



# The National Conference of CPA Practitioners

Nassau/Suffolk Chapter

Volume 8, Issue 2

February 2011

Date	<b>Thursday, February 3, 2011 - Chapter Mtg</b>
Topic	<b>FEDERAL TAX SEASON UPDATE</b>
Speakers	<b>Robert L. Goldfarb, CPA of Schoenfeld Mendelsohn Goldfarb LLP &amp; Steven Greenberg, CPA of Greenberg &amp; Company, CPAs, PC</b>
Credits	<b>4 CPE/TAX</b>
Location	Holiday Inn Plainview
Time	Registration: 3:45 PM, Program: 4:00 - 9:00 PM
Cost Members	On or before Friday, Jan. 28 - \$85.00, After Friday, Jan. 28 - \$100.00
Non Members	On or before Friday, Jan. 28 - \$100.00, After Friday, Jan. 28 - \$115.00

Date	<b>Wednesday, February 23, 2011 - MAP Mtg</b>
Topic	<b>TAX SEASON ROUND-TABLE</b>
Moderators	<b>Sandra G. Johnson, CPA of Sandra G. Johnson CPA Douglas Sinetar, CPA of Douglas Sinetar CPA PC</b>
Credits	<b>2 CPE/MAP/ADVISORY SERVICES</b>
Location	On Parade Diner, Woodbury
Time	Registration: 7:45 AM, Program: 8:00 - 10:00 AM
Cost	On or before Friday, Feb. 18 - \$25.00, After Friday, Feb. 18 - \$35.00

Date	<b>Thursday, March 3, 2011 - Chapter Mtg</b>
Topic	<b>TAX SEASON ROUND-TABLE</b>
Moderator	<b>Carol C. Markman, CPA of Feldman Meinberg &amp; Co. LLP</b>
Panelist	<b>Robert Barnett, Esq. of Capell Barnett Matalon &amp; Schoenfeld Jill Schneider, Esq. of Feldman Meinberg &amp; Co. LLP</b>
Credits	<b>2 CPE/TAX</b>
Location	Holiday Inn @ Plainview
Time	Registration: 5:30 PM, Program: 7:00 - 9:00 PM
Cost Members	On or before Friday, Feb. 25 - \$50.00, After Friday, Feb. 25 - \$60.00
Non Members	On or before Friday, Feb. 25 - \$75.00, After Friday, Feb. 25 - \$85.00

**EMAIL YOUR TAX QUESTIONS TO: [egelbien@ns-nccpap.org](mailto:egelbien@ns-nccpap.org)  
for the March 3, 2011 FEDERAL TAX ROUND-TABLE  
ASAP so that the committee can research the answers**

**N/S NCCPAP - ALWAYS STRIVING TO MEET THE NEEDS OF OUR MEMBERS**

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meetings, please visit

<http://www.ns-nccpap.org/index.php/Register-Online.html>

## **PRESIDENT'S MESSAGE**



Happy New Year everyone. This is my first president's message since the tax symposium and by now I'm sure everyone has geared up for another tax season. I received my first version of my 2011 tax program in November. I'm not sure if that's good or bad.

Unfortunately, we have to begin the year with some sorrow. Leon Alpern, one of our past presidents, passed away January 13, 2011. He was 89 years young. Even though he was the president of the chapter in 1992-1993, Leon throughout the years would be on various committees. I will always remember him as someone who would sit back and digest the information that would go back and forth between the various members of the committees and then tell us the correct way to handle the situation. He never left a meeting without thanking everyone for continuing the work of NCCPAP. It's the hard work that he did throughout the years that inspires someone like me or you to become president of this chapter. His love for our organization and our profession will be dearly missed.

The 2011 Tax Practitioner Symposium Committee is already forging ahead. Thanks to all the attendees and volunteers, the 2010 symposium was the largest ever held jointly with the IRS in the Northeast Region. The Committee is broken down into various sections, such as Education, Technology, Sponsorship, Volunteer Coordination and others. We have been fortunate to have some key members chair those sections of the Committee over the past several years. However, as the event keeps evolving, the Committee needs more volunteers to support these chair-people. We truly appreciate the help and enthusiasm we get from the more than 70 volunteers we get the Monday before the event but we need support throughout the year from any member that would like to be a part of this event. Believe me when I say that you will find it rewarding and that seeing firsthand how the Symposium is put together from all phases will help you in managing your own practices. If you are interested, please call Gary Sanders at 516-864-8602.

I find that I spend the last 2 weeks of every year determining if it is beneficial for my clients to pay their 4th quarter state estimate in December or January. Due to the AMT, the answer seems to always be January. However I learned 25 years ago when I studied for the CPA exam that the answer is never always, therefore I will continue doing this until AMT is repealed. I just made myself laugh.

How happy is everyone that the 1040 filing deadline is now April 18, 2011? Now you have plenty of time to finish those last minute clients or now your last minute clients have even more of an opportunity to be a last minute client. If that makes any sense, tax season hasn't started yet.

Happy New Year

*Bruce Berkowitz, CPA*

### **Disclaimer**

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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

\*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 CREDIT TO BE USED BY THE REGISTRANT ONLY FOR A FUTURE MEETING (OF EQUAL VALUE) HELD WITHIN ONE YEAR OF THE MISSED MEETING. CANCELLATION NOTICE MUST BE GIVEN TO N/S NCCPAP CHAPTER OFFICE BY THE END OF THE CHAPTER MEETING, MAP MEETING AND/OR SEMINAR DAY.

## **MEETING SCHEDULE 2011**

Holiday Inn @ Plainview  
215 Sunnyside Blvd  
Plainview, NY 11803

On Parade Diner  
7980 Jericho Turnpike  
Woodbury, NY 11797

February 3, 2011*	Federal Tax Season Update	4 CPE/Tax	Holiday Inn
February 23, 2011	Tax Season Round-Table	2 CPE/MAP/ADVISORY SERVICES	On Parade Diner
March 3, 2011*	Tax Season Round-Table	2 CPE/Tax	Holiday Inn
April 27, 2011	Post Tax Season Round-Table	2 CPE/MAP/ADVISORY SERVICES	On Parade Diner
May 5, 2011*	How to Close a Deal	3 CPE/Tax	Holiday Inn
May 25, 2011	Protect Your CPA Practice from Fraud in your Client's Business	2 CPE/MAP/ADVISORY SERVICES	On Parade Diner
June 2, 2011*	Where's the Money?	3 CPE/A&A	Holiday Inn
June 23, 2011	ALL DAY - Accounting & Auditing Update	8 CPE/A&A	Holiday Inn
June 29, 2011	How to Survive Your Client's Sales Tax Audit	2 CPE/MAP/ADVISORY SERVICES	On Parade Diner
July 7, 2011*	New York State Update	2 CPE/Tax	Holiday Inn
July 27, 2011	Technology for CPA's – Don't Get Left Behind	2 CPE/MAP/ADVISORY SERVICES	On Parade Diner
August 11, 2011*	Big GAAP/Small GAAP	3 CPE/A&A	Holiday Inn
August 18, 2011	Ethics	4 CPE/Ethics 7:30-12:00 NOON	Holiday Inn
September 8, 2011*	Workers' Comp Update	2 CPE/Tax	Holiday Inn
October 6, 2011*	Compilations and Review	2 CPE/A&A	Holiday Inn
November 16, 17 & 18, 2011	2011 Long Island Tax Professionals Symposium		Crest Hollow Country Club
December 1, 2011*	Estate Topic	2 CPE/Tax	Holiday Inn

\* Chapter Meeting

All Meetings Subject to Change

### **GOOD & WELFARE**

#### **Our condolences to**

The Alpern family on the passing of Leon Alpern, N/S NCCPAP Past President and National Supporter.  
Matt Cohen of Garfield, Seltzer, Curcio & Wieselthier, CPA's P.C. on the passing of his father.  
Stanley Tepper on the passing of his mother-in-law, Lilyan Lippan and  
Alan Tepper on the passing of his grandmother, Lilyan Lippan.

#### **Our get well wishes to**

Debra Rothfeld, daughter of David Rothfeld.

**We like to keep in touch with our members, so please forward your Good & Welfare news to:**  
Our Good & Welfare Chairman is Stephen Sternlieb [ssternliebcpa@attg.net](mailto:ssternliebcpa@attg.net)



## MAP

By the time this is printed, the January 26, 2011 meeting on Tax Research will have been held. Tom Evans and Beth Van Der Heijden from CCH and Fiona Posillico from Thompson Reuters gave an overview on tax research. Specifically, they spoke to the operation of their products and services. In addition, our panel of CPAs explained their experiences with tax research. The purpose of this meeting was to give CPAs avenues of research during their hectic tax season.



Our February 23 will be holding our annual TAX SEASON ROUND-TABLE MAP meeting.

During this meeting, we will be discussing tax season issues. Included in this discussion will be sample engagement and representation letters. Administrative issues concerning E-filing, staffing and time management will also be discussed. We will have a panel of CPAs to discuss obstacles they see for this Tax Season!

See you at the Diner!

*Doug Sinetar, CPA & Sandy Johnson, CPA*



## MESSAGE FROM THE EDUCATION CHAIRMAN

I wish everyone a happy, healthy and prosperous new year. Our chapter continues in its mission to provide timely, comprehensive and relevant educational programs. We ended 2010 with a tremendous presentation on employment issues and practices organized by our friends at ADP, and 2011 has already started with a bang.

We had a breakfast program on the estate tax provisions of the new tax act. The program focused on the important considerations advisors, planners and executors must consider. Every estate of a 2010 decedent must decide whether to elect out of the automatic retroactive imposition of the estate tax. Although it might seem appropriate to allow the automatic application of estate taxes (along with a step up in basis), executors should carefully consider and document their decision. In cases where estate assets are to be held and not sold, an election out may be preferable. Income tax benefits and new depreciation must be weighed against the imposition of estate tax.

Similar considerations are also appropriate in a planning context. A spouse who utilizes the new portability provisions will receive a step up in basis at the potential expense of increased federal and/or state estate taxes. New York State has not increased their estate exemption which remains at one million dollars. Utilization of a credit shelter trust for the state portion is generally desirable. This format coupled with a renunciation provision will provide the family with the most flexibility. In estates which exceed the combined exemption, expanded use of the credit shelter trust may help avoid future estate taxes.

Portability is an important framework of the new provisions. The committee reports contain only three examples and the service is directed to issue regulations. Remember that the election requires timely return filing. The new Act provides a good view to future developments, but only has a two year life. We must continue to plan surrounded by a cloud of uncertainty. In this regard, Congress did not remove several important planning tools including short term GRATs, zeroed out GRATs, and family minority and marketability discounts. Clients should be aware to take advantage of these opportunities. A detailed decision is beyond the scope of this report.

Our January program included a lively discussion of tax troubles of famous persons presented by Karen Tenenbaum, Yvonne Cort and Christopher Bourell. The rich and famous always provide for interesting gossip, but this presentation was most significant because many of our clients face similar situations with much less fanfare.

I again encourage all members to attend our Chapter and MAP meetings. This is the best way to realize the true benefits of your membership. Our members often take these opportunities to network with their friends. The hallmark of our organization lies in these bonds of friendship and cooperation. NCCPAP members truly go out of their way to help each other. Let's all nurture this spirit in the New Year.

Best regards for the New Year,

*Robert Barnett, CPA, Esq*

## **TAX TIDBITS**

Per the J.K. Lasser 2011 Edition, 2010 payments to a chronically ill individual from a qualifying long-term-care insurance contract are not taxable to the recipient if the payments are made on a per diem or other periodic basis of up to \$290 per day regardless of actual expenses.



### **New Question On 2010 Form IT-201 May Lead To More Residency Audits**

It's common knowledge that New York State has a budget crisis and the State is on the lookout for more revenue. The NYS Department of Taxation and Finance has been using sophisticated data mining techniques to locate residents who the Department suspects may have failed to pay the correct amount of tax. Now a low-tech method may yield additional funds for the government.

New York State law provides that a taxpayer is a resident of the State and thereby taxed on his worldwide income when he is domiciled in the State, or when he is a statutory resident of the State. A statutory resident is defined as someone who may be domiciled elsewhere, but maintains a permanent place of abode in the State, and spends more than 183 days in the State. Similar law applies in determining whether someone is a resident of New York City and thus subject to NYC income tax.

For some years now, the NYS Resident Income Tax Return (long form) Form IT-201 has contained a question related to whether a taxpayer maintains living quarters in New York City. The 2010 Form IT-201 has added a question requiring the taxpayer to state the number of days that he or she is in NYC. See 2010 Form IT-201 This one-line change to a common tax form may drastically increase the number and nature of residency audits with respect to NYC income tax, with a corresponding increase in assessments.

It is possible that the Department will use the day count answer on the tax return as a tool for audit selection. Even if the number of days is significantly under 183, the Department may gamble that the taxpayer is not able to prove all of the days spent outside New York City, and commence an audit to determine NYC residency.

Counting days spent in New York City seems like a simple exercise, and the State's instructions are relatively brief regarding this portion of the tax return. In fact, the critical issue of day count may require a detailed review of documents and is not easily determined. Numerous residency audits turn on this point. The recent Robertson decision (Matter of Robertson, DTA No. 822004, ALJ October 15, 2009, affirmed by TAT September 23, 2010) concluded that the taxpayer was not liable for NYC tax of approximately \$27 million, based on the location of the taxpayer on just two days.

Many questions are raised by the change in the Form IT-201, such as the weight that will be accorded in an audit to the day count shown on the signed tax return, and the Department's policy regarding the imposition of civil or perhaps criminal penalties for errors. Moreover, there may be an increased burden on the tax preparer in completing this part of the return accurately.

The 2010 Form IT-201 highlights the Department's focus on residency audits. The risk is that an inadvertent error or good-faith misunderstanding with respect to day count may result in a complicated, time-consuming and expensive audit - and perhaps an assessment.

\*Yvonne R. Cort is counsel to the tax law firm of Karen J. Tenenbaum, P.C., 225 Old Country Road, Melville, NY, 11747, tel: (631) 465-5000. The firm focuses its practice on NYS and IRS tax controversies. Yvonne can be reached directly at [ycort@litaxattorney.com](mailto:ycort@litaxattorney.com).

## **ELDER LAW UPDATE**

In light of recent changes in federal and state legislation, the following elder law developments may concern you, your family, and/or clients who are considering long term care planning.

Medicaid Income/Resource Levels. The Medicaid income and resource levels for 2011 remain the same as they were in 2010. In order to qualify for either nursing home or community-based Medicaid benefits, applicants may have no more than \$13,800.00 in non-exempt asset resources. Examples of non-exempt asset resources include bank accounts, CDs, brokerage accounts, and the cash values of savings bonds and life insurance policies. With respect to income limitations, applicants receiving community-based benefits may retain the sum of \$767.00 from their monthly income, with the balance being applied towards the cost of care. Applicants receiving Medicaid nursing home care continue to be allotted \$50.00 per month as a personal needs allowance.

The Medicaid income and resource levels for community spouses (spouses of applicants receiving Medicaid benefits) remain as they were in 2010. Excluding the residence and other exempt assets, the community spouse resource allowance continues to range from \$74,820.00 to a maximum of \$109,560.00, depending on the value of his or her resources. The community spouse monthly income allowance remains at a maximum of \$2,739.00.

Although a residence owned and occupied by a Medicaid recipient and/or his or her spouse is considered an exempt resource, Medicaid imposes a limitation of the value of the net equity in his or her home. In 2010, the maximum equity value permitted in an applicant's residence was \$750,000.00. Effective January 1, 2011, the maximum equity value has been raised to \$758,000.00. Equity in excess of this amount will not be considered exempt for Medicaid purposes.

For applicants applying for Medicaid nursing home care benefits, any gift transfers made by the applicant up to five years prior to the Medicaid application can result in a period of ineligibility. Local Medicaid districts use the Medicaid Regional Rates to determine the applicable penalty period for asset transfers made during the five year look back period by dividing the amount of the gift by the applicable regional rate. For 2011, the Regional Rates are as follows:

REGION	MEDICAID REGIONAL RATE
Central: Broome/Cayuga/Chenango/Cortland/Herkimer Jefferson/Lewis/Madison/Oneida/Onondaga/ Oswego/St. Lawrence/Tioga/Tompkins	\$7,688.00
Long Island: Nassau/Suffolk	\$11,445.00
New York City: Bronx/Kings/New York/Queens/Richmond	\$10,579.00
Northeastern: Albany/Clinton/Columbia/Delaware/Essex/Franklin Fulton/Greene/Hamilton/Montgomery/Otsego/ Rensselaer/Saratoga/Schenectady/Schoharie/ Warren/Washington	\$8,323.00
Northern Metropolitan: Dutchess/Orange/Putnam/Rockland/Sullivan/ Ulster/Westchester	\$10,105.00
Rochester: Chemung/Livingston/Monroe/Ontario/Schuyler/ Seneca/Steuben/Wayne/Yates	\$8,942.00
Western: Allegany/Cattaraugus/Chautauqua/Erie/Genesee/ Niagara/Orleans/Wyoming	\$7,863.00

End-of-Life Counseling. Shortly after the Obama Administration enacted a Medicare regulation that would have paid doctors who advised patients on options for end-of-life care (which would have been effective January 1, 2011), the Administration quickly withdrew the regulation. In a related development, New York State has enacted legislation effective February 9, 2011 under Section 207 of the Public Health Law, which requires health care practitioners to offer terminally ill patients (or their health care agents) information and counseling regarding palliative care and end-of-life options. These options include, but are not limited to: “the range of options appropriate to the patient; the prognosis, risks and benefits of the various options; and the patient’s legal rights to comprehensive pain and symptom management at the end of life.”

Family Health Care Decision Act. Effective June 1, 2010, a patient’s family member or close friend is permitted to make medical decisions for the patient when the patient is incapable of making those decisions himself or herself and did not previously appoint a health care agent. In certain circumstances, this individual “surrogate” may make decisions regarding the withholding of life-sustaining treatment and resuscitation for the patient. The statute provides the following order of priority as to who is eligible to serve as the “surrogate”: Article 81 court-appointed guardian; spouse or domestic partner; adult child; parent; brother or sister; close friend. The surrogate is required to make decisions about the patient’s care based on the patient’s wishes or, if the patient’s wishes are not reasonably known and cannot be ascertained, based on the patient’s best interests.

Medicaid Coverage for Diabetes Self-Management Training. Effective January 1, 2011, Medicaid recipients with diabetes can seek reimbursement for Diabetes Self Management Training, provided that they receive training from clinics designated to provide such training. Training can be provided in individual sessions or group sessions, and the number of approved hours for training will depend on the Medicaid recipient’s condition.

Medicaid Coverage of Genetic Counseling. Effective January 1, 2011, Medicaid will cover genetic counseling by certified or credentialed genetic counselors. Genetic counseling is used to identify future disease risks, diagnostic testing (including pre-natal genetic risks), and newborn screening follow ups.

Article submitted by: Stuart H. Schoenfeld, Esq. and Marissa Daidone, Esq. at Capell Barnett Matalon & Schoenfeld LLP in Jericho, New York. They can be reached at (516) 931-8100.

## **2010 LONG ISLAND TAX PROFESSIONALS SYMPOSIUM**



**THANK YOU TO ALL WHO MADE THE SYMPOSIUM A SUCCESS!**

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