



The National Conference of CPA Practitioners

Nassau/Suffolk Chapter Volume 9, Issue 2 FEBRUARY/MARCH 2012

Date
Topic
Moderator

Wednesday, February 29, 2012 - MAP Meeting
ROCKIN' & ROLLIN' – TAX SEASON ROUNDTABLE
Sandra G. Johnson, CPA, EA, CFE of Sandra G. Johnson CPA
Douglas Sinetar, CPA of Douglas Sinetar CPA PC
2 CPE/MAP/ADVISORY SERVICES
On Parade Diner, Woodbury
Registration: 7:45 AM, Program: 8:00 - 10:00 AM
On or before Friday, Feb. 24 - \$25.00, After Friday, Feb. 24 - \$35.00

Sponsored
By
Merrill Lynch

Date
Topic
Speaker
Credits
Location
Time
Cost Members
Non-Members

Thursday, March 1, 2012 - Chapter Meeting
TAX SEASON ROUNDTABLE
Carol C. Markman, CPA of MayerMeinberg LLP
2 CPE/TAX
Holiday Inn, Plainview
Networking/Registration: 5:30 PM, Program: 7:00 - 9:00 PM
On or before Friday, Feb. 24 - \$50.00, After Friday, Feb. 24 - \$60.00
On or before Friday, Feb. 24 - \$75.00, After Friday, Feb. 24 - \$85.00

Sponsored
By
ADP

Date
Topic
Moderator

Wednesday, April 25, 2012 - MAP Meeting
POST TAX SEASON ROUNDTABLE – CRYING TOWELS WILL BE PROVIDED!
Sandra G. Johnson, CPA, EA, CFE of Sandra G. Johnson CPA
Douglas Sinetar, CPA of Douglas Sinetar CPA PC
2 CPE/MAP/ADVISORY SERVICES
On Parade Diner, Woodbury
Registration: 7:45 AM, Program: 8:00 - 10:00 AM
On or before Friday, April 20 - \$25.00, After Friday, April 20, - \$35.00

Credits
Location
Time
Cost

LONG ISLAND EAST CHAPTER OF NCCPAP

Date
Topic

Friday Morning March 2, 2012 - MAP Meeting
DON'T GET CAUGHT WITH YOUR DRAWERS OPEN !
HOW TO DEAL WITH IRS SECURITY RULES
SAFEGUARDING TAXPAYER DATA
HOW TO PREPARE FOR A POSSIBLE IRS VISIT

Moderator

Chuck Pegler CPA of Charles R. Pegler, CPA, PLLC
President of Long Island East Chapter of National Conference of CPA

Guest Speakers

Sandra G. Johnson, CPA, EA, CFE of Sandra G. Johnson CPA
Kenneth Hauptman, CPA of Kenneth Hauptman, CPA
Robert Sick CPA, CFP of Robert R. Sick, CPA PLLC
Armando D'Accordo of CMIT Solutions

Credits
Location

2 CPE/MAP/ADVISORY SERVICES
Marriott Islandia - 3635 Express Drive North – Exit 58 on the LIE
Continental Breakfast included

Time

Registration: 7:45 AM, Program: 8:00 - 10:00 AM

Cost

On or before Friday, February 24 - \$35.00, After Friday, February 24, - \$45.00

Respond to

Chuck@PeglerCPA.com or execdir@nccpap.org

Mail Check to:

National Conference of CPA Practitioners
22 Jericho Turnpike, Suite 110 - Mineola, NY 11501
Attn: Executive Director

NOTE
LOCATION
MARRIOTT
Islandia

To register for any of our
meetings, please visit

<http://www.ns-nccpap.org>

PRESIDENT'S MESSAGE



It is with great pleasure that we are creating a very special newsletter welcoming all the members of NCCPAP Long Island East Chapter. This chapter represents CPA practitioners east of the Route 110 corridor and has been led for years by their President, Chuck Pegler, CPA. This issue contains a guest article by Chuck that encompasses our joint commitment in creating new energy and members for that Chapter. We all know that the growth of our national organization is based on expanding membership for all of our chapters. Additionally, we look forward to joining in many joint programs with the Long Island East Chapter. I appreciate the leadership of our past president, Bruce Berkowitz, CPA, as our representative to assist with "Long Island East Chapter of NCCPAP."

As an example, of that joint synergy, I want to announce that our MAP program, held this past January 25th, was so widely received that it is going to be repeated in its entirety on March 2nd. If you missed this program the first time, you have an opportunity to register now, (see cover); The success of this program and all of our MAP creative programs is due to the creativity of our MAP chairs Sandra Johnson CPA and Douglas Sinetar CPA. This program was a joint meeting with our counterpart MAP Committee of the Nassau Chapter of the NYSSCPAs, and the continued expanding relationship we have always had with their chairs.

We are actually planning many more joint programs with the Nassau Chapter of NYSSCPAs, and we will keep you posted. In that vein, our board appreciates their commitment to our Chapter and in particular, their joining us in force, at our recent installation dinner.

Speaking of our installation dinner, we are grateful to Harold Ogulnick, CPA and Sandra Johnson, CPA for their enormous sacrifice of time and energy in making this event simply spectacular. The evening at the Crest Hollow, featured the installation of our Officers and Board, also had a special portion in which we honored the members of our Symposium Committee. This committee meets constantly year round and as we all know, it is led by the Chair, Robert L. Goldfarb, CPA, who continues to improve all of the many components, enabling the symposium to be the great event that it has become. In fact, this year, the Symposium and our Chapter were featured on the local Long Island TV news.

One of the key components of our Symposium has been the relationship we have been able to have with both Internal Revenue Service and NYS Tax. In particular, the IRS New York State Area Manager SB/SE Stakeholder Liaison of Field Operations, Kim Young, has been part of a support team to every aspect of our organization. In addition we appreciate the efforts of our local Stakeholder Liaison Linda Henson who you may contact directly at (718) 488-2163 or Linda.Henson@irs.gov. In fact, Linda has provided us with some valuable information that can be found elsewhere in this publication.

As you can see, even in the height of tax season, we continue to offer programs, and new and enhanced member benefits that have been enumerated in this newsletter by our own Stan Tepper, CPA, social events, and now new and expanded efforts with the NYS Society and our affiliated chapters.

I close with thanks to all those that make our chapter so special and to each and every member as we need your participation for our continued success.

Gary Sanders, CPA

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 REGISTRATIONS ARE:

CHAPTER MEETING (2 CPE): \$50.00 WITH *PRE-REGISTRATION AND \$60.00 REGULAR REGISTRATION, AND/OR AT THE DOOR REGISTRATION.

MAP MEETING: \$25.00 WITH *PRE-REGISTRATION AND \$35.00 REGULAR REGISTRATION, AND/OR AT THE DOOR 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 END OF THE CHAPTER MEETING, MAP MEETING AND/OR SEMINAR DAY.

NCCPAP

National Conference of CPA Practitioners
Long Island East Chapter

1707-4 Veterans Highway
Islandia, N. Y. 11749

(631) 582-9090
fax (631) 582-9183

President
Charles R. Pegler, CPA

Treasurer
Regina L. Bogen, CPA

January 25, 2012

The Rebirth (?) of LIE

It is my honor and pleasure to be invited to say a few words to our sister chapter. And, to honor that honor, I will keep this to *very* few words.

LIE has a great albeit rocky history. We were formed to reach out to the practitioners on Long Island too geographically removed from Nassau to actively participate.

For many years we were active and vibrant – although few in number. In recent years we've become somewhat less vital, somewhat less spirited. (The economy? Soccer practice? The sun rises two minutes earlier?) Nonetheless, we've been a pretty positive force to our more eastern members (although less so than in prior decades).

Hopefully, that is about to change. It is with great excitement and enthusiasm that I welcome the offer of your chapter to collaborate with ours. I appreciate the offer and have every expectation that the symbiosis of our two chapters will be far, far greater than each of us alone.

Thanx to all. . .

ncCPAp
Long Island East

Chuck

Charles R. Pegler, CPA
President

Chuck@PeglerCPA.com



MAP – MANAGEMENT OF AN ACCOUNTING PRACTICE



In January, the Nassau/Suffolk Chapter MAP committee held a joint meeting with the NYSSCPA MAP committee to learn about IRS and Massachusetts security rules. The highlight of the meeting was a conversation led by Robert Sick, CPA who shared with us his experience with an IRS e-file monitoring visit. MAP co-chair, Sandy Johnson spoke about the IRS security rules while State Society MAP co-chairs, Ken Hauptman and Alex Resnick discussed the Massachusetts rules. The meeting finished up with Armando D'Accordo of CMIT Solutions educating us on how to comply with these new security rules on our computers.

The meeting was sold out with 78 members in attendance. The committee co-chairs, Sandy Johnson and Doug Sinetar are presently working with the LI East chapter of NCCPAP to present this topic again, on March 2 at the Mariott Islandia, affording those members who were closed out of the meeting an opportunity to attend. (See cover page for registration details)

February's meeting will be held on Wednesday, February 29, 2012 at 8:00 am at the On Parade Diner in Woodbury. Our February roundtable will address tax season issues related to the running of your practice. You won't want to miss this meeting so register today to avoid being shut out. Valuable networking goes on before and after these meetings so arrive early and stay late.

From Sandy and Doug, have a smooth and prosperous tax season.

Sandra Johnson CPA & Douglas Sinetar, CPA

GOOD & WELFARE

Our congratulations to

Don & Myrna Ingram on the upcoming marriage on March 3rd of their son Aaron to Nichole Holland.

Karen J. Tenenbaum who has been chosen to receive the
2012 Achiever's Award by the LI Center for Business & Professional Women.

Karen will receive her award at the LI Center's Achiever's Awards Gala
on May 8, 2012 at the Inn at Fox Hollow

Sandra G. Johnson, CPA, PC who has been chosen as the Best of LI for a third year
in a row by the readers of the LI Press.

Our condolences to

Peter Morse on the passing of his father,
on December 31, 2011, Stanley P. Morse, passed away at 93 years old.
A tree was planted in Israel in his name by the chapter.

Sarah Jansen on the passing of her mother-in-law, Gilda Jansen.
A donation in her name was made to St. Judes Hospital in her name, by the chapter.

Our Good & Welfare Chairman is Stephen Sternlieb ssternliebcpa@attg.net

Holiday Inn @ Plainview
215 Sunnyside Blvd
Plainview, NY 11803

MEETING SCHEDULE 2012

On Parade Diner
7980 Jericho Turnpike
Woodbury, NY 11797

February 29, 2012	Rockin' & Rollong - Tax Season Roundtable	2 CPE/MAP/ADVISORY SERVICES	On Parade Diner
March 1, 2012	Tax Season Roundtable	2 CPE/ Tax	Holiday Inn
Friday, March 2, 2012	Don't Get Caught With Your Draws Open! - How to deal with IRS Security Rules Safeguarding Taxpayers Data - How to Prepare for a possible IRS Visit	2 CPE/MAP/ADVISORY SERVICES	Marriott - Islandia
April 25, 2012	Post Tax Season Round Table – Crying Towels Will Be Provided!	2 CPE/MAP/ADVISORY SERVICES	On Parade Diner
May 3, 2012*	Buy/Sell - Succession Planning	2 CPE/ Tax	Holiday Inn
May 30, 2012	Help Wanted! Recruiting, Hiring, Alternative Staffing.	2 CPE/MAP/ADVISORY SERVICES	On Parade Diner
June 7, 2012*	Eldercare/Reverse Mortgage	3 CPE/Tax	Holiday Inn
June 21, 2012	Accounting & Auditing Update	8 CPE/A&A	Holiday Inn
June 27, 2012	Expanding Your Practice – How to Add Additional Services and Get Paid for Them	2 CPE/MAP/ADVISORY SERVICES	On Parade Diner
July 5, 2012*	NYS Tax Update	2 CPE/Tax	Holiday Inn
July 25, 2012	Let's Get Personal! - Stress Management, Time Management and How to Stay Sane	2 CPE/MAP/ADVISORY SERVICES	On Parade Diner
August 9, 2012*	401K/Retirement Plans Unraveled	2 CPE/Tax	Holiday Inn
August 16, 2012	Ethics Update	4 CPE/Ethics	Holiday Inn
September 6, 2012*	Preparation for Peer Review	2 CPE/A&A	Holiday Inn
October 4, 2012*	Topic: Partnership	2 CPE/Tax	Holiday Inn
November 14, 15 & 16	2012 Long Island Tax Professionals Symposium		Crest Hollow Country Club
December 6, 2012*	Employment Laws Update	2 CPE/Tax	Holiday Inn

* Chapter Meeting

All Meetings Subject to Change

PAST PRESIDENTS

Bruce Berkowitz, CPA	2009-11	Leon D. Alpern, CPA	1992-93
Donald Ingram, CPA, CISA	2007-09	Harold Ogulnick, CPA	1991-92
Barry Zalk, CPA	2005-07	Laurie Greenberg, CPA	1990-91
Andrew L. Hult, CPA	2003-05	Steven Greenberg, CPA	1989-90
Anthony Finazzo, CPA, CFP, CVA	2002-03	Robert Berkai, CPA	1988-89
Michael Winnick, CPA	2001-02	Irwin Rosenblatt, CPA	1987-88
Karen P. Giunta, CPA	2000-01	Carole Roble, CPA	1986-87
Stuart G. Lang, CPA	1999-00	Raymond Jablons, CPA	1985-86
Jerald I. Wank, CPA	1998-99	Herbert Schoenfeld, CPA	1984-85
Jack Weisbrod, CPA	1997-98	Peter Ciccone, CPA	1983-84
Arthur Libman, CPA	1996-97	Bernard Rader, CPA	1982-83
Rhona Liptzin, CPA, PFS, CFP	1995-96	Samuel Baum, CPA	1981-82
Alan I. Brooks, CPA	1994-95	Edwin J. Kliegman, CPA	1979-81
Carol C. Markman, CPA	1993-94		

NASSAU/SUFFOLK CHAPTER OF NCCPAP EDUCATIONAL FOUNDATION OF N/S NCCPAP CONTACT LIST

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	Andrea Parness, CPA	(718) 318-2677	andrea@aparnesscpa.com
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M.A.P.	Douglas Sinetar, CPA	(516) 221-5200	dsinetar@aol.com
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Tax Liaison &			
Web Development	Ross Kass, CPA	(631) 271-8000 X. 211	ross@islandtax.com
Webinars	Andrea Parness, CPA	(718) 318-2677	andrea@aparnesscpa.com
Website	Stuart Lang, CPA	(516) 377-2700 X. 103	slang@sglcpa.com

If you would like to be on any committee listed up above, please contact the Committee Chairperson listed.

How Stakeholder Liaison can help you navigate the IRS

Be assured that www.irs.gov has more than just forms and publications. You'll find the latest news, online tools, research services, guidance and contact information.

The best way to stay up to date with the IRS is to take advantage of our free products and services. Subscribe to [e-News for Tax Professionals](#) for weekly news briefs. We also offer tools so visitors to your website can link directly to "[tax centers](#)" and other "[widgets](#)", making it easy to find frequently-used web pages.

We make it easy to get up-to-date information from IRS experts. Join our free [national webinars](#), or check out [IRS Live](#) where tax professionals discuss tax topics with IRS leaders. Submit questions during the original airing or visit our [IRS Video Portal](#) to view archived webinars, video clips of tax topics, and audio archives of national phone forums.

Don't forget the IRS.gov Spanish counterpart [IRS en Español](#) and our new [Multilingual Gateway](#) for translated information. If you need a translator when meeting with IRS employees just ask for an interpreter. Over-the-Phone Interpreter Services (OPI) is available when taxpayers have limited English proficiency.

How to keep up-to-date with the new return preparer regulations

David R. Williams leads the new IRS Return Preparer Office implementing the new requirements for tax return preparers. Visit our Web page for [New PTIN Requirements for Tax Return Preparers](#) to keep current on implementation. There's also [Frequently Asked Questions and Answers for PTIN](#). For additional PTIN information, contact the [IRS Tax Professional PTIN Information line](#) at 877-813-7846, available Monday-Friday, 8 a.m. - 5 p.m. CST.

Check out [Many Tax Return Preparers Required to Use IRS e-file Beginning in 2011](#) for information on the new e-file rules and learn how to become an [authorized e-file provider](#).

How you can help your clients and colleagues

Tell us when you see a problem or have a suggestion to improve our processes. We introduced the Issue Management Resolution System (IMRS) four years ago and have received more than a thousand [IMRS issues](#). Check out some of the successes in our IMRS report on [IRS.gov](#).

There are many ways you can assist us to further our partnership. Help us reach more practitioners by hosting joint events or webinars. Include IRS information in your newsletters or post an IRS tax center or web link on your website. You can even volunteer to teach a [Small Business Tax Workshop](#) in your community and share what you learn.

Finally, stay in touch with our local Stakeholder Liaison, Linda Henson, who you may contact directly at (718) 488-2163 or Linda.Henson@irs.gov .

IRS Contact List for Practitioners

Title	Telephone Number	Hours of Operation
Practitioner Priority Service	866-860-4259	M-F, 8 a.m. – 8 p.m., local time
IRS Tax Professional PTIN Information Line	877-613-7846	M-F, 8 a.m. – 5 p.m., CT
IRS Tax Help Line for Individuals	800-829-1040	M-F, 7 a.m. – 10 p.m., local time
Business and Specialty Tax Line	800-829-4933	M-F, 7 a.m. – 10 p.m., local time
e-Help Desk (IRS Electronic Products)	866-255-0654	M-F, 6:30 a.m. – 6 p.m. CT (non-peak)
Check out peak hours.		
Refund Hotline	800-829-1954	Automated Service available 24/7
Federal Management Service – FMS – Treasury Refund Offset Information	800-304-3107	M-F, 7:30 a.m. – 5:00 p.m., CT
Forms and Publications	800-829-3676	M-F, 7 a.m. – 10 p.m., local time
National Taxpayer Advocate's Help Line	877-777-4778	M-F, 7 a.m. – 10 p.m., local time
Local Taxpayer Advocate – Brookhaven Campus	631-694-6935	
Manhattan	718-488-3501	M-F, 8 a.m. – 4:30 p.m., local time
Centralized Lien Payoff	800-913-6050	M-F, 8 a.m. – 5 p.m., local time
Centralized Bankruptcy	800-973-0424	M-F, 7 a.m. – 10 p.m. ET
Telephone Device for the Deaf (TDD)	800-829-4059	M-F, 7 a.m. – 10 p.m., local time

(Continued on next page)

Electronic Federal Tax Payment System (EFTPS) – for Businesses	800-555-4477	Automated Service and Live Assistance available 24/7
Electronic Federal Tax Payment System (EFTPS) – for Individuals	800-316-6541	Automated Service and Live Assistance available 24/7
Government Entities (TEGE) Help Line	877-829-5500	M-F, 7 a.m. – 5:30 p.m. CT
Forms 706 and 709 Help Line	866-699-4083	M-F, 7 a.m. – 7 p.m., local time
Automated Collection System (ACS) (Business)	800-829-3903	M-F, 8 a.m. – 8 p.m., local time
Automated Collection System (ACS) (Individual)	800-829-7650	M-F, 8 a.m. – 8 p.m., local time
Tax Fraud Referral Hotline	800-829-0433	Automated Service available 24/7
Employer Identification Number (EIN)	800-829-4933	M-F, 7 a.m. – 10 p.m., local time
Excise Tax and Form 2290 Help Line	866-699-4096	M-F, 8 a.m. – 6 p.m. ET
Identity Protection Specialized Unit	800-908-4490	M-F, 8 a.m. – 8 p.m., local time
Information Return Reporting	866-455-7438	M-F, 8:30 a.m. – 4:30 p.m. ET
ITIN Program Office (Form W-7 and Acceptance Agent Program – Form 13551)	404-338-8963	Message Line: 24/7 hour operation
IRS Federally Declared Disaster or Combat Zone Inquiries Hotline	866-562-5227	M-F, 7 a.m. – 10 p.m., local time

*To obtain a copy of the above article via email with all the links to the websites email egelbien@ns-nccpap.org,

NON-COMPETE AND NON-SOLICITATION

There continues to be confusion and common misunderstanding about the related issues of “non-compete” and “non-solicitation” within the contexts of employment and the sale of a business, as witnessed by the large number of reported cases dealing with these issues. In the employment context, “non-compete” clauses or “restrictive covenants” are provisions commonly in a written agreement which seek to prohibit what an employee may do after the employee leaves employment. Generally, to be enforceable, a non-compete clause must protect a legitimate interest of the employer (which the courts construe fairly broadly) and be “limited” as to time and scope (geography). Thus, an employer would have a better chance of enforcing a “non-compete” clause against a key employee if it prohibited the former employee from working for a competitor for one year within five miles of the employer’s office than it would if the clause prohibited the former employee from working for a competitor for 10 years anywhere in the state of New York. The non-compete clause must be memorialized in a writing. Generally, in the absence of the employee having confidential trade secrets, the courts will not prohibit an employee from “competing” with a former employee if there is no written prohibition.

The same is not true for the seller of a business when the sale includes the good will of the business. This past April, the Court of Appeals, New York’s highest court, decided *Bessemer Trust Company v Branin*, a case involving the sale of a privately owned wealth management and investment advisory firm headquartered in New York City, where the Purchase Agreement contained no restrictive covenants on the principals of the seller. In that case, the Court of Appeals ruled that under New York law, the seller of the good will of a business has an implied duty to refrain from soliciting its former customers and that this “implied covenant” not to solicit former customers is permanent and does not end with the passage of time. The Court did recognize, of course, that despite this “implied covenant” the buyer of the business does assume certain risks, including a certain degree of loss of customers as a result of the change of ownership and that the seller is even permitted to “accept the trade of his former customers, provided that he does not **actively** solicit such trade”. The Court did not set out any hard and fast rules in determining whether a seller of good will has acted improperly in relation to former customers and the buyer, except that the seller may not contact his former clients directly. The determinations must be made on a case by case basis.

Again, the lesson is that careful consideration must be given to these matters whenever negotiating and drafting employment or purchase and sale agreements, whether you are the employer or employee or the seller or purchaser of the business. The parties are free to and certainly should address these matters in those agreements. The guidance and assistance of legal counsel is essential at that stage. It is certainly preferable to consult with counsel to help you plan to deal with these issues so that you may avoid a looming lawsuit.

Article submitted by: Joseph Milano, Esq., a Partner at Capell Barnett Matalon & Schoenfeld LLP where he heads their litigation department.

NEW QUESTIONS ON TAX FORMS REGARDING FORMS 1099

By virtue of the passage of the Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011 (1099 Act), the reporting rules for Forms 1099 remain basically unchanged. However, the IRS wanted this reporting and has gotten even – Schedule C includes new lines I & J with new Information reporting requirements requiring yes/no answers.

- I - “Did you make any payments in 2011 that would require you to file Form(s) 1099?”
- J - “If “Yes,” did you or will you file all required Forms 1099?”

Preparers must ask taxpayer these questions!

The Schedule C instructions include the following:

“Information reporting requirements. Lines I and J of Schedule C address your required filing of Forms 1099 in 2011. See the General Instructions for Certain Information Returns to determine whether you are required file any Forms 1099.”

Similar questions and instruction appear on Schedule E, Form 1065, Form 1120, and Form 1120 S and related instructions.

Who must file 1099 MISC forms?

Internal Revenue Code section 6041(a) reads “All persons engaged in a trade or business and making payment in the course of such trade or business to another person” in the amount of \$600 or more must report the amount, name and address of the recipient to the Internal Revenue Service (IRS) and the recipient on a calendar-year basis. This requirement applies to payments of rent, salaries, wages, premiums, annuities, compensation, commissions, fees and other fixed or determinable gains, profits and income.

Instruction for Form 1099 MISC include:

Who must file (1)

“File Form 1099-MISC, Miscellaneous Income, for each person to whom you have paid during the year:

- At least \$10 in royalties (see Box 2 on page 4) or broker payments in lieu of dividends or tax-exempt interest (see Box 8 Category on page 7(see instructions for more information);
 - At least \$600 in rents, services (including parts and materials), prizes and awards, other income payments, medical and health care payments, crop insurance proceeds, payments for fish (or other aquatic life) you purchase from anyone engaged in the trade or business of catching fish, or, generally, the cash paid from a notional principal contract to an individual, partnership, or estate;
 - Any fishing boat proceeds; or
 - Gross proceeds of \$600 or more paid to an attorney - even payments to corporations for legal services.
- The exemption from reporting payments made to corporations does not apply to payments for legal services. Therefore, you must report attorneys’ fees (in box 7) or gross proceeds (in box 14)”

“Trade or business reporting only. (1)

Report on Form 1099-MISC only when payments are made in the course of your trade or business.

Personal payments are not reportable.

You are engaged in a trade or business if you operate for gain or profit.

However, nonprofit organizations are considered to be engaged in a trade or business and are subject to these reporting requirements.

Other organizations subject to these reporting requirements include trusts of qualified pension or profit-sharing plans of employers, certain organizations exempt from tax under section 501(c) or (d), farmers’ cooperatives that are exempt from tax under section 521, and widely held fixed investment trusts.

Payments by federal, state, or local government agencies are also reportable.”

“Exceptions. (1)

Some payments are not required to be reported on Form 1099- MISC, although they may be taxable to the recipient.

- Generally, payments made to corporations (exceptions for attorneys and medical and health care payments)
- Payments for merchandise, telegrams, telephone, freight, storage, and similar items;
- Payments of rent to real estate agents

-
- Wages paid to employees (report on Form W-2, Wage and Tax Statement)
 - Military differential wage payments made to employees while on active duty in the Armed Forces or other uniformed services (report on Form W-2);
 - Business travel allowances paid to employees (may be reportable on Form W-2);
 - Cost of current life insurance protection (report on Form W-2 or Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.);
 - Payments to a tax-exempt organization including tax-exempt trusts (IRAs, HSAs, Archer MSAs, and Coverdell ESAs), the United States, a state, the District of Columbia, a U.S. possession, or a foreign government; and
 - Certain payment card transactions if a payment card organization has assigned a merchant/payee a Merchant. A cardholder/payor may rely on the MCC (merchant category code) assigned to a merchant/payee to determine if a payment card transaction with that merchant/payee is subject to reporting under section 6041 or section 6041A. For more information and a list of merchant types with corresponding MCCs, see Revenue Procedure available at www.irs.gov/irb/2004-31_IRB/ar17.html.

Penalties Increased (2)

The Small Business Jobs Act of 2010 also included a provision to increase the penalties for noncompliance with the information reporting rules. These penalties are on the person who should have prepared and filed the forms.

The 1099 Act did not repeal this provision:

1. *The first-tier penalty* (i.e., not filed correctly within 30 days of due date) for failure to timely file an information return was increased from \$15 to \$30, with the calendar year maximum increasing from \$75,000 to \$250,000.
2. *The second-tier penalty* (i.e., not filed correctly by August 1) was increased from \$30 to \$60, with the calendar year maximum increasing from \$150,000 to \$500,000.
3. *The third-tier penalty* (i.e., not filed correctly after August 1) was increased from \$50 to \$100, with the calendar year maximum increasing from \$250,000 to \$1.5 million.

For small business filers, the calendar-year maximums were increased from \$25,000 to \$75,000 for the first-tier penalty, from \$50,000 to \$200,000 for the second-tier penalty, and from \$100,000 to \$500,000 for the third-tier penalty. The minimum penalty for failure to file due to intentional disregard increased from \$100 to \$250.

The increased penalty

amounts were effective January 1, 2011 and remain in effect after the passage of the 1099 Act. The increased penalty amounts are scheduled to be adjusted for inflation every five years.

Tax Preparer Issues

“Circular 230 § 10.21 Knowledge of client’s omission (3)

A practitioner who, having been retained by a client with respect to a matter administered by the Internal Revenue Service, knows that the client has not complied with the revenue laws of the United States or has made an error in or omission from any return, document, affidavit, or other paper which the client submitted or executed under the revenue laws of the United States, must advise the client promptly of the fact of such noncompliance, error, or omission. The practitioner must advise the client of the consequences as provided under the Code and regulations of such noncompliance, error, or omission.”

“Subpart C — Sanctions for Violation of the Regulations under Circ. 230 (4) § 10.50 Sanctions.

(a) Authority to censure, suspend, or disbar. The Secretary of the Treasury, or delegate, after notice and an opportunity for a proceeding, may censure, suspend, or disbar any practitioner from practice before the Internal Revenue Service if the practitioner is shown to be incompetent or disreputable (within the meaning of §10.51), fails to comply with any regulation in this part (under the prohibited conduct standards of §10.52), or with intent to defraud, willfully and knowingly misleads or threatens a client or prospective client. Censure is a public reprimand.

(b) Authority to disqualify. The Secretary of the Treasury, or delegate, after due notice and opportunity for hearing, may disqualify any appraiser for a violation of these rules as applicable to appraisers.

(1) If any appraiser is disqualified pursuant to this subpart C, the appraiser is barred from presenting evidence or testimony in any administrative proceeding before the Department of Treasury or the Internal Revenue Service, unless and until authorized to do so by the Internal Revenue Service pursuant to §10.81, regardless of whether the evidence or testimony would pertain to an appraisal made prior to or after the effective date of disqualification.

(2) Any appraisal made by a disqualified appraiser after the effective date of disqualification will not have any probative effect in any administrative proceeding before the Department of the Treasury or the Internal Revenue Service. An appraisal otherwise barred from admission into evidence pursuant to this section may be admitted into evidence solely for the purpose of determining the taxpayer’s reliance in good faith on such appraisal.

(c) *Authority to impose monetary penalty –*

(1) *In general.*

(i) The Secretary of the Treasury, or delegate, after notice and an opportunity for a proceeding, may impose a monetary penalty on any practitioner who engages in conduct subject to sanction under paragraph (a) of this section.

(ii) If the practitioner described in paragraph (c)(1)(i) of this section was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to the penalty, the Secretary of the Treasury, or delegate, may impose a monetary penalty on the employer, firm, or entity if it knew, or reasonably should have known of such conduct.

(2) *Amount of penalty.* The amount of the penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty.”

Other authority - AICPA Statement on Standards for Tax Services
Standard No. 2, Answers to Questions on Returns (5)

“A member should make a reasonable effort to obtain from the taxpayer the information necessary to provide appropriate answers to all questions on a tax return before signing as preparer.”

Sources

1. Instructions for Form 1099-MISC – page 2
2. How repeal affects your business, AICPA, Mary Bernard, CPA
3. Circular 230 – page 19
4. Circular 230 – page 32
5. AICPA – Statement on Standards for Tax Services - Page 13

Submitted by Carol Markman, CPA, Partner, MayerMeinberg LLP

BACK BY POPULAR DEMAND:

MEMBER BENEFITS - BY STANLEY TEPPER

Among the current benefits available to our chapter members are health saving and discounts on gas heating. NCCPAP receives commissions from the suppliers.

By logging on to the Nassau/Suffolk Chapter website you will be able to access “Member Benefits.” You will be directed to contact Etta Gelbien, our administrator. She will furnish you with the Group Number in order to get the details of the Health Savings Package offered through the First Benefit Card. By having to contact Etta for the access code, we are hoping to attract new members after she speaks to them.

The First Benefit Card is not insurance nor is it intended to replace insurance. The plan provides discounts at certain healthcare providers for medical and dental services. The card offers savings to members and their families for medical, hospital, dental, vision and legal services. Plans vary in price for the entire family at prices ranging from \$15 a month to \$42 a month.

Our newest Member Benefit is the ability to receive a discount for natural gas at a discount to New York State residents and commercial accounts. These savings are available discounts in New York through JJT Energy. Savings range from 8-12% on your current utility rates. Most users of natural gas or electricity are eligible. The plan provides significant savings on the actual cost of the natural gas and eliminates 100% of the distribution sales tax on your bill. JJT is an Energy Services Company (ESCO) and it purchases gas at open market prices, with utility companies continuing to distribute it to their customers as usual. Your utility continues to ensure uninterrupted delivery customer service and billing. You can view your discount on your normal utility company's invoice. JJT Energy buys the gas. Your utility delivers it. You save. Very shortly you'll be able to go on line on the NCCPAP Nassau/Suffolk website and view sign-on instructions.

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