



Journal of the CPA Practitioner

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UPDATE...FROM THE NCCPAP PRESIDENT



Ed Caine, CPA

I am honored that you elected me as your new president and I'm pleased to have the opportunity to move our organization forward. Our past presidents have been great leaders, great visionaries, and I hope to continue the tradition they created by guiding our organization to an even brighter future as it faces a myriad of challenges. This will only be successful if I hear from you: if you provide your input... your thoughts... and your advice on issues that are impacting you, your firm and accountancy.

Remember that communication is the key. If I don't hear from you I don't know the concerns you have, the ideas you are contemplating and the challenges you and your colleagues encounter as CPAs.

Our profession is facing many new challenges: increasing identity theft including the theft of PTINS; Congress grappling with expiring tax codes; states saying that rules need to change concerning sales tax (what items and services are taxed and how those taxes are collected); accounting standards proposals being circulated including proposed new standards for unaudited financial statements; and software and hardware technology changing at a faster and faster rate. Do you understand how the cloud is impacting the way you manage your practice?

How do you keep up with all these changes? How do you get your voice heard? Do you want to help affect all these issues? You are continually faced with new challenges in your chosen profession. If you do not keep up with these changes, how will you be able to service your clients effectively? Where will you obtain the needed training, the right CPE to stay on top of all the changes? Where else can you help influence and help determine what should be changed—and what should not be changed? Where can you have a voice that is heard on proposed changes? Only through NCCPAP.

To accomplish this we need to continue to grow NCCPAP through increased membership and opening additional chapters contiguous to existing chapters, so that our new chapters can draw upon the experience and expertise of others. In addition, each member should bring a friend, and then convince that friend, that the benefits of membership in NCCPAP are well worth it. **Invite other CPAs to attend a meeting; invite them to join our organization.** We need to have you and every other member participate not just at the local chapter level but also through attendance and participation at National meetings. Currently, we are actively looking to create new chapters (Central New Jersey and South Jersey are two chapters in formation). If you know of other locations that we should investigate, please let me know.

Why are we looking for and encouraging other CPAs to join NCCPAP? Why are we looking into creating new chapters, and to revitalizing and growing existing chapters? Because if we do not increase membership there will be no voice to speak for the sole practitioner; to speak for the smaller CPA member firm; to effectively represent our more than one million clients before Congress, the IRS, State and local officials. NCCPAP is the organization that

(continued on page 2)

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President's Message (continued from page 1)

provides a platform for its members to exchange ideas and information on managing and running a successful CPA practice in today's competitive environment. NCCPAP is the organization to help you succeed in the future.

Before closing, I want to thank Lana Kupferschmid, my predecessor, for all her hard work—spending many, many hours trying to grow and improve NCCPAP. Your work is not yet finished. We will continue to talk as I seek your sage advice.

If any of you have ideas, insights and suggestions to improve our organization, please phone me at 610-525-2933 or email me at ecaine@caine CPA.com. Alternatively, please contact one of our National Officers, Directors, and/or Committee Chairs. Let your voice be heard! Together, let's grow NCCPAP!

Ed Caine, CPA

Congratulations NCCPAP Officers & Directors 2012-2013

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NCCPAP Members Meet With NYS Department of Taxation and Finance Representatives

Several of your colleagues from Westchester/Rockland and Nassau/Suffolk went to Albany on Monday, September 24 to meet with representatives from the New York State Department of Taxation. The NCCPAP members were Mark Stewart, Alan Feldstein, Robert Hodesblatt, Karen Tenenbaum, Don Ingram, Carol Markman, Bob Markman, Yvonne Court and Sanford Zinman.

The representatives from the NYS Dept of Taxation were Commissioner Thomas Mattox, Executive Deputy Commissioner Jamie Woodward, Assistant Deputy Commissioner Scott Palladino, Director Helen Pelersi, Director Nonie Manion, Director Patricia Coneys, Director Kevin Law, Manager Maryann Tucker and Mwisa Chisunka.

The meeting was very open and informative. The NYS representatives provided us with updates and the background behind any changes. They were very interested in our opinions and advice, took lots of notes, agreed to try to institute some of our recommendations and invited us to participate in other discussion groups to help

At the nation's capital, NCCPAP Tax Chair Sanford Zinman, CPA, spoke to Rep. Debbie Wasserman Schultz (D-20th District, FL)



improve their level of service. We will have more detailed information about the meeting in days to come.



Neil Fishman, CPA, met with Representative Ted Deutch (D-19th District, FL) to discuss the NCCPAP Tax Agenda

NYS Tax and Finance Commissioner Thomas Mattox discussed tax issues with NCCPAP director Donald Ingram, CPA, and NCCPAP Executive Director Sanford Zinman, CPA



NCCPAP members held discussions with representatives of the New York State Department of Taxation and Finance

A BIG "THANK YOU"

**To All Our 2011-2012 NCCPAP Officers,
Committee Chairs and Directors**

The membership of NCCPAP sends a heartfelt "THANK YOU" to each one of our very dedicated Officers, Committee Chairs and Directors for all the time and effort you expended on behalf of NCCPAP.

Some of you have moved on, others have moved up and some of you are carrying our torch for yet another year. No matter what the scenario, NCCPAP could not have grown, or continued its mission and programs, without you.



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Evening the Odds: Tax Law Changes Affecting Professional Gamblers

by Professor Tiffany Cossey, CPA

Abstract

This paper explores the unique tax dilemma posed to professional gamblers, who try to reconcile the Internal Revenue code that allows self-employed individuals to claim business expenses in excess of winnings, but which also limits gambling losses to gambling income. The article explores the stance taken by the United States Supreme Court and recent change in precedent by the Tax Court.

In 2002 self-employed professional Ronald Mayo and his wife completed and submitted a timely-filed 2001 joint tax return. A down year, Mayo's business incurred an operating loss of \$22,265. Mayo was then shocked when the IRS issued a notice of deficiency disallowing the operating loss. Despite his protests that the losses were supported by documentation and allowed by §165(a) of the Internal Revenue Code, the IRS maintained its position that Mayo's operating loss must be disallowed. The IRS took its position not because it asserted the business to be illegal, nor because it refused to recognize the activity as a business, nor because it refuted even one of the expenses claimed. The IRS refused to recognize the Mayos's net operating loss because it was derived from Mr. Mayo's occupation as a professional gambler (*Mayo v. Commissioner* 2012).

The Mayos challenged the IRS in Tax Court, claiming that professional gambling was recognized by the United States Supreme Court in *Commissioner v. Groetzinger* (1987) as a legitimate profession, and as such, professional gamblers should be entitled to the full benefits of §165(a), which allows taxpayers to recognize net losses derived from the operation of a trade or business. The IRS refuted the claim, insisting that gambling losses must be limited to gambling income, as required by §165(d) and supported by more than sixty years of Court precedent. Almost a decade after the Mayos contested the IRS's deficiency assessment, the Tax Court would decide whether the judicially recognized occupation of "professional gambler" should be afforded the same tax treatment as other professions.

The controlling precedent set in *Offutt v. Commissioner* (1951) supported the IRS's position; not only did it acknowledge that the specific provision of §165(d) in fact limited recognition of gambling losses to gambling income, but it also precluded the carryforward of any gambling losses. To make matters worse for Mayo, the precedent employed lopsided judicial definitions of "gambling income" and "gambling losses." The term "gambling loss" was constructed very broadly, and then recognition of such was limited to the amount of "gambling income" that was very narrowly defined. "Gambling losses" were deemed to include not only wagers, but expenses incurred in connection with the conduct of a wagering activity. Specifically, for Mr. Offutt, who operated an illegal book-making business, the Court found that items "such as a book-

maker's mailing, printing, and stenographic expenses," were included in "losses from wagering transactions...even though such expenses [were] not the direct result of a wager by the taxpayer (*Mayo* 2011 summarizing *Offutt* 1951)."

"Gambling winnings," however, included only "the proceeds from a wager by the taxpayer where the taxpayer [stood] to gain or lose on the basis of chance" (*Mayo* 2011) and where the income was "the actual product of wagers entered by the taxpayer." (*Mayo* 2011 summarizing *Boyd v. United States* (1985), *Bevens v. Commissioner* (1956), and *Williams v. Commissioner* (1980)). Other income associated with gambling, but that was not the direct result of the taxpayer's own wager, could not be included in the definition of "gambling winnings." This meant that income earned as a dealer, such as "tokens," "tips," and "take-offs"* were not considered to be "gambling income," which in turn reduced the deduction limit (*Boyd* 1985 and *Williams* 1980).

When deciding the Mayo case, the Tax Court respected the rulings of prior courts, acknowledging that gamblers are bound by the specific limitation of §165(d), and cannot deduct gambling losses in excess of gambling winnings. However, the Tax Court did acknowledge the inequity of the existing definitions of "gambling income" and "gambling loss." Including as gambling loss all items tangentially associated with the gambling activity, though not necessarily a direct part of the wager itself, did not match the treatment of the income, which included only sums directly associated with wagers placed by the taxpayer. The Tax Court overruled the sixty-year-old precedent, finding "no support in the statute" to allow the Court to use "different principles for determining what constitutes a gain versus a loss 'from' a wagering transaction (*Mayo* 2011)."

The Court in Mayo narrowed the scope of what constitutes a loss from a wagering transaction and stated that expenses related to the gambling operation but which are non-wagering expenses can be deducted separately as trade or business expenses allowed by §162(a) (*Mayo* 2011). Though the Tax Court did not explicitly redefine what constitutes a "wagering loss," it inferred that the same standard that applies to determine wagering gains should be applied to determine wagering losses. The Court stated that applying the "more expansive interpretation of '[l]osses from wagering transactions' as covering expenses that are not the result of the taxpayer's wager goes beyond the ordinary meaning of the statutory phrase," and that requiring that gains from wagering transactions "be the result of a wager entered by the taxpayer more closely reflects the ordinary meaning of the words used in the statute, which is the applicable standard (*Mayo* 2011)."

The Mayo Court also provided a list of example items which it considered to be allowable non-wagering deductions separate from gambling losses. It specifically stated that items such as car and truck expense, interest expense, and meals and enter-

tainment expense may be deducted separately, thus extracting from the definition of “wagering loss” many of the items which once inflated the category (Mayo 2011). By inference and example, the Court’s decision stands for the principal that gambling losses should be only those amounts lost purely on the basis of chance, specifically from a wager entered into by the taxpayer.

By inference and example, the Court’s decision stands for the principal that gambling losses should be only those amounts lost purely on the basis of chance, specifically from a wager entered into by the taxpayer.

The result for the Mayos was mixed. In accordance with the Court’s findings, the true gambling losses in excess of gambling winnings were disallowed and not eligible to offset non-wagering income or generate a net operating loss carryover. However, due to the new, less harsh interpretation by the Tax Court, \$10,968 of other non-wagering but gambling-related expenses were allowed as a deduction, in addition to the allowed gambling losses, thus still generating a loss for the business.

After reconsidering sixty years of precedent and redefining terminology, the Tax Court has brought to bear more equitable treatment for those involved in an unconventional profession.

While not completely afforded the same treatment as other service-based businesses, those who can claim the occupation of “professional gambler” are now in a far superior position than in prior years. Thanks to the Tax Court’s ruling in *Mayo v. Commissioner*, the deck is now more evenly stacked and professional gamblers can now look forward to more evenhanded treatment.

* A “toke is a “tip” given to the dealer by the winner of the pot, a “tip” is a gratuity given to the dealer by any player at any time, and a “take-off” is a fee charged to players by the house in exchange for gambling at its table, a portion of which is usually paid to the dealer.

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Tiffany Cossey is an Assistant Professor of Accounting at Drury University in Springfield Missouri, where she teaches tax accounting and financial statement analysis.

Professor Cossey is a both a CPA and attorney with an LL.M. in Taxation

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The AICPA's Clarity Project:

A Primer for Certified Public Accountants

(First in a Two-Part Series)

*by Frank Somma, Alexander Buchholz, CPA, MBA
and Frimette Kass-Shraibman, CPA, PhD*

Introduction

The "Clarity Project" is a major rewriting and recoding of some of the generally accepted auditing standards (GAAS) in the United States. When completed, it will be the first complete redraft of GAAS since 1972. The Auditing Standards Board (ASB) of the American Institute of Certified Public Accountants (AICPA) is drafting the proposed standards, effective for audits of financial statements for periods ending on or after December 15, 2012, to be consistent with their strategy to ultimately converge with the standards of the **International Auditing and Assurance Standards Board (IAASB)**, which have recently completed their own "Clarity Project."

This project is meant to be a codification and clarification of existing standards without introducing any major changes to GAAS. However, there are some changes. The most significant changes to existing Statements on Auditing Standards (SAS) are as follows.

1. "A change to a consistent and more readable format for all standards" (CPA, 2011)
2. "A change in the authoritative status of the traditional ten generally accepted auditing standards" (CPA, 2011)
3. "Changes in the standards for group audits" (CPA, 2011)
4. "Changes in the wording of the auditor's report" (CPA, 2011)

Not only does it clarify and simplify the standards we have in place now, it improves the quality and reliability of the information the auditor provides to the public.

In this first article, we shall focus on the first two significant changes, with the last two being addressed in the second article.

A change to a consistent and more readable format for all standards

Existing audit standards (also referred to as AU sections) are being regrouped and clarified into one or more newly numbered standards. In effect, practically all topics currently assigned an AU section number will be re-titled and given new AU section numbers. The new codification will be assigned section numbers beginning with AU-C to help indicate that a change has been made. The ASB is doing this in order to differentiate between clarified statements and older issued statements. The older statements are to remain effective through 2013. The "AU-C identifier" will remain in place until

2014. At that time, the AU-C will revert back to AU.

A change in the authoritative status of the traditional ten generally accepted auditing standards

One of the proposed changes will supersede AU sections 110, 201, 210, 220 and 230. The new standard is titled "Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance With Generally Accepted Auditing Standards." The clarification does not change what is required of the auditor. However, it changes the structure of the AU sections and introduces new terminology. The clarified SAS lists the auditor's objectives "to obtain reasonable assurance about the financial statements as a whole are free from material misstatements whether due to fraud or error, thereby enabling the auditor to express an opinion on whether the financial statements are prepared, in all material respects, in accordance with an applicable financial reporting framework and to report on the financial statements in accordance with the auditor's findings." (AICPA, 2012)

Paragraphs .05-.10 of AU Section 311 and paragraphs .03, .05-.10, are being superseded by the standard "Terms of Engagement." AU Section 311 refers to Statements on Auditing Standards (SAS) No. 108, Planning and Supervision. Paragraph 6(b) of the clarified SAS states that the auditor is required to "obtain the agreement of management that it acknowledges and understand its responsibility for selecting the appropriate financial framework, establishing and maintaining internal control and providing access and information to the auditor." This standard covers paragraphs .08 and .09 of AU Section 311. However, the ASB believes that the engagement letter should explicitly state management's responsibilities. The ASB reasons that these responsibilities should be known and agreed upon before starting the audit. It is essential that this understanding be in place before commencing the audit engagement.

Paragraphs 7 and 8 of the clarified SAS contain requirements that do not currently exist in GAAS. Paragraph 7 states that, unless the entity is required to have an audit by law, if management limits the scope of an auditor's work in the terms of the audit engagement proposal, to the degree that the auditor feels that the limitation will result in a disclaimer of opinion, the auditor should not accept the audit engagement. Previously, an auditor might not consider the effect of scope limitations until well into fieldwork, at which point the issuance of a disclaimer would be considered. Under the new Paragraph 7, the auditor is required to make this determination when deciding whether or not to accept an engagement.

Paragraph 8 states that the auditor should not accept an engagement when he or she can determine that the applicable financial reporting framework is not acceptable or the

agreement required by paragraph 6(b) has not yet been received. This paragraph refers to the same logic used by the ASB in the creation of paragraphs 6(b) and 7; if an auditor feels that the client's financial framework is unacceptable or if they have not received management's acknowledgment of their responsibilities, there is no point in beginning the audit. Previously, these factors were usually considered when the auditor decided whether or not to accept an engagement. Now the auditor is required to decline the engagement.

"Consideration of Laws and Regulations in an Audit of Financial Statements" is a topic addressed by clarified statements. It supersedes AU Section 317, which refers to illegal acts by clients. Paragraph 14 of the clarified SAS requires the auditor to perform procedures to identify circumstances in which the client has not abided by laws and regulation where such non-compliance may have a material effect on the financial statements. Noncompliance with laws or regulations can lead to possible fines and penalties if brought to light and hence contingent liabilities. Aside from the obvious impact it would have on the financial statements, it also provides insight to the credibility and honesty of management. If they are knowingly breaking laws and ignoring regulations, it is possible that they are committing frauds.

AU Section 325, "Communicating Internal Control Related Matters Identified in an Audit" has been clarified by the ASB. The clarified SAS explicitly requires that the auditor determine whether, on the basis of the audit work performed, there are one or more identifiable deficiencies in internal control. Previously, this was only implied in AU Section 325. Along with the inclusion of this implied concept, the clarified SAS includes the requirement to explain the potential effects of any significant deficiencies and material weaknesses identified. The ASB believes that this will help management make more informed decisions on how to address internal control problems and possibly identify and remedy these situations. The explanation should not be considered as additional work for the auditors as they should already be evaluating the effects when determining the severity of internal control deficiencies or weaknesses. The auditor is not required to quantify findings of internal control weaknesses or deficiencies.

AU Section 312 speaks to audit risk, materiality, and the evaluation of misstatements identified during the audit. In an attempt to make this section more consistent and compatible to international standards, it was split into two, a clarified standard of "Materiality in Planning and Performing an Audit" and AU-C Section 450, "Evaluation of Misstatements Identified During the Audit." International Standard on Auditing (ISA) 320 deals with the materiality while ISA 450 refers to the evaluation of misstatements found during the audit. Although the clarified SAS does not change the requirements of AU Section 312, it does help make the two separate standards more clear and understandable. This clarified standard and new AU-C section 450 are great examples of the objective of the Clarity Project. By dividing AU Section 312 into a clarified standard and AU Section 450, the ASB has made a step towards total convergence with international standards.

Conclusion

The accounting profession is moving towards harmonization of practices, policies, principles and standards between the United States and the rest of the world. The Clarity Project is the most significant step towards this goal. Not only does it clarify and simplify the standards we have in place now, it improves the quality and reliability of the information the auditor provides to the public. Through further deliberation and debate, we hope that the accounting profession can unify all aspects of our field across all borders. In the next article, we shall examine the balance of the significant changes addressed in the Clarity Project: Changes in the standards for group audits and changes in the wording of the auditor's report.

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Frank Somma is currently pursuing a Masters of Accounting at Brooklyn College—CUNY and expects to graduate in June 2013. He is a controller at a firm specializing in litigation support.

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Frimette Kass-Shraibman is a member of the NYC Chapter of NCCPAP as well as the Editor-in-chief of the Journal of the CPA Practitioner. She has an accounting practice in Brooklyn New York where she is also an Associate Professor of Accountancy at Brooklyn College—CUNY.

Executive Briefing on the Health Care Marketplace

by Todd Bellistri, AIF, CLU, ChFC, RHU, REBC

This article provides a summary of the key provisions of the new health care law that have already been implemented, and those that are soon to be implemented. Employers will need to have an understanding of how these provisions affect their benefit programs, the cost of providing the programs, and the associated compliance requirements.

In late June, the Supreme Court announced its decision on the constitutional challenge to the Health Care Reform Laws (PPACA). For purposes of implementation, virtually all of the law and resulting regulations and deadlines will proceed as scheduled. This includes reforms that have already been implemented (coverage for adult children and preventive care services) and those that are soon to be implemented (Summary of Benefits and Coverage, W-2 reporting obligation).

While many may not agree with the Supreme Court's decision, we now have a degree of closure and direction about PPACA's future, and employers may now focus attention on meeting the many regulatory requirements over the next few years.

Some of the changes that have *already been incorporated* into the health care marketplace include:

- **Provisions for nursing mothers:** Employers across the country must provide a place, other than a bathroom, that is private and free from intrusion from co-workers for mothers to express breast milk for up to a year following the birth of a child. Some states provide even greater protection for employees.
- **Allowance of preventive measures:** Most plans will allow for recommended preventive tests and screenings to be performed, with no cost-sharing required (i.e., no office co-payment required and services are not subject to deductible or co-insurance). To view a complete list of preventive services, visit www.healthcare.gov/prevention.
- **Elimination of certain benefits limits and exclusions:** Lifetime limits on certain essential health benefits were eliminated, and annual limits on essential health benefits will increase until they are eventually phased out in 2014. Also, individuals under age 19 can get coverage regardless of any pre-existing health conditions.
- **Dependent coverage extensions:** Adult children up to age 26 can get coverage through a parent's employer's coverage, regardless of whether the child is a student, lives with the parent, is a tax dependent or is married. If the adult child has other employer-sponsored coverage through his or her job or a spouse's job, this extended coverage may not be available.
- **Restriction of consumer-driven health care:** You may no longer be reimbursed for over-the-counter medicines or drugs (other than insulin) under your health savings account (HSA), health flexible spending arrangement (FSA), health reimbursement arrangement (HRA) or Archer medical savings account, unless your doctor has written you a prescription. Additionally, any payment of nonqualified

medical expenses under your HSA is penalized at 20 percent on your personal income taxes, up from 10 percent.

- **New coverage appeal process:** The new claims and appeals procedures apply to all non-grandfathered group health plans and have various effective dates depending on the appeal requirement. These changes will require all sponsors of non-grandfathered plans to revise their plan documents, summary plan descriptions (SPDs) and other communications to participants and beneficiaries. Additionally, plans must now have an external review process for claimants who have exhausted internal review procedures. The external review process must meet certain requirements as outlined in the regulations and in other recent guidance issued by the U.S. Department of Labor (Technical Release 2010-01). The specific requirements for state and federal external review processes are detailed and require coordination with independent review organizations.

Additional changes to the health care marketplace, which will be effective in the coming months, include:

- **Summary of benefits and coverage:** A new summary of benefits and coverage must be provided by employers and will be required to follow a standard template, which will allow family members to easily compare all the plans available to them. Sample health situations, such as having a baby, treating breast cancer and managing diabetes are all outlined so employees will be able to understand how much insurance protection they may receive from different plans.
- **Employer W-2 reporting:** Beginning in 2012, employers who issue more than 250 W-2 forms must begin reporting information concerning an employee's insurance benefits on the employee's Form W-2, issued in 2013. Smaller employers are not required to comply with this requirement until additional guidance is issued. The purpose of this reporting is to assist employees in understanding the total value of benefits provided by the employer, and will not result in additional taxation.
- **Cap on health Flexible Spending Accounts:** If employers offer a health FSA, then beginning on Jan. 1, 2013, there will be an annual cap of \$2,500 on how much employees may set aside for out-of-pocket medical reimbursements.
- **Exchange notice requirement:** As of March 1, 2013, employers will be required to provide a notice to employees informing them of the existence of the insurance exchanges that will serve as a marketplace to buy insurance coverage. The notice will also describe the availability of tax credits and premium subsidies for qualified individuals. Insurance exchanges are scheduled to be online and operating in each state by January 1, 2014.
- **New Federal Premium Fee:** Group health plans will be assessed a fee of \$2 per average number of insured lives to finance a comparative effectiveness research program. This

fee will be paid by the plan sponsor, which is the employer in the case of a single employer plan, an employee organization in the case of a plan established by such an organization, or associations, committees or trustees in the case of a VEBA, MEWA or other multiple employer plans. This fee will be indexed annually, and sunset for plan years ending after Sept. 30, 2019.

In addition to the changes described above, employers also have notice obligations to consider. Employers should evaluate their plans to ensure the following notices are provided timely:

- **Dependent coverage to age 26 notice:** Children who become eligible for coverage due to the new extension of coverage to age 26 must be given at least a 30-day enrollment period following written notice of their eligibility. This notice must be distributed with other enrollment materials (e.g., in an enrollment packet).
- **The Lifetime Limits Model Notice:** The Lifetime Limits Model Notice is to be used to provide written notice to participants informing them that a lifetime limit on the dollar value of all benefits no longer applies, and individuals whose coverage ended by reason of reaching a lifetime limit under the plan must be notified that they have 30 days in which to re-enroll. The notice can be included with a plan's enrollment materials, provided the statement is prominent.
- **Patient protections notice:** The Patient Protection Model Notice can be used to satisfy the requirement that non-grandfathered health plans and insurers provide notice to participants of their rights to choose a primary care provider or pediatrician from within the plan's network, or obtain obstetrical or gynecological care without prior authorization.
- **Mini-med waiver notification notice:** This must be provided with any plan materials, including the SPD, and must be in bold, 14-point font. This notice applies to a group health plan that received a waiver from the annual limits requirement.

Certain employers, generally with a minimal number of employees, may be exempt from some parts of the law. When a small employer believes that compliance would be an undue hardship s/he should consult with counsel to determine if they might be exempt from a specific section of the law.

As employers navigate the maze of health care reform, they should seek professional guidance from a team of experts who will help them control costs, explore innovative methods to keep employees healthy and productive, deliver technology which can easily satisfy the many notice requirements and will communicate accordingly on future changes that are needed to remain in compliance.

Todd Bellistri, is the President and CEO of August Benefits, Inc. A graduate of California State University, Mr. Bellistri holds a degree in International Business. He is also a Certified COBEA Administrator. For more information or to contact Todd go to www.augustbenefits.com.

NEW NCCPAP / AICPA SCHOLARSHIP PROGRAM!



NCCPAP, in conjunction with the AICPA, is creating a new scholarship for CPA Exam candidates within the United States. This will replace the previous high school and college scholarships. The application will be available shortly on the NCCPAP and AICPA web-sites.

Scholarship applications can be submitted anytime. All scholarship applications received by December 15 will be eligible for awards to be announced in January.

Jeffrey Winer, CPA, Scholarship Chair



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Maintaining Continuing Professional Education (CPE) in New York State Through the Use of Other Venues

by Alexander K. Buchholz, CPA, MBA

Introduction

For practitioners in New York State who meet the definition of a practicing Certified Public Accountant (CPA), there is a requirement to maintain a certain level of CPE. This is necessary to be in compliance with the rules as set forth by the New York State Department of Education. As a reminder, the practice of public accountancy under subdivision 3 of section 7401 expands the scope of practice to beyond attest and/or compilation services to “services including, but not limited to, accounting, management advisory, financial advisory, and tax.” In New York State, CPE can be obtained in one of two ways:

1. Obtaining forty hours of CPE in general studies, or
2. Twenty-four hours in a concentrated area such as accounting, auditing, taxation, or a specialization of sorts.

It is important to note that the rules above as well as the article pertain only to those CPAs who are licensed in New York State. Those CPAs who either hold Licenses outside of New York or are members of the American Institute of CPAs should consult the CPE requirements as applicable.

Most practitioners obtain their CPE in the conventional manner, whereby they attend a one-day, eight-hour conference, for example, or perhaps several short one-hour technical sessions. Others will attend webinars if their schedules do not permit them to attend a live conference. Finally, some may even do self-study CPE courses they purchase from various CPE providers. However, there are other ways to obtain CPE that falls outside the conventional or traditional approach most practitioners take. In particular, CPE credit may be awarded for publishing as well as teaching certain college courses. The remainder of this article will examine these two options as an additional benefit to those in need of CPE in New York State.

Authoring and Publishing an Article

Keeping up-to-date with the accounting profession is a must in today’s environment, regardless of mandatory CPE. It is important to continually immerse oneself in professional periodicals such as *The CPA Journal*, *Journal of Accountancy* and *The Journal of the CPA Practitioner*. Obviously, authors are needed in order to contribute and produce the information contained in the pages of these periodicals. Those authors may now be eligible to earn CPE credit, provided they meet the general guidelines as issued by New York State. First and foremost is that the article needs to be published in a peer-refereed journal, and it must be in either audit, accounting, taxation, or another specialized area. Potential authors must make it a point to inquire of the editors if the publication participates in a peer-refereed process. It is also advisable, in my opinion, that authors keep records of the time spent in writing and research process as proof of hours claimed.

Preparation and Teaching a College Course

Many practitioners are also able to devote time to the academic environment by teaching. While teaching as an adjunct instructor can be rewarding for a variety of reasons, there is now another benefit to teaching and preparing a college course. New York State offers CPE for those “preparing and teaching a college course provided that you have not taught the course before” (New York State Education Department, 2012). New York State will allow CPE for a previously-taught course if there is a material change made to the curriculum, possibly as a result of updated generally accepted accounting principles or auditing standards. CPE credit can only be claimed, however, provided that the criteria below are being satisfied:

1. The college or university where you teach the course must be accredited.
2. The course being taught must be under the category of auditing, accounting, taxation, or some other specialized subject. A course taught in Shakespeare appreciation, for example, while enjoyable, would not be eligible for CPE credit.
3. There is another catch to this in that “you can not claim CPE credit for teaching any one of the accounting courses that is required for licensure as a CPA” (New York State Education Department, 2012).

To clarify, I currently teach an undergraduate advanced financial accounting course at my college. This course covers topics such as leases, pensions, foreign currency transactions, and partnership accounting, all required for CPA licensure. Therefore, this course would not qualify for CPE. However, in the fall I am scheduled to teach a graduate-level course in international accounting. Since this is both a new course for me as well as an elective, it would be eligible for forty-five (45) CPE credits (Each credit is deemed equivalent to 15 CPE credits, which would yield 3 credits x 15 CPE = 45 CPE credits).

It is also important to note that “credit for course preparation and teaching and publishing shall not exceed half of the total number of contact hours claimed during any registration period” (New York State Education Department, 2012). Therefore, it is important for the CPA to be cognizant of the above when scheduling their yearly CPE.

Conclusion

With the accountancy reform law passage in New York State, the definition of practicing accounting has been enhanced to encompass other practice areas. It also has opened new avenues for practitioners to satisfy their CPE requirements. The items mentioned in this article address those ways of obtaining CPE which are less well known to most practitioners. It also provides for some incentives in that practitioners can now publish technical articles that can get them both recognition and CPE

credit. It also allows for educators, who may not be practitioners, to obtain CPE credit for doing what they love, and not have to incur excess costs. It is also recommended that CPAs outside of New York State examine their state's CPE rules to see what other venues are available outside the conventional technical seminars taken in order to satisfy their annual CPE.

Works Cited

New York State Education Department. (2012, July 4). NYS Public Accountancy—MCE Q&A. Retrieved from NYS Education Department: www.op.nysed.gov/prof/cpa/cpace.htm

Alexander K. Buchholz, CPA, MBA is an audit manager in the Not-for-Profit/Healthcare practices of O'Connor Davies LLP. He is also an adjunct associate professor teaching at Brooklyn College of the City University of New York at the Online Business Department of the School of Professional Studies and Touro College. Mr. Buchholz serves as Chair of the Higher Education Committee, a member of the Health Care Committee and Foundation for Accounting Education Curriculum Committee of the New York State Society of CPAs. He is Vice Chair of the NCCPAP Ethics Committee and a member of the editorial board. Email any questions to abuchholz@brooklyn.cuny.edu.

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Forward Planning Committee

An Excerpt from Ed Kliegman's upcoming book, So You Want To Be President... A Leadership Manual

It is beneficial for an organization to have an ongoing Forward Planning Committee to initiate, administer and coordinate a long-term plan.

The committee is usually charged with considering where the organization is, where it wants to be and how to get there. It brings new ideas and findings to the Board of Directors.

A plan usually contemplates a five-year period. It is a fluid document, which can and should be reviewed and adjusted periodically in order to keep up with the ongoing operation of the organization. The planning process is the continual attention to current changes in the organization and how it affects the future of the organization.

The actual plan is a combination of narrative and detailed financial projections, including a balance sheet at the beginning of the period, projected profit and loss statements on the accrual basis, cash flow projections and balance sheets at the end of each year.

The planning committee takes a hard look at what's going on inside the organization and goes into its strengths and weaknesses. It meets with every committee chair, works with the officers, examines every committee, department and section of the organization.

If the organization has never worked on a 5 year plan, it is advisable to develop the procedures for year one, get everyone in the organization to produce all of the effort and information for the first year, and when the committee is satisfied with the results, then proceed with the subsequent periods.

Committee members must be willing and able to use their imagination, to be open to the possibilities of change and to keep both feet on the ground.

It should make every effort to indoctrinate committee chairs to the need to think and plan ahead.

Long range planning is vital for any organization that expects to have a long lasting existence.

The Long Range Plan serves as a basis in the development of the rolling three-year budget.

Edwin J. Kliegman, CPA, is the founding partner of Marcum & Kliegman, CPAs (now Marcum LLP), founder of the Nassau/Suffolk Chapter of NCCPAP and Past President of NCCPAP. He has been an active member of the New York State Society of CPAs and has chaired numerous committees. He is a consultant for small CPA practice units that seek guidance.

Cash & Carry—CPA Beware!

by Sandra Johnson, CPA; ncCPA National Director

Some years ago I received a phone call from a client referral. The gentleman on the other end of the phone (I'll call him Jim,) said he was certain one or more employees were stealing from him, but he could not prove it. Could I help? Jim had built a very successful retail store in New York City and after 40 years of hard work decided to retire, leaving the operations of his business to his two sons while he traveled the world.

The older of the two sons, Cal, had worked at the store since high school. At the ripe old age of 27, Cal was resented by some of the older employees who had spent most of their adult lives working for the business. The younger son, John, was all of 19 and while mature beyond his years, lacked the experience and respect needed to run the business. I could easily see how an employee might resent having these two young men as the new bosses and possibly feel justified in stealing.

Jim suspected the controller and the bookkeeper. Both were highly skilled at their jobs and the two sons were more than happy to give the entire accounting function over to these trusted employees. The controller and the bookkeeper recorded the cash, safeguarded the cash, deposited the cash and reconciled the cash. No one ever checked their work!

The day arrived to start the investigation and I drove to the client's store. As I pulled into the parking lot, I saw a huge sign over the store "Cash and Carry." A fraudster's paradise! I requested all bank statements, deposit slips, cancelled checks, etc. I signed on to QuickBooks and 20 minutes later discovered exactly what had occurred. In my examination of four years worth of deposit slips, not one of them had an entry on the top line for cash and currency. The controller and the bookkeeper never deposited a penny of cash into the bank. The estimated amount stolen by the controller and bookkeeper over a four-year period was \$1million.

As the investigation continued, the controller and bookkeeper became more and more visibly nervous. On the third day of the investigation neither showed up for work. As with many white-collar crimes, other than losing their jobs nothing happened to the two fraudsters. Neither repaid a cent of what they had stolen and neither faced criminal prosecution.

Where was the CPA in all of this? The CPA firm is a well-known mid-sized firm. The firm was retained to come in at year end to prepare financial statements for the bank and to prepare corporate tax returns. The fee for these services was \$30,000. According to Jim, the CPA accepted \$25,000 since he paid him in cash! Luckily for the CPA, Jim did not pursue a malpractice suit.

We live in a litigious society and as CPAs we are all at risk. How do we protect ourselves from this type of situation? First, we cannot ignore the warning signs. Look for signs of the Fraud Triangle. The Fraud Triangle describes the three factors that are present in every fraud situation. They are motive, rationalization and opportunity. Motive is the need to commit the fraud or need for money. Rationalization is the justification

to the fraudster to commit the fraud. Opportunity is the situation that allows the fraud to occur.

In Jim's business, I clearly saw all three factors. Both fraudsters had motive: they both needed money. The controller had married a woman who came from a wealthy family and he had expressed to others that he needed to keep her in the lifestyle to which she was accustomed. The bookkeeper's wife had a drug addiction and had spent quite some time in rehabilitation.

The two employees watched as Jim traveled the world and his young sons came and went as they pleased, spending money frivolously. It was easy to imagine how they could have rationalized being entitled to the money since they were doing all the hard work.

Opportunity for the fraudsters couldn't have been easier. There was almost no internal control in the business. No one checked their work. The two worked together to steal the money and made sure they never took days off at the same time.

How do we protect our practices against this type of situation? First, it is important to educate our clients. More fraud occurs in small business than in corporate America. Small business owners must understand the importance of internal controls and the risks associated with ignoring them. It is our duty to discuss these issues with our clients and to educate them.

Second, every CPA firm should evaluate its clients on an annual basis. A client that may have been a perfect fit when you were first retained may no longer be a good client for you. The change in ownership from father to sons in this story should have been a warning sign to the CPA firm. Inexperienced or unqualified management may be a deterrent in keeping a client. Lack of internal controls should also impact your decision whether or not to dismiss a client.

Next, keep your professional liability insurance policy current and utilize the services of your insurance company. A good malpractice insurance company offers a myriad of services including general risk management advice, education and training, engagement letter reviews and much more.

And finally, get more involved with ncCPA. Most chapters offer both educational meetings and MAP (Management of Accounting Practices) meetings. There is so much you can gain from these meetings. Make it a point to come to chapter and committee meetings. Network with your peers. Establish relationships with other CPAs who have similar practices to yours. By sharing with each other, each of our practices grows stronger. We can never fully protect ourselves from fraud committed by others but we can and should minimize the risk.

Sandra G. Johnson is president of her own accounting and tax practice located in Bellmore, NY. Her business focuses on individuals and the unique needs of small businesses.

If you have any questions, she can be e-mailed at sjohnson@sgjcpa.com.

“Cool” and Useful Technology: What Do You Have in Your Home and Business?

by *Armando D’Accordo, CMIT Solutions*

Since I use and rely on technology for my livelihood, I often try to keep things simple for myself, my family, and my clients. In this article I’m breaking away from sound technology advice—and focusing on the cool side of technology.

Keep in mind that being in the technology business does not preclude me from being surprised and amazed by advancements that are popping up on a regular basis. For example: imagine my surprise the first time I saw my family dancing while playing a video game in front of the TV without a joystick or controller! For someone who learned on the Atari system, this was a more impressive advancement than going from Pong to Missile Command! Speaking to my phone and getting intelligent answers in return is also pretty amazing. (Watching other people argue with their iPhones is sometimes hilarious!)

So here is a short list of the coolest things I have found for both business and personal use in the last couple of years:

- ◆ **DVR:** (Digital Video Recorder) I really can’t imagine watching TV without being able to pause, rewind, and record a show or a game without a VHS tape. It has really spoiled me. (It does make it a little too easy to get a snack without missing anything—good for the game, not the diet).
- ◆ **Slingbox:** a device that will broadcast your TV signal to a secure account that is viewable via any PC or tablet connected to the Internet. I use it all the time, especially when I am out of town so I can keep up with the local teams back home.
- ◆ **MIFI:** a credit card-size device that allows Internet access for up to 5 devices at once. It works great anywhere you can get a cell phone signal.
- ◆ **iPad:** amazing little device with a ton of uses. One of them I discovered when I committed to an airport pickup without realizing that I would miss a NY Giants Monday night game. I had to think fast, so I went home early to be sure the Slingbox was working. I then purchased the Slingbox app from the iTunes store and charged the MIFI. Before I left I connected the MIFI for Internet access, and used the Slingbox app to connect to my DirecTV DVR. It all worked great, and I watched the game in the airport parking lot and listened to it while I drove there and back. The person I picked up was impressed, and they were able to watch the game on the way home. (The Giants lost to the Saints that night, but the season ended well, as you know!!)
- ◆ **iPhone 4s:** what’s all the fuss? Well it is pretty amazing. Siri, the speech-enabled application, is not a toy; it reads me emails and articles aloud, it can send text messages and emails without my typing on the phone, and in general, it responds well to verbal requests. Another positive about Siri is that she is very polite and never speaks back to me except to answer my questions and commands. There are a ton of other apps that make the device a useful phone, mp3 player

and mini laptop with high-speed access to email and the Internet. It also has a high def video camera and an 8 mega pixel camera.

- ◆ **Remote access:** If you are not able to access your home and work PC remotely, you are missing out on a very useful tool. In some cases the basic functionality is free, but the more advanced functionality requires a subscription. All CMIT-managed clients should know that remote access to your work/managed PC is included at no extra charge.

If you are not able to access your home and work PC remotely, you are missing out on a very useful tool. In some cases the basic functionality is free, but the more advanced functionality requires a subscription.

- ◆ **Apple TV:** a small device that hooks up to your TV, connects to your Wi-Fi, and allows access to Internet, movies, and applications through the TV. It makes a standard TV web-enabled for \$99! And, most impressively, it allows you to broadcast your iPhone, iPad, and Apple laptop screens on your TV. Now when we have some pictures or videos from an event, we can show the family without everyone crowding around a PC or laptop screen.
- ◆ **Large-screen TV:** Another cool and very useful product that is not used daily in most homes or businesses is my new 55-inch high definition television. Why is a TV a business tool? Because it is also a web-conferencing device with amazing sound and video clarity, a fully functional Windows 7 tablet PC with touch screen capabilities, Microsoft Office 2010, white board and touch screen capabilities, and much more. Since it is all integrated into one device, it is very easy to set up. I have one in my conference room and plan to install one in my family room at home in the near future.

These are just a few of the new devices that I use, install, and support in my business and personal life.

Armando D’Accordo is a contributing writer to the NCCPAP Journal of the CPA Practitioner, an author and a small business owner in the CMIT Solutions system.

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CHAPTERS' CALENDAR OF EVENTS**NOVEMBER – DECEMBER 2012 – JANUARY 2013****NASSAU / SUFFOLK, NEW YORK**

Chapter Office (516) 997-9500

Holiday Inn of Plainview, 215 Sunnyside Blvd., Plainview

- * As of Jan. 2013 – Woodlands, 1 Southwoods Rd., Woodbury
 Registration & Buffet Dinner – 5:30 p.m.; Seminar – 7:00 p.m.

Thursday, November 14, 15, 16 – 30 CPE credits available

10TH ANNUAL LONG ISLAND**TAX PROFESSIONALS SYMPOSIUM**

Crest Hollow Country Club, Woodbury

Thursday, December 6, Chapter Meeting

ACCOUNTING & AUDITING UPDATE – 2 CPE credits (A&A)

Wednesday, December 19, 8 a.m. – 10 a.m.

TAX AUDITS: How to Prepare For / Avoid Them

– 2 CPE credits (MAP)

On Parade Diner, 7980 Jericho Tpke. Woodbury

Thursday, January 15, Chapter Meeting

POST ELECTION BLUES: Important Tax Changes For the Year and Election Updates – 2 CPE credits (TAX)

Woodlands at Woodbury, 1 Southwoods Road, Woodbury

Thursday, January 24, 8 a.m. – 10 a.m.

HOW TO USE FACEBOOK TO GROW YOUR BUSINESS

– 2 CPE credits

Capital One Exec. Dining Hall, 275 Broadhollow Rd, Melville

Thursday, January 30, 8 a.m. – 10 a.m.

SHOW ME THE MONEY! Time, Billing, Collections, Fees,**Cash Flow – 2 CPE credits (MAP)**

On Parade Diner, 7980 Jericho Tpke. Woodbury

LONG ISLAND EAST, NEW YORK

Contact: James Diapoulos, CPA (631) 547-1040

Tuesday, December 11, 5 p.m. – 9 p.m.

2012 TAX UPDATE – 3 CPE credits (TAX)

Mama Mia's, 3508 Veterans Memorial Hwy, Ronkonkoma

November & January: To be announced.

NEW YORK CITY, NEW YORK

Call for information: (888) 488-5400

November, December & January: To be announced.

WESTCHESTER/ROCKLAND, NEW YORK

Contact: Chapter Office (914) 708-9404

DoubleTree Hotel, 455 South Broadway, Tarrytown

Tuesday, November 13, 9 a.m. – 5 p.m.

TAX UPDATE – 8 CPE credits

Thursday, November 15, 9 a.m. – 5 p.m.

NATIONAL TAX SYMPOSIUM LIVE WEBINAR – 8 credits

Tuesday, November 27, 9 a.m. – 5 p.m.

TRI-STATE UPDATE – 8 CPE credits

Tuesday, December 4, 9 a.m. – 5 p.m.

INDIVIDUAL UPDATE – 8 CPE credits**NEW JERSEY**

Contact: Fred Bachmann, CPA (973) 377-2009

E-mail: bachmanncpa@msn.com

Victor's Maywood Inn, 122-124 West Pleasant Ave, Maywood

Phone (201) 843-8022; E-mail: www.maywoodinn.com

6 p.m. – 8 p.m. – Dinner and Seminar

Call for information.

CENTRAL NEW JERSEY (Chapter in Formation)

Contact: John Raspante, CPA – (732) 216-7552

Tuesday, November 13, 6 p.m. – 8 p.m.

CPA FIRM MERGERS – 2 CPE credits

The Cabin, 984 Route 33 East, Freehold

DELAWARE VALLEY

Contact: Steve Palmerio, CPA – 609-209-6149 / 609-945-0523

Meeting Location: Peppers Italian Restaurant,

239 Town Center Road, King of Prussia, Pennsylvania

Wednesday & Thursday, November 14 & 15, 8 a.m. – 5 p.m.

TAX SYMPOSIUM LIVE WEBINAR. Penn State Great Valley

School of Graduate Studies,

30 East Swedesford Road, Malvern, PA

December & January: To be announced.

MASSACHUSETTS

Contact: Jeffrey Winer, CPA (508) 879-0408

Wednesday & Thursday, November 14 & 15, 8 a.m. – 5 p.m.

TAX SYMPOSIUM LIVE WEBINAR. ForeFront Center

Waltham/Boston, 404 Wyman Street

Wednesday, December 5, 7:30 a.m. – 9:30 a.m.

TAX PLANNING – 2 CPE credits

- * *New Meeting Location!*

Holiday Inn, 55 Ariadne Road Dedham

Wednesday, January 9, 7:30 a.m. – 9:30 a.m.

TAXATION AFTER THE ELECTION – 2 CPE credits

- * *New Meeting Location!*

Holiday Inn, 55 Ariadne Road Dedham

FLORIDA

Contact: Lynne Marcus, CPA (561) 625-9550

- * *New Meeting Location!* 1880 North Congress Avenue, #316,
 Boynton Beach 8:45 a.m. – 10:45 a.m., Registration 8:30 a.m.

Thursday & Friday, November 15 & 16, 8 a.m. – 5 p.m.

TAX SYMPOSIUM LIVE WEBINAR.

Renaissance, 2000 NW 19th, Boca Raton

December & January: To be announced.



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