

The National Conference of CPA Practitioners

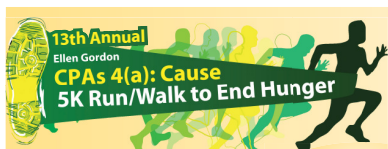
Nassau/Suffolk Chapter

Volume 11, Issue 2

June 2014

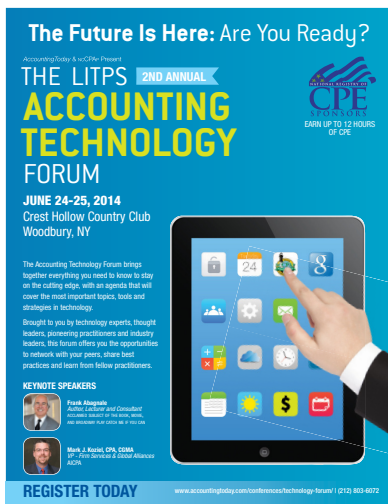
New Layout

Our future Chapter newsletters will be combined with the Journal of CPA Practitioners



Ellen Gordon Run See Flyer on Page 7

<http://www.active.com/east-meadow-ny/running/races/ellen-gordon-cpas-4-a-cause-5k-run-walk-to-end-hunger-to-benefit-island-harvest-2014?int=>



The LITPS ACCOUNTING TECHNOLOGY FORUM

JUNE 24-25, 2014

Crest Hollow Country Club - Woodbury NY

<http://www.accountingtoday.com/conferences/technology-forum/>

Date Thursday, June 12, 2014 - Chapter Meeting
Topic VOLUNTARY DISCLOSURE - WORKSHOP ON OFFER AND COMPRISE - WHAT YOU NEED TO KNOW ABOUT FBARS

Speaker Karen Tenenbaum & Yvonne Cort of Tenenbaum Law, P.C. and Panel

Credits 2 CPE/Tax

Location The Woodlands @ Woodbury
1 South Woods Road, Woodbury NY 11797

Time Registration/Dinner/Networking: 5:30 - 6:30 PM;
Program: 6:30 - 8:30:00 PM

Cost Members On or before Friday, June 6 - \$55.

After Friday, June 6 - \$70.

Non-Members On or before Friday, June 6 - \$70.

After Friday, June 6 - \$80.



Date Thursday, June 19, 2014 - A&A
Topic ACCOUNTING & AUDIT UPDATE (2 HOURS)

Speaker KEITH A. SOLOMON, CPA, PARTNER & ALEXANDER K. BUCHHOLZ, CPA, MBA, AUDIT MANAGER OF O'CONNOR DAVIES, LLP

Topic COMMON WORK PAPER FINDINGS AND BETTER BUSINESS PRACTICES (1 HOUR)

Speaker RONALD F. DESOIZA, CPA, PARTNER OF O'CONNOR DAVIES, LLP

Topic INFORMATION TECHNOLOGY (IT) UPDATE (1 HOUR)

Speaker THOMAS J. DEMAYO, CISSP, CIPP/US CPT CEH MCSE, DIRECTOR, IT AUDIT AND CONSULTING OF O'CONNOR DAVIES, LLP

Credits 4 CPE/Accounting and Auditing

Location New York Life Headquarters (NYL)
576 Broad Hollow Road (Route 110),
Melville, NY 11747

Time Registration: 7:45 AM; Program: 8:00 AM - 12 NOON

Cost Members On or before Friday, June 13 - \$110.

After Friday, June 13 - \$135.

Non-Members On or before Friday, June 13 - \$135.

After Friday, June 13 - \$160.

At The Door ALL \$185



Date Friday, June 27, 2014 - MAP
Topic TIME MANAGEMENT

Moderators Robert Brown, CPA of Robert Brown, CPA
Leilani Elias, CPA of Wild, Maney & Resnick, LLP
Speaker Jerry Siegel of JASB Management

Credits 2 CPE/MAP/Advisory Services

Location The Woodlands @ Woodbury
1 South Woods Road, Woodbury NY 11797

Time Registration: 7:45 AM; Program: 8:00 - 10:00 AM

Cost Members On or before Friday, June 20 - \$30.

After Friday, June 20 - \$40.

Non-Members On or before Friday, June 20 - \$30.

After Friday, June 20 - \$40.



To register for any of our meetings, please visit

go.nccpap.org



CHAPTER PRESIDENT'S MESSAGES

I just attended a MAP meeting on use of the cloud, social media and security for our files and emails. It was moderated by Bob Torella and Armando D'Accordo. There was great give and take among our speakers and attendees. It was another learning experience in our ever changing profession.

Our next Chapter meeting on June 12th is very timely: "Voluntary Disclosure - Workshop on Offer and Comprise - What You Need to Know about FBARs". The new FinCen Form 114 which replaces Form TDF 90-22.1 is due on June 30th and is now electronic. **New form, new method of filing.**

A reminder for those of you who have signed up for our A&A series. The next ½ day session is **at New York Life on June 19th**. Those who haven't signed up for the series can register for individual meetings.

Time management is the theme of our next MAP meeting on June 27th. Our speaker, Jerry Siegel of JASB Management will discuss **"Time is a limited resource and cannot be managed."** **How can we alter behavior and eliminate tasks in order to use time more effectively.** With the time pressures we all have, this promises to be very helpful for the running of our practices.

Don't forget to join us at Eisenhower Park on June 14th for the 13th Annual "Ellen Gordon CPAs 4(a) Cause 5K Run/Walk to End Hunger" for the benefit of Island Harvest. The money raised helps buy food for our neighbors here on Long Island. The event was named in memory of Ellen Gordon, the wife of long time NCCPAP member David Gordon. The event is always fun. You don't have to walk or run. You could just schmooze with your friends and colleagues. It's only \$20 to register on-line. Have an outing with members of your firm. The direct link to register is:

<http://www.active.com/east-meadow-ny/running/races/ellen-gordon-cpas-4-a-cause-5k-run-walk-to-end-hunger-to-benefit-island-harvest-2014?int=>

On June 24th and 25th we have our second annual **LITPS & ACCOUNTING TODAY SUMMER TECHNOLOGY FORUM**. Last year's event was eye opening to say the least. There are tax, technology and MAP tracks. We are able to get great speakers and moderators through Source Media. You won't be disappointed.

Golfers out there? We are looking to do an affordable golf outing in late summer. If you're interested in attending, **LET US KNOW.**

We are always looking for members to join a committee. That's where we get fresh ideas for our monthly Chapter and MAP meetings. If there are new topics that you are looking for, let us know. It's your input that makes our chapter grow. We want to make your membership as valuable as possible.

Our various meetings not only keep us informed about new laws, new technology and new methods of managing our practices, they help build connections and bonds among our members. We know that if there are any questions that arise in our practices, we have a member we can call on for guidance. So get involved and help make a difference.

Michael Rubinstein, CPA



EDUCATIONAL FOUNDATION PRESIDENT'S MESSAGE

Every Year we plan our chapter meetings to plan for the "busy season" when our schedule and efforts shift to high gear. But this year we are resolved to face in earnest the many challenges that are so quickly affecting our practice and profession.

Our committee will be meeting several times during the summer to plan different and creative programs for our members. We are constantly focused on raising the standards to give you all that you need from every perspective. If you have any ideas, or speakers please be sure to let me know at garys@rsgnccpas.com.

Enjoy the summer as the next "busy season" will be here soon.

Gary Sanders, CPA



GOOD & WELFARE

Our Condolences to:

David Gordon on the passing of his mother, Fay Binen.

Our Good & Welfare Chairman is Stephen Sternlieb, CPA
steve@ssternliebcpa.com

Disclaimer

IRS Circular 230 Legend: Any advice contained herein was not intended or written to be used, and cannot be used, for the purpose of avoiding U.S. federal, state, or local tax penalties. Unless otherwise specifically indicated above, you should assume that any statement in this newsletter relating to any U.S. federal, state, or local tax matter was written in connection with the promotion or marketing by other parties of the transaction(s) or matter(s) addressed in this newsletter. Each taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor. Any opinion is solely that of the author and is not necessarily the opinion of NCCPAP.

POLICY

THE FEES FOR MEMBER REGISTRATIONS ARE:

CHAPTER MEETING (2 CPE): \$55.00 WITH *PRE-REGISTRATION AND \$70.00 REGULAR REGISTRATION, AND/OR AT THE DOOR REGISTRATION.
MAP MEETING: \$30.00 WITH *PRE-REGISTRATION AND \$40.00 REGULAR REGISTRATION, AND AT THE DOOR \$50.00 REGISTRATION.

THE FEES FOR NON-MEMBER REGISTRATIONS ARE:

CHAPTER MEETING (2 CPE): \$80.00 WITH *PRE-REGISTRATION AND \$95.00 REGULAR REGISTRATION, AND/OR AT THE DOOR REGISTRATION.
MAP MEETING: \$40.00 WITH *PRE-REGISTRATION AND \$50.00 REGULAR REGISTRATION, AND AT THE DOOR \$50.00 REGISTRATION.

SEMINARS AND OTHER PROGRAMS: TBD

*PRE-REGISTRATION MEANS: A COMPLETED REGISTRATION FORM WITH PAYMENT AND POSTMARKED, FAXED OR E-MAILED TO THE N/S CHAPTER OFFICE THE FRIDAY PROCEEDING (Unless otherwise noted) THE CHAPTER MEETING, MAP MEETING AND/OR SEMINAR THAT YOU ARE PLANNING TO ATTEND.

CANCELLATION AND REFUND POLICY

A PRE-PAID REGISTRANT WHO CANNOT ATTEND THE CHAPTER MEETING, MAP MEETING AND/OR SEMINAR WILL BE ISSUED A REFUND IF CANCELLATION NOTICE IS GIVEN TO N/S NCCPAP CHAPTER OFFICE BY THE DAY BEFORE THE CHAPTER MEETING, MAP MEETING AND/OR SEMINAR.



MEETING SCHEDULE 2014

Meeting Locations:

The Woodlands at Woodbury
1 South Woods Road, Woodbury, NY 11797
In the Town of Oyster Bay Golf Course

New York Life (NYL)
576 Broad Hollow Road, Melville NY
(Just south of the LIE on Route 110)

NASSAU/SUFFOLK CHAPTER of NCCPAP EDUCATIONAL FOUNDATION OF N/S NCCPAP

22 Jericho Turnpike, Suite 110, Mineola, NY 11501
(516) 997-9500 x. 2 Fax (516) 997-5155

Email: egelbien@ns-nccpap.org

Website: go.nccpap.org

*Chapter Meetings: Registration/Dinner/Networking is at 5:30 PM
4 CPE/A&A and 4 CPE/ETHICS Registration/Breakfast/Networking
is at 7:45 AM

MAP Registration/Breakfast/Networking is at 7:45 AM

Thursday, June 12, 2014*

Voluntary Disclosure - Workshop on Offer and Compromise - What You
Need to Know about FBARs

2 Tax CPE The Woodlands

Saturday, June 14, 2014

13th Annual Ellen Gordon CPAs 4(a): Cause 5K Run/Walk to End Hunger
Eisenhower Park, Field #1

Thursday, June 19, 2014

A&A - Part 2 (7:45am - 12pm)

4 A&A CPE NYL

Tu., & Wed., June 24 & 25, 2014

2014 Annual Technology Show

Crest Hollow Country Club

Friday, June 27, 2014

Time Management

2 CPE/ MAP/Advisory Services The Woodlands

Thursday, July 10, 2014*

Protecting and Preserving Assets Earmarked for the Next Generation:
Fiduciary Liability of Insurance Trusts - Estate Litigation

2 Tax CPE The Woodlands

Thursday, July 17, 2014

A&A - Part 3 (7:45am - 12pm)

4 A&A CPE NYL

Thursday, July 31, 2014

ETHICS (7:45 am - 12pm)

4 Ethics CPE NYL

Thursday, August 14, 2014*

1041 Line-by-Line Workshop & Gift Tax Issues

2 Tax CPE The Woodlands

Wednesday, August 27, 2014

MAP-Meeting Topic to be announced

2 CPE/ MAP/Advisory Services Location TBD

Thursday, September 4, 2014*

Joint with MAP: Protect Your Practice

2 Tax CPE The Woodlands

Wednesday, September 24, 2014

MAP - Branding Your Firm

2 CPE/ MAP/Advisory Services Location TBD

Wednesday, October 29, 2014

MAP-Meeting Topic to be announced

2 CPE/ MAP/Advisory Services Location TBD

Thursday, October 30, 2014*

Business Succession Planning for Your Clients and the Next Generation

2 Tax CPE The Woodlands

November 19, 20 & 21, 2014

2014 Long Island Tax Professionals Symposium

Crest Hollow Country Club

Thursday, December 4, 2014*

Holiday Party - Practical Employment Considerations for your Client
and Independent Contractor Status

2 Tax CPE NYL

****SPONSORSHIPS ARE AVAILABLE FOR ALL MEETINGS.
CONTACT THE OFFICE****

Calendar is subject to change

BOARD OF DIRECTORS

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Peter Ciccone, CPA	1983-84
Bernard Rader, CPA	1982-83
Samuel Baum, CPA*	1981-82
Edwin J. Kliegman, CPA	1979-81

*deceased

Coming Soon
 at
New York Life
Headquarters

Thursday, July 31, 2014 - ETHICS

Topic: 2014 Ethics Program

Speaker: Thomas Manisero, Esq
Wilson Elser Moskowitz Edelman & Dicker LLP

Credits: 4 CPE/Ethics

Location: New York Life, Melville

Time: Registration: 7:45 AM; Program: 8:00 AM – 12:00 PM

Cost: Members: On or before Wednesday, July 23 - \$125.00;
After Wednesday, July 23 - \$140.00

Non-Members: On or before Wednesday, July 23 - \$160.00;
After Wednesday, July 23 - \$175.00

At the Door: \$200.00

The Future Is Here: Are You Ready?

AccountingToday & nCOPAP Present

THE LITPS 2ND ANNUAL ACCOUNTING TECHNOLOGY FORUM



EARN UP TO 12 HOURS
OF CPE

JUNE 24-25, 2014

Crest Hollow Country Club
Woodbury, NY

The Accounting Technology Forum brings together everything you need to know to stay on the cutting edge, with an agenda that will cover the most important topics, tools and strategies in technology.

Brought to you by technology experts, thought leaders, pioneering practitioners and industry leaders, this forum offers you the opportunities to network with your peers, share best practices and learn from fellow practitioners.

KEYNOTE SPEAKERS



Frank Abagnale
Author, Lecturer and Consultant
ACCLAIMED SUBJECT OF THE BOOK, MOVIE,
AND BROADWAY PLAY CATCH ME IF YOU CAN



Mark J. Koziel, CPA, CGMA
VP - Firm Services & Global Alliances
AICPA



REGISTER TODAY

www.accountingtoday.com/conferences/technology-forum/ | (212) 803-6072

FIVE REASONS TO ATTEND

- 1 Learn how to be more efficient and more profitable
- 2 Get ahead of the technology curve
- 3 Share strategies with your most successful peers
- 4 Get solutions to the biggest issues facing your practice
- 5 Earn up to 12 CPE credits

FOUR ESSENTIAL TRACKS

■ Tomorrow's Technology

Focusing on the most high-profile technologies that are changing the face of accounting, from the cloud to mobile devices to business intelligence and remote apps.

■ Practice Management

An all-inclusive review of the technologies that you can adopt today to run your practice more efficiently and more profitably, as well as how best to integrate them into the way your firm currently operates.

■ Tax & Technology

Highlighting the latest developments in taxation, as well as the new tools and technologies you can use to improve your tax practice.

■ Tax Update

As a bonus, this mini-track will give you an update on the latest in tax legislation.

ONE SPECIAL OFFER

ACT NOW - OFFER EXPIRES 4/25

ATTENDEE RATE: ONLY \$295 – YOU SAVE \$200*

NCCPAP MEMBERS ONLY \$225

☐ Please register me for the LITPS Accounting Technology Forum 2014!

Name (as it reads on card) _____

Company _____

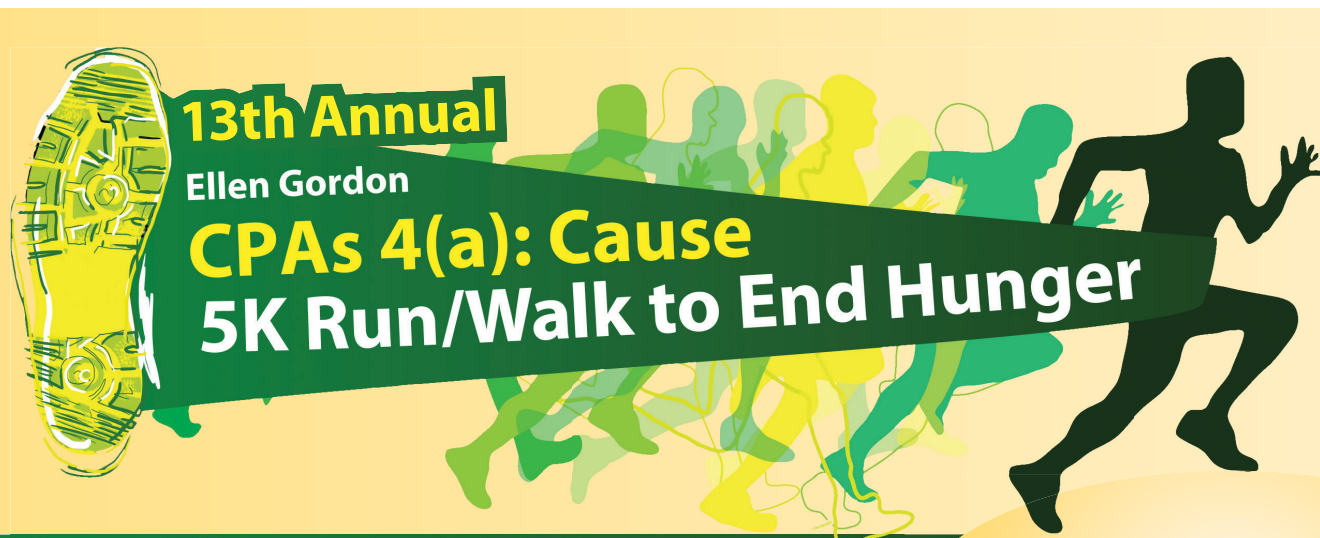
Billing Address _____

City _____ State _____ Zip _____

Email _____

Credit Card # _____ Exp. Date _____ CVV# _____

*\$200 savings based on current rate (\$295) vs onsite rate (\$495)



13th Annual Ellen Gordon CPAs 4(a): Cause 5K Run/Walk to End Hunger

Saturday, June 14, 2014
Eisenhower Park, Field #1
East Meadow, NY
(Access from Merrick Ave. entrance only)

Registration Starts
at 7:30 AM

Race Time: 8:30 AM

Race timed by: Start2Finish

Proceeds will benefit:



www.islandharvest.org

Name _____ Sex M ☐ F ☐

Age on Race Day _____ Birth Date _____

Email _____ Phone _____

Address _____

City _____ State _____ Zip Code _____

I know that running a road race is a potentially hazardous activity. I should not enter and run unless I am medically able and properly trained. I agree to abide by any decision of a race official relative to my ability to safely complete the run. I assume all risks associated with running in this event including, but not limited to: falls, contact with other participants, the effects of the weather, including high heat and/or humidity, dehydration, traffic, and the conditions of the road, all such being known and appreciated by me. Having read this waiver and knowing these facts and in consideration of your accepting my entry, I, for myself and anyone entitled to act on my behalf, waive and release the New York State Society of Certified Public Accountants, Island Harvest, the County of Nassau, NCCPAP, FPA of LI, and all sponsors, Race Directors, their agents and volunteers, their representatives and successors from all claims of liabilities of any kind arising out of my participation in this event. I grant permission to all of the foregoing to use any photographs, motion pictures, recordings, and any other record of this event for any legitimate purpose. I acknowledge that entry fees are non-refundable for any reason and that my right to participate in this event (or a rescheduled event if this event is cancelled) is non-transferable. Roller Blades, Baby Joggers, Headphones, and Animals are prohibited from participating in this race.

Applicant Signature _____ Date _____

Parent or Legal Guardian's if applicant is under 18

☐ **Register online at Active.com for \$20 (kids under 14 are half price)**

☐ Enclosed is my registration fee of \$30 payable to Island Harvest (kids under 14 are half price)

☐ Enclosed is my additional tax deductible donation of \$ _____ payable to Island Harvest

Mail registration forms & checks to:

Paula Sheppard
P.O. Box 331
Melville, NY 11566
(Or bring to registration table at race)

For more information:

Kenneth Rick
516-750-6876
ken.rick@janoverllc.com

Music

Post-race food & refreshments

Awards:

Top 3 Overall Male

Top 3 Overall Female

Top 3 Finishers in each age
category (5 year groups)

Ribbons for all children under 14

Food Sponsor



Register online: www.active.com or www.glirc.org/events or www.islandharvest.org

WHO DESERVES A SALES TAX REFUND?

The St. Louis Rams just filed for a \$400,000 sales tax refund, claiming that they charged their fans too much sales tax on tickets. This tax amounts to about \$0.40 for every \$100 ticket but multiplied by thousands of tickets over several years adds up. The football team argues that they deserve the refund even though they did not pay the tax, their ticket buyers did.

When sales tax is overpaid, the taxpayer who paid in the tax is entitled to the refund. Usually how it works is that a customer makes a purchase and pays the seller sales tax. The seller remits the tax to the Tax Department. The sales tax did not come out of the pocket of the seller, it came out of the pocket of the customer. If the customer was not supposed to pay tax, the customer gets the refund.

There are several instances when paying sales tax where sales tax is not due, can lead to a substantial refund. Some refund opportunity areas are:

Manufacturing

The New York State Tax Department allows a sales tax exemption on electricity, water, and machinery used in the manufacturing process. Sales tax is not due on the purchase of electricity, water, or machinery that is used predominantly (51% or more) in the manufacturing process. If sales tax was paid, the taxpayer is entitled to a refund.

Resale

In New York State, sales tax is due by the end user. If a taxpayer purchases an item, pays sales tax, but resells that item to a customer, charging the customer sales tax, the taxpayer maybe due a refund on the sales tax that he paid. The theory about the resale exemption is that sales tax should not be collected twice on the same transaction.

Printed Promotional Material

New York State offers a printed promotional material exemption. If printed promotional material- such as brochures, business cards, or flyers- are purchased and mailed to a customer or potential customer, no sales tax is due on the purchase. If sales tax was paid, a refund is due.

There are several other areas of refund opportunities. Sales Tax Defense can review your purchases and determine if you are entitled to a sales tax refund. We often do refund claims on a contingent fee basis so do not hesitate to contact us!

Written by Jennifer Koo, Esq., Tax Attorney, Sales Tax Defense LLC 2106 Deer Park Ave, Deer Park, NY 11729 Ph. 631-491-1500 www.SalesTaxDefense.com

LATE PORTABILITY ELECTION

Portability was added to the IRS Tax Code by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, and is still in its infancy. The relief it provides for married couples requires an election on Form 706. Unfortunately many estates have failed to properly elect this benefit. Important guidance has been issued, in the form of Revenue Procedure 2014-18, to allow executors of estates who did not previously utilize the benefits provided by sections 302(a)(1) and 303(a) of the Act to do so.

The current Federal Gift and Estate tax exemption known as the "basic exclusion amount" is \$5,340,000.00. Portability provides the opportunity for the surviving spouse to receive the remaining exemption of his or her deceased spouse "deceased spousal unused exclusion amount" or "DSUE amount" – so that the surviving spouse has a total of up to \$10,680,000.00 (2014) "applicable exclusion amount" of gift and estate exemption.

In order to obtain the benefit provided by portability, the executor must file a timely and properly-prepared Federal Estate Tax return (Form 706). See IRC §2010(c)(5)(A). If the Estate Tax return was not timely filed and not properly-prepared, portability would not be available to the surviving spouse. Many estates did not timely file a Federal Estate Tax return because the first-deceased spouse's estate was under the Federal filing threshold. However, in many instances, the surviving spouse's estate would be subject to an estate tax, if portability were not elected. The Internal Revenue Service has been granting relief to the Estates that did not file; but this relief required a costly private letter ruling request under §301.9100-3.

Revenue Procedure 2014-18 provides a simplified method to elect portability for those Estates that did not file a Federal Estate Tax return timely and wish to have portability apply.

The Revenue Procedure provides that relief is available to estates of individuals who died after December 31, 2010 and before January 1, 2014, if the decedent had a surviving spouse and was a citizen or resident of the United States. To qualify: the decedent's executor must not have filed an Estate tax return within the time required, and the estate must not have been required to file an Estate Tax return because the value of the gross estate and the adjusted taxable gifts were below the filing threshold. If all of these requirements are met, then a person permitted to make the portability election (according to §20.2010-2T(a)(6)) must file a complete and properly-prepared Form 706 before January 1, 2015. The return must be clearly identified on the top as "FILED PURSUANT TO REV. PROC. 2014-18 TO ELECT PORTABILITY UNDER §2010(c)(5)(A)."

"Continued on next page"

If it is determined that the estate meets all of the requirements under Rev. Proc. 2014-18, then the Form 706 will be considered timely filed and the taxpayer will receive an estate tax closing letter. There is no fee associated with the filings required hereunder.

For same-sex couples, relief under this Revenue Procedure is available beginning September 16, 2013, as that is the date of publication of Rev. Rul. 2013-17, which was the guidance issued by the IRS after the Supreme Court decision in *United States v. Windsor*.

As stated above, this simplified method of fixing a late portability election is time limited and, as such, practitioners should immediately notify clients who did not timely file.

Article submitted by Robert Barnett, CPA, JD, MS (Taxation) and Gregory L. Matalon, Esq. Capell Barnett Matalon & Schoenfeld LLP www.CBMSLAW.com They can be reached at (516) 931-8100. (Rev. Proc. 2014-18)

FINANCIAL STATEMENTS - AUDITED, REVIEWED, COMPILED - AND PREPARED?

What is meant by "Preparation of Financial Statements"? As a CPA, we are familiar with financial statements that are audited, reviewed or compiled. The AICPA has issued an exposure draft which would create a FOURTH standard of financial statement preparation by a CPA (or, should I say, NOT prepared by a CPA). Ok, so by now you are saying, WHAT IS HE TALKING ABOUT? I will attempt to explain - but, please do not kill the messenger.

On October 23, 2013, the AICPA released an Exposure Draft (ED) of Proposed Statements on Standard for Accounting and Review Services (SSARSS) relating to "Preparation of Financial Statements", "Compilation Engagements" and "Association with Financial Statements". These proposals, if adopted, will affect ALL CPAs performing accounting services for their clients. The ED is rather lengthy and involved. As such, I am unable to explain the entire ED in this brief explanation (I have only been allocated a single page for this article). I will, therefore, discuss the issue of the newly proposed "Preparation" Standard.

The AICPA feels that there is a need for a new, additional, standard regarding the preparation of financial statements which CPAs are involved with. As you know, a "compiled" financial statement is used when a CPA is engaged in preparing a financial statement but there is no assurance provided in the preparation of the financial statements. In many cases a compiled financial statements is NOT accompanied by footnotes and the CPA associated with the financial statement does not have to be independent with regards

to the financial statement - disclosure of such fact must be made and the reason for the lack of independence may or may not be disclosed. An accountant's report, signed by the CPA, MUST still accompany the financial statement.

The AICPA states, in the ED, that many of us are involved with our clients' financial statements through making, or suggesting, adjustments through cloud-based accounting software. There is a fear, and a believed need, that with this cloud-based accounting software a client can "push a button" and create a financial statement with or without the knowledge of the CPA. The financial statement can then be given to a lending institution or other third party. This, of course, can occur. The AICPA wants to "protect" the CPA in that this type of financial statement would now be considered a new, and different, service provided by the CPA. The AICPA also believes that this is an added service of the CPA that can be provided to the client. The financial statement would be considered a "Prepared" financial statement, and, as provided in the current ED, may or may not, be accompanied by an accountant's report. A legend attached to the prepared financial statement, stating, in effect, that the financial statements are NOT PREPARED BY A CPA also may or may not be provided. The accountant's responsibility in "preparing" such a financial statement is effectively no difference than the work that he or she would be required to do if they were involved in preparing a "compiled" financial statement. It is important to note that the "Prepared" financial statement can be given to a third party but it be could be noted, according to the ED, that no CPA prepared the financial statements. Additionally, the CPA would not have to be independent with regards to the client but an engagement letter **would be required** to be executed, regardless of whether or not the CPA is independent, explaining what service is being provided - which, incidentally, is a good idea whenever a service is provided by a CPA.

So, is this new standard necessary if there really is no difference in work between a "compiled" financial statement and a "prepared" financial statement? What is the benefit to the public? What is the benefit to the accountant? What is the benefit to the client? These, and a myriad of other questions are right on target and need to be answered - but they won't be answered by me! You should review the ED and determine your own answers. NCCPAP, via the National Issues Committee, has responded to the request for comments.

It is extremely important to note that the Exposure Draft is **PROPOSED** and, from what we can tell at this point, COULD be cancelled, postponed or (most likely) modified. NCCPAP will continue to monitor this proposal and report on any updated status but we urge you to monitor the proposal as well. I invite your comments either with a letter to the editor or a post on NCCPAP's website at go.nccpap.org. To view the recently published comment letters (including the letter submitted by NCCPAP) please go to www.aicpa.org/research/exposedrafts/compilationreview/pages/comment-letters-ssarss-ed-prep-comp-assoc.aspx

Article submitted by Robert L. Goldfarb of Janover LLC. Bob can be reached at (516) 542-6300 or by email at robert.goldfarb@janoverllc.com

WHAT THE CPA NEEDS TO KNOW ABOUT A “LIFE SETTLEMENT” OPTION REGARDING A LIFE INSURANCE POLICY

After you've driven a car for a number of years you'll probably decide to sell it or trade it in for a newer model. By the same token if you decide to move and sell your home after a period of time you would find a buyer on your own or through a broker and sell your home to another. In both cases it's clearly understood that if you entered into a transaction to sell your property to another, assuming you had a meeting of the minds and that you were the rightful owner, then you were able to enter into that transaction.

Then it should come as no surprise that if you wanted to sell a life insurance policy that you owned you could do so as well. Unfortunately that simple strategy is not well understood by the great majority of individuals, who instead just stop paying the premiums on their life insurance contracts, and allow their contracts to lapse without value. Or for those that turn their life insurance policies in to their insurance company in exchange for the “Cash Value” stated in their policies, without ever first exploring whether they may be able to receive a greater value by selling their policy on the secondary market place. So despite the fact that 42 of our 50 states have enacted legislation regulating the life settlement industry the great majority of individuals today are not aware that this most significant feature even exists.

To summarize: a life settlement is an individual selling their life insurance policy just as they would any other asset they own. If your life insurance policy is owned by a trust then both the insured and the trustee/owner must both agree to sell the life insurance contract. But why would someone ever want to sell their life insurance to someone while they're alive? Here are several reasons that make a great deal of sense. When an individual has a term policy that's about to expire, up to age 70 or 75. When the Insured no longer needs the insurance for their beneficiaries, because of the death of a spouse? When the reason for the Insurance is no longer an Issue, a sale of a business? When the insured needs the cash value for an emergency and is willing to cash in the policy?

There are, of course, times when a life settlement won't work. For instance when a typical buyer, a hedge fund, which maintains your privacy, evaluates a batch of life insurance policies that insureds have offered to sell through a life settlement broker, they, of course, are only interested in purchasing contracts where they believe the insured is in poor health and has a shorter than usual life expectancy. Therefore they won't be interested in a policy with a maximum duration earlier than a person's normal life expectancy. So a term contract that is only guaranteed to last to age 83 is of no interest since a person's normal life expectancy might be to age 85. The investor's want the advantage on their side not on the side of the insureds.

But far and away the majority of the times I've seen a life settlement used is when a Insured or trustee reads a letter from their life insurance company notifying them that although they've paid their premium over the last 20 or 25 years, their life insurance coverage is going to expire years earlier than they thought. And if they want the life insurance coverage to last up until the person's normal life expectancy they would have to pay a significantly higher premium. This occurs all too often because of the sustained low interest rate environment we've experienced, combined with the neglect on the part of the owners of the insurance policies to properly manage and adjust the adequate amount of a premium needed over the last two decades. Often times once the insured discovers the cost needed to keep the policy in force they may decide its more than they want to spend or are able to pay and a life settlement is an ideal solution, but only if someone makes them aware of its existence.

Imagine going from a liability of having to pay an increased premium in order to retain the value of an insurance contract, to being able to sell an asset that you didn't believe had any value. Just at a time when people are living longer and realizing that they'll need to have their retirement dollars last a longer period of time, financial institutions are coming up with more creative ways to get some value from an asset that one would otherwise have to wait until death or until the asset was sold. The reverse mortgage is a perfect example of a regulated industry that guarantees an individual the ability to obtain a monthly or lump sum payment from the value of their home for the rest of their lives, without ever having to sell it.

Another example is the insurance industry providing what's known as “Living Benefits” to its policy holders rather than making them wait until death to access some of their death benefits. The ability of accessing up to \$116,000 from the death benefit of a life insurance contract is one such offer known as a Chronic Care Benefit that will allow an individual to access their beneficiary's life insurance death benefit, to pay for their eligible long term care expenses and give them a better quality of life now rather than pay a death benefit to a beneficiary.

As with any financial transaction one must think ahead and make certain that you are not entering into a transaction for anyone's benefit other than your own, or for that of your beneficiaries later. Another important thing to keep in mind is that commissions for the sale of a life insurance contract are negotiable. You should work with an experienced broker licensed to do such a transaction and trust that this individual has your best interest in mind. It is always best to obtain more than one quote just to play it safe.

Much more to be said regarding the topic but for the time being it's important that you become aware of the life settlement industry and that you get any questions you may have answered well before you ever consider being a party to such a transaction.

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THE NEW NEW YORK STATE ESTATE AND GIFT TAX LAWS AND INCOME TAXATION OF TRUSTS

BASIC APPLICABLE CREDIT AMOUNT

Under prior law, the New York State estate tax basic applicable credit amount was an amount equal to the New York State estate tax on \$1,000,000. For decedents dying after April 1, 2014, the basic applicable credit amount is and will be as follows:

<u>Date of Death</u>	<u>NY State Estate Tax Basic Applicable Credit Amount Equals New York Estate Tax On:</u>
April 1, 2014 - March 31, 2015	\$2,062,500
April 1, 2015 - March 31, 2016	\$3,125,000
April 1, 2016 - March 31, 2017	\$4,187,500
April 1, 2017 - December 31, 2018	\$5,250,000

The basic applicable credit amount will be indexed for inflation for decedents dying on or after January 1, 2019 so that the applicable credit amount for decedents dying on or after January 1, 2019 will be equal to the federal basic applicable credit amount. Unfortunately, under the new law, if the New York taxable estate tax exceeds the basic applicable credit amount the applicable credit will be reduced. If the taxable estate is greater than 105% of the basic applicable credit amount, the entire estate will be taxable. Thus, if a decedent dies in 2014 with a taxable estate of \$2,166,625 the estate would not be entitled to any applicable credit and the entire estate will be taxable (105% of \$2,062,500 = \$2,165,625) because the (\$2,166,625) taxable estate is greater than 105% of the basic applicable credit of \$2,062,500.

GIFTS

Gifts taxable under section 2503 of the Internal Revenue Code that were not otherwise included in the federal gross estate made during the three years ending on the date of death must be added to the New York gross estate. Gifts made while the decedent was a non-resident of New York State do not increase the New York gross estate. Gifts made prior to April 1, 2014 are not included in the New York gross estate. Gifts made on or after January 1, 2019 are not included in the New York gross estate.

GENERATION SKIPPING TAX

The generation skipping tax was repealed as of April 1, 2014.

INCOME TAXATION OF TRUSTS

If a decedent was domiciled in New York State at the time of his death, any trust created by the decedent's will is a resident trust. If an irrevocable trust consisted of property of a person domiciled in New York State, when such property was transferred to the trust, it is a resident trust. Under prior law, a resident trust was not required to pay New York State income tax if all of the following conditions were met: 1. All of the trustees are

domiciled in a state other than New York; 2. The entire corpus of the trust, including real and tangible personal property is located outside of the State of New York; 3. All income and gains of the trust are derived from, or connected with, sources outside of New York State determined as if the trust were a non-resident trust. Under the new law, New York beneficiaries who receive distributions of the trust's accumulated income on income earned beginning in 2014 must pay NYS income tax on the accumulated income that was distributed. Any distribution made prior to June 1, 2014, is not subject to income tax.

Incomplete grantor trusts (ING), are designed so that contributions to the trust are incomplete gifts for federal gift tax purposes. Under the new law, the income of an ING, non-grantor resident trust whose income is exempt from federal income tax, will be taxed to a New York resident grantor. Income earned by an ING trust that is liquidated on or before June 1, 2014, will not be included in the income of the grantor.

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IT'S A JUNGLE OUT THERE!

Identity theft, the FBI virus, Crytolocker ransomware, keyloggers, – all growing threats that are not easy to avoid, and sometimes, they are initially undetected until your personal data is already compromised. Heartbleed is a highly publicized example of a keylogger infection that did not reveal itself for a long time, but many keylogger infections are present on pcs and the user does not realize it because performance is only marginally impacted. For many of these infections there are no obvious pop ups or alerts. A keylogger records your input while you type and can transmit passwords, bank and credit card numbers and other sensitive information to a hacker. This information is then sold to thieves who spend your money with fake credit cards or transfer money out of your bank account. You may not realize it, but this happens many time per day and is a growing epidemic.

The following provides some guidelines on how to stay a bit safer in our current environment.

Online:

1. Never directly answer or respond to an e-mail from your bank, the IRS or your e-mail provider. Criminals have become very adept at having it appear that they sending official emails, most of the time it is a scam. The IRS knows your social security number, they don't need to ask!
2. Avoid financial transactions over public Wi-Fi. You can't guarantee that free or shared Wi-Fi access is secure so while this ok to connect for browsing the web, avoid doing financial or client transactions on these connections.
3. Only shop on secure websites. Before you type your credit card into a website, ensure it is secure. Look for "https://" in the address bar of your web browser when you are checking out.
4. Check your bank balances and credit card statements at least monthly.
5. Setup banking alerts for unusual or large transactions. Ask your bank to notify you of any suspicious or large transactions. This service is also available on most major credit cards.
6. Pick hard to guess passwords. Use phrase acronyms and keyboard combinations, substitute symbols or numbers for

letters and in general, mix things up and do not use kids or dogs names.

7. Never send private information via unencrypted email. This is a violation of most compliance regulations for professionals, and it is a very dangerous practice for individuals.

Locally on your pc and network:

1. Install available security updates on your computer, Smartphone and Tablets. Many cybercrimes target known security holes on your computing devices. Stay up-to-date to stay secure.
2. Protect your computer, anti-virus and anti-spyware software and set up them to update as often as possible, and scan nightly. It is our opinion that separate programs for anti virus and anti spyware is the best approach, and that free is generally not as good as a paid product.
3. Keep your systems up to date with the latest patches and security updates from Microsoft, Adobe, Java and other vendors.
4. Get rid of XP and move to W7 and W8 – and keep your Mac up to date.
5. Protect your network with a good router with a firewall.
6. Be sure you have a battery backup.
7. Back up your files on and offsite. Infections like cryptoplocker will encrypt all your files on the infected pc as well as on any local hard drive. Unless these files are offsite or backed up with imaging software the backups will be not be usable.

If you cannot do this yourself, and not many people have the skills or time to manage all this, then it would be a wise investment to hire someone who can help protect you.

And please do not forget to shred sensitive paperwork, lock filing cabinets, protect postal mail carefully and rip the labels off prescription bottles... I am focused on computers, but thieves will take the easiest route to success so being diligent with printed materials is also important.

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PREVIEW OF JULY 10TH **CHAPTER MEETING ON** **FIDUCIARY**

Fiduciary Inattention Disorder (FID) is specific to the unskilled 'Accommodation' trustee of an Irrevocable Life Insurance Trust (ILIT) and it has reached epidemic proportions. The reasons can be easily understood but, to date, there seems no remedy or cure.

FID was first diagnosed in the late 1970s following the introduction of buy term and invest the difference to encourage people to address growing inflationary concerns. By the early 1980's interest rates were in the 18% range and, hence, these new policy types were aggressively marketed as flexible premium non guaranteed universal life insurance products which are all packaged as one bundled contract. A major option to the previously available fixed premium guaranteed death benefit products that were previously offered by most carriers.

The symptom identifying FID is life insurance confusion for which there seems to be no remedy, which is perplexing. Fiduciaries, their professional advisors and affluent insureds are smart people, and most own personal life insurance policies. How can a lapsing TOLI policy crisis exist and smart people still be so confused about how it happened and what to do?

Based upon extensive research, there are several reasons for confusion:

- The buyer had no idea what terms such as 'flexible premium' and 'buy term and invest the difference' meant.
- The buyer had no idea he/she/it retained policy performance risk, and that the contracts they were purchasing were non guaranteed. Moreover, they did not know and were not specifically told of the risks to be monitored or where to find the tools to do so.
- The buyer listened to the 'invest the difference' sales pitch, yet was told these products were not investment products but rather life insurance products. Whatever this comment was supposed to mean, they relied upon the 'as sold' illustration, and its high crediting rate at the time of policy purchase, as the expectation for future premium payments to sustain death benefit coverage to the insured's death.
- Variable Universal Life Insurance was introduced in the mid to late 1980s and marketed as an 'investment-linked' life insurance product but considered an investment whereas Adjustable Life and Universal Life were life insurance. (Add Indexed Universal Life to this discussion and the confusion compounds.)
- The buyer/grantor usually assumed his/her attorney who drafted the ILIT would understand the product issues and assist the 'Accommodation' or Corporate Trustees in determining how the asset should be managed. However, the grantor did not provide a guidance letter as to why the policy was purchased or what periodic performance review expectations should be considered.
- The sales agent could have been an informational

resource at the time of policy acceptance by the trustee but did not have contractual customer service duties thereafter. So, pulling these introductory comments together, we know there is a lapsing policy crisis due to FID and, despite the best of intentions, confusion as to what to do persists and its adverse implications escalate. Is there a cure?

The duty of a trustee is to maximize the probability of a favorable outcome to the trust estate, noting that the question of whether a breach of trust has occurred turns on the prudence of the trustee's conduct, not on the eventual results of investment decisions. Said differently, it is necessary for an ILIT trustee to demonstrate a prudent and reasoned process.

The Cure

After 20 years of forecasting a lapsing policy crisis due to inattention, it seems obvious that 'Getting Started' is no small undertaking ... or is it? The first curative step involves taking inventory of the following:

1. Does the policy remain suitable for the trust's purpose set out in the TOLI Investment Policy Statement (TIPS)? If a TIPS does not exist nor a Grantor Guidance Letter, then TIPS must be added to the step #1 'to do' checklist.
2. Are scheduled premiums adequate to sustain the policy to contract maturity of insured life expectancy as a minimum? If this question cannot be answered, it must be added to the step #1 'to do' checklist.
3. Have the underwriting carrier's third-party ratings deteriorated? If this question cannot be answered, it must be added to the step #1 'to do' checklist.
4. Are trust administration and policy costs reasonable and appropriate? If this question cannot be answered, it must be added to the step #1 'to do' checklist.
5. Have ILIT gifts, Beneficiary Crummey Notices, and premium payments been administered in accordance with trust documents and fiduciary law? If this question cannot be answered, it must be added to the step #1 'to do' checklist.
6. Does the trust file contain:
 - A signed copy of the trust agreement.
 - A policy contract and a signed copy of the 'as sold' policy delivery illustrations.
 - A current TOLI Investment Policy Statement.
 - A Grantor Guidance Letter or attorney memo providing guidance at the time of policy issue concerning the policy purpose and long-term performance expectations.
 - Carrier and product suitability evaluation prepared and signed by the writing agent at the time of policy issue.
 - Copy of annual performance monitoring reports.
 - Copy of annual beneficiary communication.

"Continued on next page"

This inventory determines the extent of FID and sets out the next step priorities, recognizing that policy lapse avoidance is the #1 priority.

If the trust file is empty and none of the questions can be answered positively, it demonstrates the worst case of FID, but also the easiest situation to remedy. The next step (for which there is no option) is to engage a fee-based experienced TOLI consultant to coordinate and gather all needed trust file documentation, address the above questions, obtain a credible policy evaluation and assess carrier, product and policy suitability relative to the current trust objectives. It is likely that policy replacement will be a consideration; hence, this consultant should have the expertise to recommend product types suitable for current objectives and should coordinate a Request for Proposal process among commission-compensated life insurance agents selected by the insured or insured's family members.

It is important to differentiate between an experienced fee-based TOLI consultant and a commission-motivated life insurance agent. The consultant works for the trustee and can play an ongoing role in maintaining the prudent process current to avoid FID problems in the future. The agent serves a transactional role. Said differently, FID and the current lapsing policy crisis is due primarily to a misunderstanding of the agent's role. An agent plays a key role in the policy placement process and can assist with periodic policy information needs, but all the other prudent process activities are the responsibility of the trustee/TOLI consultant.

As mentioned, the worst case of FID is the easiest to remedy. Often some of the 6-point information exists but it is not necessarily helpful in setting out a prudent and reasoned process going forward. A TOLI Investment Policy Statement (TIPS) is the critical

document that establishes this process and how it will be informed (see March article for an in-depth TIPS discussion).

The trust agreement warrants review to determine if it contains a trustee 'hold harmless' provision. Remember, the trustee has the sole responsibility for managing the trust asset. If the trust has a hold harmless provision and the trustee lacks life insurance product and policy evaluation expertise, how will the carrier, product and policy suitability issues be addressed and managed? And, if the policy un-necessarily lapses, what is the trustee's liability other than possibly reputation? The 'hold harmless' issue is a hurdle that must be addressed.

In summary, FID has reached epidemic levels but a cure exists and is readily-available. ILITs have been and remain the cornerstone of sophisticated estate liquidity planning and multi-generational wealth management. The broad range of life insurance products available today are ideally suited for trust-ownership. But, all these products, including fixed premium guaranteed death benefit products, require annual or periodic management attention. Returning to the lapsing TOLI policy crisis, lapse as well as lapse avoidance is a trustee as well as grantor family choice. Intervention should not be overlooked.

E. Randolph Whitelaw is Managing Director of Trust Asset Consultants, LLC (TAC), a Trust-Owned Life Insurance (TOLI) risk management consulting firm, and Co-Managing Director of The TOLI Center, LLC (TTC), a life insurance policy administration and risk management firm. He also has provided dispute resolution/litigation support services since 1992.

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