



The National Conference of CPA Practitioners

Nassau/Suffolk Chapter

Volume 11, Issue 1

April 2014

Date Topic

Tuesday, April 29, 2014 - MAP PRACTICE CONTINUITY

"This meeting is dedicated to our dear friend and colleague, Shelly Kronowitz."

Join your colleagues, learn the do's and don'ts from an expert,
and build the relationships that will help you protect your practice.

Joel Sinkin of Transition Advisors, LLC

Robert Brown, CPA of Robert Brown, CPA

Leilani E. Elias, CPA of Wild, Maney & Resnick, LLP

2 CPE/MAP/Advisory Services

The Woodlands @ Woodbury

1 South Woods Road, Woodbury NY 11797

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

On or before Friday, April 25 - \$30.00; After Friday, April 25 - \$40.00

On or before Friday, April 25 - \$40.00; After Friday, April 25 - \$50.00

\$50.00 for all

Speaker
Moderators

Credits
Location

Time
Cost Members
Non-Members
At The DOOR

Sponsor
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Date Topic

Thursday, May 1, 2014 - Chapter Mtg CRIMINAL TAX LAW AND HOW IT AFFECTS YOU

Criminal Tax Law and its relationship to clients of accountants and
risks accountants run when trying to help clients. Tax Scams will all be discussed

Terence E. Smoley, Esq of Terence E. Smoley, PC

2 CPE/TAX

The Woodlands @ Woodbury

1 South Woods Road, Woodbury NY 11797

Registration: 5:30 PM; Program: 6:30 - 8:30 PM

On or before Friday, April 25 - \$55.00; After Friday, April 25 - \$70.00

On or before Friday, April 25 - \$80.00; After Friday, April 25 - \$95.00

Speaker
Credits
Location

Time
Cost Members
Non-Members

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Wednesday, May 14, 2014 - Member Appreciation Dinner

Topic: Buy-Sell/Shareholder Agreements

Tax & Financial Considerations - Funding Options & Opportunities

Pension Considerations / Seasoned Money - How to Avoid Disputes & Traps - As An Exit Strategy

Panel:

Robert Barnett, Esquire, Capell, Barnett, Matalon, Schoenfeld

Donald Vigliotti, New York Life

Joseph Milano, Esquire, Capell, Barnett, Matalon, Schoenfeld

Credits: 2 CPE/Tax

Location: NY LIFE Hdqtrs - 576 Broad Hollow Road - Melville, NY 11747

Time: Registration: 5:30 PM; Program: 6:30 - 8:30 PM

Cost: Members:** On or before Wednesday, May 7 - \$40.00; After Wednesday, May 7 - \$50.00

Non-Members: On or before Wednesday, May 7 - \$40.00; After Wednesday, May 7 - \$50.00
ALL Walk ins = \$50.00

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***NON-Member requirements is a CPA who has NEVER Previously attended a NCCPAP Event.**
Contact egelbien@ns-nccpap.org to verify if your guest has never attended any events.

To register for any of our
meetings, please visit

go.nccpap.org



President's Message

Welcome back to reality. Reintroduce yourselves to your significant others, your kids and your pets. Tax season is over...for now. Payroll taxes await.

During this tax season we had sad news, long time member, Shelly Kronowitz died suddenly. We, at the chapter, had a fund raiser for his family. Members can still donate. Send checks to the Chapter office and make them payable to the Educational Foundation of N/S Chapter of NCCPAP. Every dollar will go the family.

As our Vice-President, Abby Alhante said, that this is the importance of having monthly meetings, not just webinars. We meet our colleagues, get to know them and in an emergency like this, members volunteer to help the family and to be there to salvage the practice for the family.

Many of us being sole practitioners should take heed from tragedy like this. You must make family, friends or colleagues aware of important aspects of your practice. Have a plan, your passwords have to be available. With that in mind, our MAP committee changed their original program for April 29th to highlight the need for practice continuity.

Please read Co-chair, Robert Brown's article in this newsletter.

On May 1st, our Chapter meeting will be about criminal law and the accountant, what we need to know to protect our clients and how to protect ourselves from our clients. We are fortunate to have Terence E. Smoley, Esq as our speaker.

We are having a member appreciation evening on May 14th at a special location NY Life headquarters in Melville. The subject is "Buy/sell and shareholder agreements and our speakers will be Robert Barnett, Esq., and Joseph Milano, Esq. of Capell, Barnett, Matalon, Schoenfeld and Donald Vigliotti of New York Life. After this initial year of 3.8% on NII, everybody may want to sell. The cost for this meeting is \$40.00, you can also get \$10.00 back if you bring a non member who will be able to attend for free. Please call Etta to arrange for the non member to attend.

On Saturday, June 14th, we have the 13th Annual Ellen Gordon CPA's 4(a) Cause 5K Run/Walk (the part that I like) to end hunger. It takes place at Eisenhower Park and benefits Island Harvest. It's great fun and it's for a good cause. I knew Ellen for nearly 30 years and I consider it an honor to be involved in such a worthwhile endeavor.

On June 24th and 25th we are having our second annual LITPS Technology Forum. One of our keynote speakers is Frank Abagnale, who was portrayed by Leonardo Di Caprio in the movie "Catch Me if You Can." Last year's forum was terrific. The attendees all gave rave reviews. We all have to be aware of the latest technologies and social media. Our clients expect it of us. There are also MAP and tax tracks. With the massive changes in the NYS estate tax laws, it's important that we keep up with these constant changes.

As I was writing this article, spring was breaking out in the form of rain, sleet, snow and ice. I can't wait to chop half an inch of ice off my windshield. I'm looking forward to attending a ballgame in my down coat, scarf and boots. And as for the golfers in the crowd... fuhgeddaboutit.

Michael Rubinstein, 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 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.



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

MEETING SCHEDULE 2014

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

Calendar is subject to change

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

*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

Date	Topic	Credits	Location
Tuesday, April 29*, 2014	Practice Continuity	2 CPE/MAP/Advisory Services	The Woodlands
Thursday, May 1, 2014*	Criminal Tax Law and How It Affects You	2 Tax CPE	The Woodlands
Wednesday, May 14, 2014	Membership Appreciation Mtg: Buy Sell Agreements	2 Tax CPE	NYL
Thursday, May 22, 2014	A&A - Part 1 (7:45am - 12pm)	4 A&A CPE	NYL
Wednesday, May 28, 2014	CPAs and Technology Cloud Computing, Apps, Security...	2 CPE/MAP/Advisory Services	The Woodlands
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	Location TBD
Thursday, September 4, 2014*	Joint with MAP: Protect Your Practice	2 Tax CPE	Location TBD
Thursday, October 30, 2014*	Business Succession Planning for Your Clients and the Next Generation	2 Tax CPE	Location TBD
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	Location TBD

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



MAP – MANAGEMENT OF AN ACCOUNTING PRACTICE

The Importance of Practice Continuity...

As many of you may already know, on March 13th, we lost a dear friend and colleague, Sheldon Kronowitz. Shelly served our organization on both the local and national levels, as a director and committee chair.

Shelly Kronowitz and I had a great deal in common. We each had two wonderful children, one in each flavor, as well as both having hit the jackpot on spouses. We both volunteered our time and effort to NCCPAP at the same time. I remember Shelly being interviewed by the nominating committee right before me. Both of us were nominated and served as directors of the Nassau/Suffolk Chapter.

In the hours and days following Shelly's passing, there was a tremendous outpouring of both grief and offers of assistance by NCCPAP members and staff, wanting to help in any way they could. While many were surprised by the extent of the outpouring, it would not have surprised Shelly. That is why he volunteered. That is why we volunteered. The smile was Shelly knowing his back was covered. The smile was Shelly knowing he had the admiration, respect, and affection of his colleagues.

While so much has changed in the 35 years of since our organization was founded, the principal on which the organization was founded, "practitioners helping practitioners", has always remained.

Shelly's passing is a painful reminder of the importance of planning for continuity of the practices we have all worked so hard to develop. Having had many personal experience's myself, which both threatened and impacted by practice, the planning is needed from the day one hangs out the shingle.

With this in mind, we have scheduled a special MAP meeting for April 29th on practice continuity and practice continuity agreements. We are extremely fortunate to have Joel Sinkin, of Transition Advisors, LLC, to give us his practical insights into practice continuity.

Please join Leilani Elias, my new co-chair, and myself, in what promises to be a very special program from one of the premier experts in the country, and to honor our friend and colleague, Sheldon Kronowitz.

Robert Brown CPA

Executive Vice President & MAP Co-chair, Nassau Suffolk Chapter



GOOD & WELFARE

Our Best Wishes to:

Noah Epstein, the grandson of Stephen & Renay Weisberg, on his Bar Mizvah which took place on April 12, 2014 at South Huntington Jewish Center.

Our Condolences to:

Anne Kronowitz, on the passing of her husband, Sheldon H Kronowitz, on March 13, 2014. A true loss for NCCPAP, Shelly was currently a Director of the N/S NCCPAP, chairman of the Audit Committee and on many standing committees.

Helen Mondschein & Family on the passing of Donald.

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



CHAPTER MEMBER BENEFITS AND DISCOUNTS

I would be remiss if I did not pay respect to our deceased active committee member Shelly Kronowitz. He was a frequent attendee at our meetings and contributed positively to its discussions. He will be missed.

After April 15th we'll reconvene in order to finalize our committee's recommendations in the field of long term care, health and professional liability. One of our insurance advisors reported that with the advent of Obamacare it may not be advantageous to have association policies as opposed to individual ones. We'll pursue this tact.

Tax season results in a multitude of papers to be shredded. A very competitive firm engaged in this field is A Shred Away, Inc (Charlie DeBlasio) (631) 456-2279. He will come to your business location. I personally have saved \$100 an hour using Charlie's firm.

Stanley Tepper, CPA
Chairperson of Membership Benefits

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*deceased

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JUNE 24-25, 2014

Crest Hollow Country Club
Woodbury, NY

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

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

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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

IS YOUR CLIENTS TRUST STILL FULFILLING ITS OBJECTIVE

Clients establish trusts for many different reasons including making sure their assets will be properly invested and not squandered away by a spendthrift child or spouse. Others establish trusts to make sure that if sued, their assets are protected from the claims of a creditor, or for tax purposes. A careful parent or grandparent may establish a trust to provide an inheritance earmarked for the next generation and even to make certain that their child's assets are protected in the event of a divorce. Trusts can also be set up to provide for the welfare of a child, to provide for their educational fund or to send a birthday, graduation or wedding gift even after the grantor has passed away. A trust is also an excellent way to make a charitable bequest to assure your legacy will always be remembered.

Some individuals with sufficient assets that choose to leave their IRA principal intact for a grandchild might choose to set up a stretch IRA trust. Doing so would allow the assets in the IRA to continue to grow tax deferred and accumulate for many years without having to take a distribution, a very smart and effective way to defer taxes on assets and even gives one an opportunity to skip a generation of taxes. Creditor protection for a beneficiary may also be another significant reason for a grantor to set up an IRA trust especially if the beneficiary might be sued because of their occupation, or spendthrift personality.

Prior to the recent 2014 estate tax exclusion increase to \$5,340,000 many attorneys advised their clients to use marital A B Trusts to reduce the size of the assets in their taxable estate to escape the federal estate and state inheritance taxes. Many advisors also suggested that clients place their primary homes in a Qualified Personal Residence Trust (QPRT'S), to avoid having their value included in their taxable estate for estate tax purposes. While there are many reasons for an individual or family to consider the benefits of establishing a trust, it is equally important that individuals review their trusts to make certain they are still operating in their best interest today. For example many individuals that placed their homes in QPRT'S, may wind up passing the ownership of the home from a parent to child while the owner is still alive. However, in doing so they give up the stepped up basis at death unnecessarily, as estate taxes may no longer apply for them today as a result of the new higher tax exclusions.

Many young families with children that have special needs, set up a Special Needs Trusts (SNT) to enable their child to receive whatever public assistance they may qualify for, and in addition provide them with other assets when parents are no longer alive. While it's always important to choose a trustee wisely, never is it more important than when it comes to providing guidance to the parent to advocate for the best outcome in providing management for the needs of a special needs child for the rest of his or her life. Just as much thought should go into the selection of a trustee, as a trustee should carefully consider the duties and responsibilities he/she is assuming by agreeing to act as a trustee for the family of a close friend.

Many times people will appoint or accept the title as Trustee but don't fully understand the ramifications, the fiduciary liability, nor the moral responsibility they assume when they become personally liable to preserve the assets in that trust. This commonly occurs when a life insurance contract was purchased in order to exclude the death benefit from an Individual's taxable estate. The attorney or accountant advised their client to select an individual to act as trustee for their trust owned life insurance (T.O.L.I). Often times an oldest son or daughter or good friend or trusted relative was chosen, but they probably didn't have the understanding of how a life Insurance contract works nor did they realize that they assumed 100% of the performance risk for a contract they didn't know wasn't guaranteed, and didn't know required active management, just like any other asset class. This can place the unskilled private trustee in a position where their lack of specialized knowledge concerning their duties as a trustee makes them vulnerable to a lawsuit by other family members, or can place them and their advisers in the center of an uncomfortable, otherwise preventable situation.

This most often occurs when a client in their mid to late 80's receives notification from their life insurance company stating that their life Insurance contract, based on the current premiums will expire without value in another one-two years, unless a higher premium is paid. "How can that be?" asks the client. "I've paid all of my premiums on time and I never borrowed any of my cash value." What they don't understand nor did their sons and daughters acting as private trustees is that 85% of the life Insurance contract's they and others purchased over the last 25 years was a Flexible Premium life Insurance contract meaning that it wasn't guaranteed to last a lifetime. Instead 100% of the performance risk of that contract was transferred to the insured/trustee. And any shortfalls in Interest rates should have been made up by the trustee each and every year. Unfortunately most trustees nor their advisers realized that if that shortfall which amounted to approximately 2.5% over the last 10 years wasn't made up, the end result would cause their life Insurance contracts to expire years earlier than originally anticipated.

An adviser should familiarize themselves as well as their clients and the client's children acting as private trustees that owning a flexible premium life insurance contract requires active management. And that it's no longer acceptable for a client to call their stock broker/wealth manager several times a week or month to go over the performance of their \$500,000 Investment portfolio, but not even think of evaluating the performance of their \$1-\$2 million life Insurance portfolio. In addition a performance evaluation allows a trustee to consider and perhaps take advantage of any new features and benefits that may have only recently been made available, i.e.: Pension Protection Act, Chronic Care Riders.

Once a contract is initially evaluated it should be reviewed every two-three years to allow an individual to make sure they're still getting maximum value and compare what they have to what may be available.

A useful tool I use in my practice to record all of the available options, is a Trust Intent Philosophy Statement, (TIPS) that has the grantor meet with the trustee to discuss in plain simple language, the grantor's intent under various circumstances which I then turn into an informal letter given to the trustee by the grantor. This letter should periodically be updated to keep current with a grantor's wishes as to beneficiaries, duties and percentages.

To summarize a typical client with an ILIT needs to make certain that their crummy administration letters are sent out annually, and that their gift tax returns are completed and properly allocated as to the GST. Someone must make certain that their life insurance company is still healthy and more importantly that their individual life Insurance contract will be there beyond an Insured's life expectancy. In short someone needs to advocate for the grantor's beneficiaries and coordinate all of the above to make certain that the next generation's future inheritance and well-being is not endangered as a result of neglect. There is perhaps no better way to initiate a conversation with the children of your clients than to let them know that you're interested in discussing the best way to protect and preserve those assets earmarked for them and their children.

Henry Montag CFP, in practice since 1976 in N.Y is Principal of Financial Forums Inc, which provides educational conferences & credits to organizations such as New York State Bar Association, New York State Society of CPAs. The National Conference of CPA Practitioners. He has had Articles published on subject of TOLI in NYS Bar Association and National CPA Organizations. He has also been a source for Wall St. Journal, Investor's Business Daily, Newsday, Long Island Business News, and a guest on Fox News & News 12, & FIOS T.V.

RELIEF FOR LATE PORTABILITY ELECTIONS

The IRS has provided relief to taxpayers who failed to elect portability. Revenue Procedure 2014-18 provides a simplified method to elect portability for those estates that failed to timely file a Federal Estate Tax return (Form 706) and wish to utilize the deceased spousal unused exclusion amount ("DSUE"). The DSUE is the deceased spouse's remaining unused Federal Estate and Gift Tax exemption (not exceeding \$5.34 million, in 2014).

In order to utilize the DSUE, the estate's executor must file a Form 706 and elect portability, within the prescribed time limits, including the time allotted for extensions. Sections 302(a)(1) and 303(a) of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 first provided for portability of the DSUE to the surviving spouse. Many estates failed to timely file a Federal Estate Tax return electing portability because the estate was under the Federal filing threshold and the executor's did not believe that a return was necessary. The Internal Revenue Service has, on a case by case basis, granted relief to the estates that did not file, but only by private letter ruling request.

Rev. Proc. 2014-18 provides an opportunity to elect portability for those Estates that did not file a Federal Estate Tax return timely and that wish to utilize the DSUE. The relief is only available to estates of individuals who died after December 31, 2010 and before January 1, 2014. The decedent must have had a surviving spouse and must have been a U.S. citizen or resident at death. Furthermore, 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 an individual who is permitted to make the portability election under 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)."

Estate tax practitioners should immediately notify clients who may be impacted by this ruling as it provides substantial relief to those who failed to elect portability.

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NYS OFFERS IN COMPROMISE: A REAL SOLUTION FOR REAL PROBLEMS

For taxpayers who owe large sums of money to the New York State Department of Taxation and Finance, the problems can seem insurmountable. Liabilities continue to grow as penalties and interest accrue. Bad credit and repeated bank levies become a routine part of life. Taxpayers who owe \$10,000 or more in back taxes may also have their driver's license suspended.

One solution may be to enter into an Offer in Compromise with the State. Although the Offer program has been in place for many years, recent changes to the program have allowed more taxpayers to be eligible. In addition, the State has taken steps to reduce its backlog of cases. This is a good time to take a look at whether an Offer is a feasible resolution for your clients with tax debt.

In 2011, the law permitting Offers in Compromise was amended to allow the State to consider the economic hardship of an individual taxpayer in its evaluation of an Offer, if the offered amount reflects the reasonable collection potential of the debtor. In 2013, regulations were published to implement the law, providing guidance for practitioners as well as State representatives. Note that the economic hardship provision is not applicable to corporate taxpayers.

The regulations combine compassion and practicality. The State will review taxpayer's assets, living expenses and anticipated future income. The State can consider elements such as the age and health of the taxpayer and his/her dependents, special education needs, a medical catastrophe, and natural disasters. A luxurious lifestyle is discouraged and expenses such as private school tuition are not permitted.

In determining an acceptable amount to be paid on an Offer, the State generally reviews how much could be collected from the taxpayer in the next five to ten years with the usual collection tools. Each case is evaluated individually. The State may consider a collateral agreement, such as an agreement based on future income of the taxpayer, if this would be appropriate in the taxpayer's unique circumstances.

Previously, the Offer evaluation was tied closely to the outstanding tax amount due. Although the State has more flexibility in determining an acceptable Offer amount since the new law was enacted, the State still may consider the liabilities to be compromised, including the amount of tax involved, and whether trust taxes are involved such as sales or withholding tax. An important factor is whether acceptance of the Offer is in the best interests of the State.

In light of the taxpayer-friendly changes to the NYS Offer in Compromise program, the possibility of settlement is more realistic for many tax debtors. It is important for practitioners to be aware of the requirements and parameters of the program, in order to evaluate whether an Offer is an appropriate resolution, and if so, to prepare and negotiate a viable Offer for their clients.

*Yvonne R. Cort, Esq. is former Chair of the Nassau County Bar Association Tax Law Committee and former Chair of the IRS Long Island Tax Practitioner Liaison Committee, and she lectures and publishes frequently on tax topics. Yvonne is counsel with the Melville, NY tax law firm of Tenenbaum Law, P.C., www.litaxattorney.com where her practice focuses on NYS and IRS tax controversies. She can be reached at ycort@litaxattorney.com or 631-465-5000.



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