

The National Conference of CPA Practitioners

Nassau/Suffolk Chapter Volume 9, Issue 8 October 2012

Date	Tuesday, October 16, 2012 - Chapter Meeting
Topic	ANNUAL MEETING - ELECTIONS OF OFFICERS AND DIRECTORS
Speakers	EVENING OF REAL ESTATE - 1031 LIKE-KIND EXCHANGE
Credits	Matthew K. Scheriff, CPA & Todd R. Pajonas, Esq. of Legal 1031 Exchange Services, Inc., Renato Matos, Esq. of Capell Barnett Matalon and Schoenfeld 2 CPE/TAX
Location	Crest Hollow Country Club, 8325 Jericho Turnpike, Woodbury, NY 11797
Time	Networking/Registration: 5:30 PM, Annual Meeting: 6:45 PM, Program: 7:00 - 9:00 PM
Cost Members	On or before Friday, Oct. 12 - \$60.00, After Friday, Oct. 12 - \$75.00
Non-Members	On or before Friday, Oct. 12 - \$80.00, After Friday, Oct. 12 - \$95.00
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Date	Wednesday, October 31, 2012 - MAP Meeting
Topic	JOINT MEETING: THE LOAN A-RANGER
Moderators	With NYSSCPA – Meet the Bankers: How to help your small business client get a loan Sandra G. Johnson, CPA, EA, CFE of Sandra G. Johnson, CPA Douglas Sinetar, CPA of Douglas Sinetar CPA PC
Credits	2 CPE/MAP/Advisory Services
Location	On Parade Diner, Woodbury
Time	Registration: 7:45 AM, Program: 8:00 - 10:00 AM
Cost	On or before Friday, Oct. 26 - \$25.00, After Friday, Oct. 26 - \$35.00

NEW YORK STATE REVISES SALES TAX WEB FILE

The New York State Department of Taxation and Finance recently announced that it is updating its Sales Tax Web File “to make it more user and business friendly”. The enhancements include being able to e-file all schedules, delinquent returns, amended returns and requests for refunds and credits. Taxpayers will also be able to save bank account information for future payments. In addition to the enhancements, NY sales tax returns will require additional information, including:

- total non-taxable and exempt sales,
- credit and debit card deposits,
- credits claimed must be separately reported by each jurisdiction, and
- information on the credits claimed.

The new system will be available for sales tax returns due after September 20, 2012. Therefore, businesses filing returns due September 20, 2012 will not be using the new system.

Businesses may need to change their record keeping systems to meet the new reporting requirements. This is an opportunity to provide an additional service to your clients that have not already revised their bookkeeping system to separately track credit and debit card sales.

NYS will accept returns without the additional information during a phase-in period from September 1, 2012 through May 31, 2013. The State is encouraging businesses to begin reporting the new information as soon as their record keeping systems can provide the requested data. The new reporting requirements are mandatory for returns beginning with the June 1, 2013 to August 31, 2013 filing period that are due September 20, 2013.

Businesses liable for sales tax on motor fuel and diesel motor fuel are also subject to Sales Tax Web File changes.

Additional information can be obtained at the NYS Tax Department website. Online demos of the Sales Tax Web File changes are available on the website.

Comments – The separate reporting of credit and debit card sales on sales tax returns provides NYS with enough information to compute a business’ cash sales. This change will probably result in an increase in sales tax audits because the NYS Tax Department has the standard percentage of credit and debit card sales to total sales by industry.

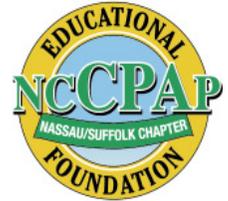
This article was submitted by Ruth A. Sattig Betz, CPA; she can be reached at Ruth@RSBetzCPA.com

**To register for any of our
meetings, please visit**

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



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Please send your replies to: Patti Kass: patti@ns-nccpap.org or Fax to: (516) 997-5155

As always, we need volunteers to help run the Event

Dates: November 14, 15 & 16, 2012

Time: 7:00 AM to 5:00 PM

Please volunteer!!!!

Volunteers are needed for:

- 1) Registration & Sign-In Tables: starting at 7:00 AM Daily
- 2) Course Sign In: for attendance and handouts in the rooms: Daily
We will try our very best to assign people to the session (Course) which they will be attending.
- 3) Before the Event:
Monday, November 12, 2012
to set up and prepare from 5:30 p.m. - 10:00 p.m. Dinner will be provided

PLEASE MAKE SURE YOUR SYMPOSIUM REGISTRATION HAS BEEN RECEIVED BY THE N/S CHAPTER OFFICE IN ORDER FOR US TO PROPERLY PLACE YOU!

Please email Patti Kass patti@ns-nccpap.org Fax to: (516) 997-5155 with your:

Name: _____

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Phone Numbers: _____

Please check off what you are willing to volunteer for:

Registration Desk _____ **Table Sign-In Desk** _____ **Course Sign-In** _____

Before the Event: **Monday, Nov. 12** _____



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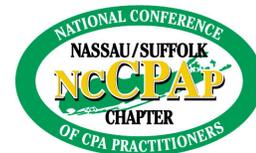
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MAP – MANAGEMENT OF AN ACCOUNTING PRACTICE



Now that the September 15 deadline is behind us and October 15 is almost history, it's time to concentrate again on managing your accounting practice.

On October 31, 2012 we will hold a joint MAP meeting with the NYSSCPA. Our topic will be "The Loan A-Ranger". Our guest speakers will be representatives from several local banks to help us learn what the banks are looking for in commercial lending. We are expecting a large turnout so be sure to register early.

There will be no MAP meeting in November since we will all be attending the three-day LI Tax Practitioners Symposium. We will be back on December 19 with "Tax Audits: How to Prepare for Them, How to Avoid Them" presented by Karen Tenenbaum and Neil Katz.

Are you interested in getting more involved with the MAP committee? We are always looking for volunteers to help. Do you have a question related to managing your accounting practice? Help is just a phone call away. Contact MAP co-chairs Sandy Johnson at 516-409-1120 or Doug Sinetar at 516-794-9696.

Sandra Johnson CPA & Douglas Sinetar, CPA



MESSAGE FROM THE EDUCATION CHAIRMAN

Our 2012 chapter year is rapidly coming to a close and we welcome our upcoming Symposium. I look forward to seeing everyone at the October chapter meeting, which will feature real estate developments in 1031 like-kind exchanges. Our presenters are extremely knowledgeable on the intricacies of like-kind exchanges.

We have listened to the many requests for more A & A subjects at chapter meetings and we are pleased to announce that on December 6th, our chapter meeting shall present a discussion on preparing for your 2012 financial audits.

Perhaps one of the most pressing tax considerations is the upcoming decline in the federal estate and gift tax exemption. Absent Congressional action, the exemption will revert back to \$1 million on January 1, 2013. Clients are concerned about losing the benefit of the current \$5.12 million exemption. There are several preferred methods for currently utilizing the exemption before it expires. One interesting technique is for couples to make gifts into mutual lifetime credit shelter trusts for the benefit of their spouse. Such a transfer would ordinarily be considered a taxable gift, but because the gift is less than or equal to the exemption amount, it is a tax-free transfer.

The most attractive feature of the credit shelter trust is the ability of a draftsman to customize the trust instrument according to each spouse's unique needs. However, if not drafted carefully, the IRS could apply the Reciprocal Trust Doctrine to "uncross" mutual trusts and treat each as a "self-settled" trust includable in the settlor's estate. To avoid the Reciprocal Trust Doctrine, each trust must be materially different. The IRS has not defined "material differences", but the following examples may provide assistance: Execution date; distribution requirements; trustee selection; independent trustee appointment; five-by-five power; and limited power of appointment.

The draftsman can tailor each trust to the respective beneficiary's needs and family situation. In sum, lifetime credit shelter trusts are an ideal way for couples to take advantage of the current estate and gift tax exemption while preserving their income. Since the fate of the \$5.12 million exemption hangs in the balance, couples would be best advised to act before year-end.

Robert Barnett, Esq.



GOOD & WELFARE

Our Sincerest Condolences to

William Stevenson on the passing of his wife, Ruth on September 2nd.

Robert and Joan Barnett on the passing of her mother, Myrtle Bonaventura of Whiting, NJ.

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

**Holiday Inn @ Plainview
215 Sunnyside Blvd
Plainview, NY 11803**

MEETING SCHEDULE 2012

**On Parade Diner
7980 Jericho Turnpike
Woodbury, NY 11797**

October 16, 2012*	Change of Topic: 1031 Exchanges	2 CPE/Tax	Crest Hollow Country Club
October 31, 2012	Joint MAP Meeting with Nassau Chapter of NYSSCPAs: "The Loan A-Ranger"	2 CPE/MAP/ADVISORY SERVICES	On Parade Diner
November 14, 15 & 16, 2012	Long Island Tax Professionals Symposium		Crest Hollow Country Club
December 6, 2012*	Accounting & Auditing Update: How to Prepare for Your Upcoming Audit	2 CPE/A&A	Holiday Inn
December 19, 2012	Tax Audits: How to Prepare for Them, How to Avoid Them	2 CPE/MAP/ADVISORY SERVICES	On Parade Diner

* Chapter Meeting

All Meetings Subject to Change

Mark Your Calendars for 2013

Some dates are subject to change. Below are just a sample of what is ahead. The Educational Committee is working hard on securing the Topics and Speakers.

2 CPE/MAP/ADVISORY SERVICES Will be held at On Parade Diner, Registration is at 7:45 AM

***New Location for CHAPTER MEETINGS, 8 CPE/A&A and 4 CPE/ETHICS:**

**The Woodlands at Woodbury
1 Southwoods Road, Woodbury, NY 11797**

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

Tuesday	Jan. 15*	Post Elections Blues Important Tax Changes for the Year and Elections Updates	2 CPE/Tax
Wednesday	Jan. 30	Show Me the Money! Time, Billing, Collections, Fees, Cash Flow	2 CPE/MAP/ADVISORY SERVICES
Wednesday	Feb. 6*	College 529 Plans - The Hidden Treasure- How to better utilize for you and your clients Moderated by Gary Sanders with panel to discuss the Financial Aid interaction and also Gift and Estate Tax benefits	2 CPE/Tax
Wednesday	Feb. 27	Roundtable	2 CPE/MAP/ADVISORY SERVICES
Thursday	March 7*	Tax Season Roundtable	2 CPE/Tax
	April	No Meeting	
Wednesday	April 24	Roundtable	2 CPE/MAP/ADVISORY SERVICES
Thursday	May 2 or 23	To Be Determined	2 CPE/Tax
Wednesday	May 29	What is the Direction of Your Practice? The Five Year Plan	2 CPE/MAP/ADVISORY SERVICES
Thursday	June 6*	To Be Determined	2 CPE/Tax
Wednesday	June 26	How to Work on Your Practice and Not in Your Practice	2 CPE/MAP/ADVISORY SERVICES
Thursday	June 27*	All Day Accounting and Auditing Update	8 CPE/A&A
Thursday	July 11*	To Be Determined	2 CPE/Tax
Wednesday	July 31	Sunrise, Sunset - What's Next?	2 CPE/MAP/ADVISORY SERVICES
Thursday	Aug, 8*	To Be Determined	2 CPE/Tax
Thursday	Aug. 22*	Ethics	4 CPE/ETHICS
Thursday	Sept. 12*	Business Appraisal Workshop	2 CPE/Tax
Thursday	Oct. 3*	To Be Determined	2 CPE/Tax
Thursday	Nov. 13, 14 & 15, 2013	Long Island Tax Symposium	
Thursday	Dec. 5	To Be Determined	2 CPE/Tax

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EXPIRING TAX PROVISIONS

More than 50 federal tax provisions expired at the end of 2011, and another 30-plus expire at the end of 2012. Some of the provisions that have already expired are:

Individual tax provisions

1. Temporary payroll tax cut (Section 601 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010)
2. Increased AMT exemption amount (Section 55(d)(1))
3. Personal tax credits allowed against regular tax and AMT (Section 26(a)(2))
4. Expansion of adoption credit and adoption assistance programs (Sections 36C and 137, Section 10909(c) of the Patient Protection and Affordable Care Act)
5. Deduction for certain expenses of elementary and secondary school teachers (Section 62(a)(2)(D))
6. Parity for exclusion from income for employer-provided mass transit and parking benefits (Section 132(f))
7. Premiums for mortgage insurance deductible as interest that is qualified residence interest (Section 163(h)(3))
8. Deduction for State and local general sales taxes (Section 164(b)(5))
9. Above-the-line deduction for qualified tuition and related expenses (Section 222(e))
10. Tax-free distributions from individual retirement plans for charitable purposes (Section 408(d)(8))

Business provisions

1. Tax credit for research and experimentation expenses (Section 41(h)(1)(B))
2. Work opportunity tax credit (Section 51(c)(4))
3. 15-year straight-line cost recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements (Sections 168(e)(3)(E)(iv), (v), (ix), 168(e)(7)(A)(i) and (e)(8))
4. Additional first-year depreciation for 100 percent of basis of qualified property (Section 168(k)(5))
5. Increase in expensing to \$500,000/\$2,000,000 and expansion of definition of Section 179 property (Section 179(b)(1) and (2) and 179(f))
6. Special rules for qualified small business stock (Section 1202(a)(4))
7. Basis adjustment to stock of S corporations making charitable contributions of property (section 1367(a))
8. Reduction in S corporation recognition period for built-in gains tax (Section 1374(d)(7))
9. New markets tax credit (Section 45D(f)(1))

In addition there are many provisions related to energy incentives

Taken from the Joint Committee on Taxation report JCX-2-11, which can be found on the JCT website. The complete list can be downloaded from <https://www.jct.gov/publications.html?func=startdown&id=3722>

Article was submitted by Carol Markman, CPA, Partner, at MayerMeinberg LLP; she can be reached at cmarkman@mayermeinberg.com.

STROKE IDENTIFICATION

During a BBQ, a woman stumbled and took a little fall – she assured everyone that she was fine (they offered to call paramedics) ... she said she had just tripped over a brick because of her new shoes. They got her cleaned up and got her a new plate of food. While she appeared a bit shaken up, Jane went about enjoying herself the rest of the evening.

Jane's husband called later telling everyone that his wife had been taken to the hospital – (at 6:00 PM Jane passed away.) She had suffered a stroke at the BBQ. Had they known how to identify the signs of a stroke, perhaps Jane would be with us today. Some people don't die; they end up in a helpless, hopeless condition instead.

It only takes a minute to read this.

A neurologist says that if he can treat a stroke victim within three hours, he can totally reverse the effects of a stroke...totally. He said the trick was getting a stroke recognized, diagnosed, and then getting the patient medically cared for within three hours, which is tough.

RECOGNIZING A STROKE

You need to remember the **'three' steps: STR**. Read and Learn!

Sometimes symptoms of a stroke are difficult to identify. Unfortunately, the lack of awareness spells disaster. The stroke victim may suffer severe brain damage when people nearby fail to recognize the symptoms of a stroke.

Now doctors say a bystander can recognize a stroke by asking three simple questions:

S* Ask the individual to **SMILE**, **T*** Ask the person to **TALK** and SPEAK A SIMPLE SENTENCE (coherently) (**i.e. Chicken Soup**), **R*** Ask him or her to **RAISE** BOTH ARMS.

If he or she has trouble with ANY ONE of these tasks, call emergency number immediately and describe the symptoms to the dispatcher.

New Sign of a Stroke - **Stick Out Your Tongue**

NOTE: Another 'sign' of a stroke is this: Ask the person to 'stick' out his/her tongue. If the tongue is 'crooked', if it goes to one side or the other, that is also an indication of a stroke.

A cardiologist says if everyone who reads this article should send a copy to ten people; you can bet that at least one life will be saved.

I have done my part. Will you?

Article was submitted by Stanley Tepper, CPA of Tepper, Tepper and Koprowski, CPA; he can be reached at ttkcpas@aol.com.



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MAKE SURE YOU'RE PREPARED FOR OUTAGES!

Listen to Storm Warnings and Take Precautions

I have seen too many people lose data and equipment due to a lack of preparation... so I am once again reminding everyone to be proactive. The storms that occurred this past month resulted in some people losing power supplies and hard drives. In most of these cases, the person had not taken the proper precautions and did not have an Uninterruptible Power Supply (UPS) protecting their computer. To avoid being a victim I suggest you read the following and put a plan in place to prepare yourself.

PREPARE YOUR TECHNOLOGY:

- Be sure you have a full backup of all your important data (preferably both on and off-site).
- If you have a UPS battery with surge protection be sure the unit is connected and the auto shutdown software is installed and working.
- If you do not have a UPS battery with surge protection on each device, we recommend shutting down your PC's and servers if you expect, or are prone to power outages. A sudden loss of power will damage computer equipment. At the very least be sure you have surge protectors if you do not have UPS units.
- We advise you to unplug your PC if you do not have a proper UPS or surge protector.
- If you're in a flood prone area, make sure to keep all your computers and hardware off the floors.

PREPARE YOUR HOME & OFFICE:

- Enable remote access if you will need to access data from home.
- Take in or secure all outdoor property (furniture, gas grills, sheds, outside storage tanks).
- Ensure proper working condition for emergency equipment, such as flashlights and battery powered radio and first aid kits.
- Clear loose and clogged rain gutters and downspouts.
- Stock up on non-perishable foods, first aid supplies, and drinking water.
- Make a plan for you and your family pets if you need to evacuate.
- Have an out of state friend as a family contact, so that all your family members have a single point of contact.
- Check your battery backups on sump pumps, alarm systems, etc.
- Move all contents to higher floors if it looks like flooding is imminent (especially items of high or unusual value and vital records).

If your office has a server and multiple PC's, please contact your IT service provider and discuss if this is the best way to prepare your site.

After the Storm (general procedures)

- Assess damage to home and contents. Photograph all damage.
- When cutting up fallen trees or branches, use caution, especially if you use a chain saw.
- Use a flashlight for emergency lighting. Never use candles or open flames indoors.
- Make temporary repairs to protect the building and contents.
- Remove and discard all porous organic materials that have become visibly wet or contaminated.
- When using a generator, be sure that the main circuit breaker is off and locked out prior to starting the generator.

NEW YORK STATE 2012 GUIDELINES CLARIFY RESIDENCY RULES

By Yvonne R. Cort, Esq.*

After a few years of significant decisions in NYS residency law, the NYS Department of Taxation and Finance issued Nonresident Audit Guidelines in June 2012, updating the March 31, 2009 edition. The 2012 guidelines bring structure and direction to some of the areas of uncertainty.

The general rule is that a taxpayer may be considered to be a resident, and subject to tax on his/her worldwide income, if he/she falls within one of two categories: either he/she is domiciled in New York; or he/she is domiciled elsewhere and is a statutory resident of New York. To be a statutory resident, a taxpayer must maintain a permanent place of abode within the State for substantially all of the year, and be present in the State for more than 183 days of the year.

New tests consider physical attributes separately from the taxpayer's relationship with the dwelling: Recent litigation has examined what it means to "maintain" a place in New York, and also when a dwelling would be considered a "permanent place of abode". The cases have led to many questions and few answers. The new guidelines make it clear that the determination of "maintaining a permanent place of abode" is a two-prong test, consisting of physical attributes, and taxpayer's relationship to the dwelling. The second prong is further broken down into seven factors to be evaluated. Both prongs must be satisfied for a finding that a taxpayer maintains a permanent place of abode within the meaning of the statute.

In the *Barker* case, the taxpayer argued that his summer home was not suitable for his and his family's year-round use, and, therefore, did not meet the legal standard for a permanent place of abode. The NYS Tax Tribunal disagreed, holding that the physical nature of the summer home was the critical issue, not whether it was physically suitable for the taxpayer. The Tribunal determined that since the summer home could be used all year, it met the physical requirements to be a permanent place of abode. Consistent with the *Barker* court, the guidelines now delineate that the physical attributes are to be evaluated separately from the taxpayer's relationship with the dwelling.

Look at the whole picture: In the *Gaied* case, the Tribunal determined that the taxpayer maintained a permanent place of abode and was a statutory resident, where he owned the Staten Island apartment lived in by his parents, and paid all the utilities, even though he rarely stayed overnight and did so only at the request of his elderly parents for medical reasons. Practitioners have been concerned that, based on *Gaied*, the Department would consider ownership to be paramount in determining that a dwelling is a permanent place of abode, to the exclusion of other factors. The 2012 guidelines explain that the Department's position is that the *Gaied* case involved a combination of facts and circumstances, not simply ownership; and that the permanent place of abode finding is based on a totality of the situation.

In fact, the guidelines specifically provide that despite an ownership right in the dwelling, the taxpayer would not be considered to have the necessary relationship with the dwelling if it is used exclusively by others.

The seven factors of the relationship to the dwelling: The auditors are instructed to weigh all seven factors in order to reach a conclusion. The factors are: 1. Does the taxpayer own the dwelling? 2. Does he/she have a legal right to the abode? 3. Does the taxpayer contribute money or otherwise help to maintain the dwelling? 4. What is his/her relationship with others in the dwelling, for example, family members? 5. Does he/she use the address for business or governmental purposes, such as voting or car registration? 6. Does he/she keep personal items there or have his/her own space? 7. Does he/she use the dwelling or have access?

While no one factor is determinative, the factors do not have equal weight. For example, if a taxpayer pays all the expenses and has unfettered access, the place may be considered a permanent place of abode, even if the taxpayer does not use the address for voting or receiving mail.

Some guidance on the college apartment: The guidelines go further and address a frequent concern of taxpayers, as to whether an apartment purchased by parents for a child in college would be considered a permanent place of abode to the parents. According to the guidelines, if the apartment is used "primarily" by the child, it might not be a residence for the parents.

To use the example of parents who buy and maintain an apartment for use by their college student child, a closer look at the seven factors would be needed to determine the parents' relationship to the apartment. Relevant facts would include whether the parents keep some clothes in the apartment or how often they use a "spare" bedroom. The Department specifically acknowledges the common sense argument that the size of the apartment should be considered.

Now that the factors are elucidated, practitioners can instruct taxpayers regarding documenting the relationship to the dwelling, so as to be prepared if there is an audit.

Moving abroad? It's not always a change of domicile: Another notable update to the guidelines is the addition of a section on change of domicile where the taxpayer claims to have moved to a foreign country. There are four factors to consider: whether the taxpayer is a permanent resident of the foreign country; whether the taxpayer has retained a NY residence, and how often he comes to visit NY; the nature and extent of the taxpayer's NY business interests; and whether he/she files tax returns as a resident of the foreign country. The guidelines specifically note that the taxpayer's decision to become a citizen of the foreign country should not be considered in the domicile determination.

There is also a new detailed discussion of the resident credit for taxes paid to other states and to other governmental entities such as Canadian provinces. The guidelines examine the type of income subject to the credit, limitations on the amount of the credit, and other circumstances which affect when the credit will be allowed.

Continued on next page

Continued from page 8

While it remains to be seen how the guidelines will be put into practice by the auditors, the guidelines address many of the issues that have been discussed and debated for the past few years. With more clarity for the Department's policies, practitioners and taxpayers have a better chance of making sure that they do not inadvertently fall afoul of the residency pitfalls.

*Yvonne R. Cort is counsel with the Melville law firm of Karen J. Tenenbaum, P.C., www.litaxattorney.com, and can be reached at ycort@litaxattorney.com or 631-465-5000. She is the immediate past Chair of the Nassau County Bar Association Tax Law Committee. Yvonne's practice focuses on NYS and IRS tax controversies.



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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

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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.

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