if the exemption is unlimited. If the rules precisely target the business assets to deal with the liquidity issue, as described in the previous example, there is also an incentive to shift assets into business uses. In the example provided above, there is an implicit 100 percent tax on nonbusiness assets, which also creates a powerful incentive to shift assets into the business — not as powerful as a cliff effect, but more powerful than a simple exemption.

For that reason policy makers could opt to modify the formula such that the tax does not consume the entire value of the nonbusiness assets. For example, if increases in the exemption amount above the standard were equal to only a portion of nonliquid business assets valued above that amount, every dollar shifted into a business asset would decrease tax liability by less than a dollar, and the incentive effect to reclassify assets would be muted.

Steven Maguire

Ed. Note: Response articles for the next issue of the *NTA Network* are invited. Please send to Pamela.Moomau@mail.house.gov

Announcements

NTA's 99th Annual Conference on Taxation to Be Held in Boston: November 16-18, 2006

The 99th Annual Conference of the NTA will be held in Boston on November 16-18, 2006. The conference promises to have many interesting sessions on timeless topics and current events, including sessions on the implications of disasters for public finance and the impacts of recent Supreme Court decisions affecting state tax incentives. We are thrilled to have two former state governors, the Honorable Michael Dukakis and Jeanne Shaheen as our luncheon speakers on Thursday and Friday, respectively. We look forward to them sharing their expertise with us. This year's conference will emphasize a multidisciplinary approach to public economics, so there will be sessions of interest to a wide audience. We will continue the traditions started last year of including a session dedicated to teaching (focusing on internationalizing the public finance curriculum) and a session dedicated to new research from graduate students (along with a graduate student research forum on the late afternoon on Friday). Registration details will be available shortly, but mark your calendars now for what we expect will be a top-notch conference.

Watch for more details in coming emails, and visit the NTA Web site (<http://www.ntanet.org/>).

Bill Gentry and George Plesko

New Corporate Tax Data Tool Being Piloted by IRS Statistics of Income

For the next two months, Statistics of Income will be testing the prototype SOI Table Wizard. This tool will allow users to create their own custom tables from SOI tabulated data. This prototype uses data from the 1999 and 2000 Corporation Source Books but, if adopted, data from other forms may be added. In addition, the prototype features redesigned navigation for presenting published Corporation Source Book tables and examples of metadata that can be used to better understand the information presented in the tables.

Even if you are not a corporate data user, please give this new application a try at: <http://soitablewizard.altaplana.com>. Afterwards, please provide feedback to us by taking the survey available on the prototype site or by contacting us through the Tax Stats pages on irs.gov: <http://www.irs.gov/taxstats/page/0..id=16804,00.html>. Your feedback will help determine whether or not this technology is permanently adopted on Tax Stats.

Barry W. Johnson



CEA Chair Edward Lazear at the 2006 Spring Symposium



Lillian Mills at the 2006 Spring Symposium

JOB OPENINGS

Fiscal and Policy Analyst, the nonpartisan California Legislative Analyst Office (LAO) has a position available for a Fiscal and Policy Analyst, specializing in taxation policies and programs. Responsibilities include analyzing tax-related legislation, conducting studies on the impacts of tax policies, reviewing and making recommendations regarding the budget and operations of California's tax agencies, and forecasting tax revenues. Minimum educational background is a Master's Degree in Economics or related area. For additional information regarding the position and the LAO, please visit the LAO's Web site at http://www.laoca.gov/LAOMenus/lao_employment.aspx

Tax Director, Lam Research in Fremont, California invites candidates to apply for our Tax Director position (job id #1621). The candidate's responsibilities will include the development and management of corporate strategic tax vision objectives; development of corporate and management of corporate strategic tax vision objectives; tax planning ensuring timely tax compliance filings execution of tax strategies; development and implementation of systems to compile information for various federal, state, and local reports; minimizing corporate tax through use of tax laws and regulations, organization's compliance with all international, federal, state, local, and applicable foreign tax laws and regulations; and tax research programs to ascertain the minimum tax liability for the organization. Accounting and CPA education is required. Qualifications also include external reporting tax knowledge and experience, internal audit experience, and at least 15 years experience working with and supervising staff in a Big 4 accounting firm of a large multinational company. Experience with FAS 109 required. Please send resumes directly to kelly.orasin@lamrc.com; www.lamrc.com

Sr. Tax Director, Cadbury Schweppes

Full responsibility for assemblage of information, preparation, filing and audit defense of all of the North American Tax returns including Sales and Use, Canadian GST & QST, franchise and property taxes for multiple filing entities and states. Full responsibility for bottle deposit filings

Accounting - Support the CS Tax Department on Tax Audits. General ledger review and reconciliation. Ensure VAT properly captured and reclaimed, managing the outsource VAT reclaim service provider.

Business Decision Support - Identify, recommend, and implement improvements to tax return preparation processes. Identify and recommend improvements to BU and SBS practices to mitigate the risk of tax exposures. Support and advise BU's and corporate functions in relation to transaction taxes. Collection and retention of customer exemption documents. Maintain tax preparation software and upgrades, including evaluation and acquisition of additional tax preparation software.

Reporting - Supervise the timely preparation and filing of all North America transaction tax returns, including sales and use, Canadian GST & QST, franchise and property for multiple filing entities and states. Maintain knowledge of filing requirements and tax law changes, applying that knowledge to ensure returns are in compliance with current laws. Track and report the team's

performance against Service Level Agreements and key performance indicators.

People Development - Manage, develop and reward employees .

Prerequisites

- 5-10 years of progressive experience in the field of transaction tax return preparation, filing and audits.
- Multi-state experience.
- Detailed knowledge of complex sales and use tax laws as they apply to FMCG companies.
- Strong computer skills including Excel, tax software, SAP knowledge desirable, Vertex (a plus).
- Customer service orientation.

For further information, contact Stephanie Harrison, Human Resource Manager at 972-673-7086; stephanie.harrison@cs-americas.com

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Director of Taxes for North America. With present sales in excess of \$35 billion, this household name, #1 global market share company fully expects to continue with their solid global growth program over the next ten years. Reporting to the VP of Global Tax Operations, we are seeking a tax leader with a strong tax/accounting background, positive interpersonal skills, the ability to lead change and the ability to build a truly unique shared service tax group for North America. We are seeking a strong tax leader and thinker who will welcome the opportunity to compete for expanded responsibilities in the future but will be an integral part of the top corporate tax and financial team today. This is a new position charged with building and leading a unique and different tax group.

A prime candidate will be personable, technically strong in tax and accounting, innovative, energetic and aggressive without being arrogant. This individual should be conceptual, creative and thorough in leading the direct reports and their staffs. This individual will be tax, accounting and financially savvy with solid leadership and management skills. The emphasis in this search is on leadership/interpersonal skills, creativity and bottom line results produced in the right way. If you think of someone who might like to know about this challenging opportunity or whom you might like to help, please take a minute to e-mail, fax or call me. If you respond by e-mail please put your name and the letters DSC in the subject section of the e-mail (ex= Jane or John Doe-DSM).

WELCOME NEW MEMBERS — SUMMER 2006

Amy Ackerman, Deloitte & Touche, Washington, DC
Ronda Borowski, Wisconsin Department of Revenue, Waukesha, WI
Michael Brunetti, ERS Group, San Francisco, CA
Cathy Daley, State Tax Notes, Falls Church, VA
Kate Harper, US Government Accountability Office, Washington, DC
Hiroo Harada, Senshu University, Kanagawa-ken, Japan
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Stephanie Puglia, House Appropriations Committee, Harrisburg, PA
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Juan Carlos Venegas, JC Bookkeeping Services, Belfast, United Kingdom
Richard Wang, Ernst & Young LLP, Washington, DC
Xiaoli Yuan, Florida International University, Miami, FL

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John Anderson from Council of Economic Advisers to University of Nebraska, Lincoln, NE
Deborah Carroll from University of Tennessee to the University of Georgia School of Public and International Affairs, Athens, GA
Kimberly Clausing from Reed College to Wellesley College, Wellesley, MA
Diana Falsetta from Northeastern University to the School of Business Administration, University of Miami
Brian Hill from the University of Tennessee to Salisbury State University, Salisbury, MD
Martha Jones from California Research Bureau to the Division of Workers' Compensation, California Department of Industrial Relations, Oakland, CA
Lillian Mills from University of Arizona to McCombs School of Business, University of Texas at Austin
Charles Pier, from Appalachian State University to Texas State University, San Marcus, TX
Jonathan Rork from Vassar College to Andrew Young School of Policy Studies, Georgia State University

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