

# The National Conference of CPA Practitioners

Nassau/Suffolk Chapter Volume 10, Issue 2 MARCH/APRIL/MAY 2013

**Date**  
**Topic**  
Moderators

## **Wednesday, April 24, 2013 - MAP Meeting** **MAP - POST TAX SEASON ROUNDTABLE**

Sandra G. Johnson, CPA, EA, CFE of Sandra G. Johnson, CPA  
Douglas Sinetar, CPA of Douglas Sinetar, CPA PC  
2 CPE/MAP/Advisory Services

On Parade Diner, 7980 Jericho Turnpike, Woodbury NY

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

On or before Wed., April 17 - \$25.00, After Wed., April 17 - \$35.00

Sponsored  
By  
APS Pension

**Date**  
**Topic**

## **Tuesday, April 30, 2013 - LIE CHAPTER - MAP Meeting** **LIE - RETIREMENT PLANNING UPDATE**

To Be Announced

3 CPE/TAX

Courtyard Marriott, 5000 Express Dr. South, Ronkonkoma NY

Registration: 7:45 AM, Program: 8:00 - 11:00 AM

On or before Wed., April 24 - \$25.00, After Wed., April 24 - \$35.00

Speakers  
Credits  
**Location**  
Time  
Cost Members

**Date**  
**Topic**

## **Thursday, May 2, 2013 - Chapter Meeting** **PARTNERSHIP ISSUES**

To Be Announced

2 CPE/TAX

**The Woodlands @ Woodbury**  
**1 Southwoods Road, Woodbury NY**

Networking/Registration: 5:30 PM, Program: 7:00 - 9:00 PM

On or before Wed., April 24 - \$60.00, After Wed., April 24 - \$75.00

On or before Wed., April 24 - \$80.00, After Wed., April 24 - \$95.00

Speakers  
Credits  
**NEW**  
**Location**  
Time  
Cost Members  
Non-Members

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By  
ADP

**Date**  
**Topic**

## **Tuesday, May 21, 2013 - Social Media** **USING LINKED IN AS PART OF YOUR MARKETING PLAN**

Sandra G. Johnson, CPA, EA, CFE of Sandra G. Johnson, CPA

Douglas Sinetar, CPA of Douglas Sinetar CPA PC

2 CPE/MAP/Advisory Services

Capital One Executive Dining Hall, 275 Broadhollow Road Melville NY

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

On or before Wed., May 15 - \$25.00, After Wed., May 15 - \$35.00

Moderators  
  
Credits  
Location  
Time  
Cost

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By  
Capital One

**Date**  
**Topic**

## **Wednesday, May 29, 2013 - MAP Meeting** **WHAT IS THE DIRECTION OF YOUR PRACTICE?** **"THE FIVE YEAR PLAN"**

Sandra G. Johnson, CPA, EA, CFE of Sandra G. Johnson, CPA

Douglas Sinetar, CPA of Douglas Sinetar, CPA PC

2 CPE/MAP/Advisory Services

On Parade Diner, 7980 Jericho Turnpike, Woodbury NY

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

On or before Wed., May 22 - \$25.00, After Wed., May 22 - \$35.00

Moderators  
  
Credits  
Location  
Time  
Cost

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By  
The Lev Group,  
Morgan Stanley

To register for any of our  
meetings, please visit

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



## President's Message

We are truly witnessing huge use of technology in our lives. In fact, I am writing this article in a wireless cafe with my I-Pad. Clearly none of us could ever have imagined the use of these tools.

Here at NCCPAP, we are proud to announce an innovation that will be revolutionary for our National organization and each Chapter.

With the financial support of our board, and the tremendous efforts and dedication of Ross Kass, we are now unveiling our brand new web-site. I also want to offer our sincere thanks and appreciation to Megan Kass, daughter of Ross and Patti, for her expertise and diligence to make sure the website is as complete and user friendly as it is.

Now, a little about our web-site. You have to truly see it and experience it to believe it.

Of course, one of the easiest features is the ability to register for all programs, and integrate with your calendar.

Once you sign in with your user name and password (always available by calling the office), literally a new world awaits you.

Features include:

- Discussion groups amongst our members. This is a great source for asking questions, or simply reviewing hot topics that no doubt you need to be aware of.
- Reviewing and maintaining a history of all CPE that you have taken the last several years with NCCPAP.
- Further in-depth articles and blogs from our members and guest articles from authoritative sources.
- Classified pages to post and seek everything pertinent to your practice from space wanted or available, to per diem available or needed, to staffing and intern needs.
- Coming soon is a summary with listings and promotions from many of our strategic partners, serving our organization as sponsors. They not only offer us services and products needed in our practice, but also promotional discounts.
- Watch for being able to view and use this as an application on all mobile devices.

This is just a sample of what this newly designed interactive website offers. The only way to truly appreciate this and make it a useful tool in the heart of tax season is to give it a try.

The planning and concept of this has been with our constant dedication and goal of member helping member.

As for me, my coffee break is over, so it is time to go back to a client.

On behalf of the board, and my family, I wish each of you the very best for a Happy and Healthy Passover or Easter Holiday, and of course a smooth remainder to tax time.

*Gary Sanders, CPA*

## LIE CHAPTER MESSAGE



I hope all of you are surviving this tax season well. We should all take heart as the days are getting warmer and longer and that we have a little over a month left before it ends.

Even after the 30 plus years I have been in the tax and accounting business, tax season is still a challenge and a grind. While every CPA feels the pressure, for CPA practitioners like us it has become very onerous, which is why it has become especially important that we all band together and assist one another.

In this vein, we had our first tax season roundtable on the 19th of February at the Airport Diner. I would like to extend my gratitude to Carol Markman, Sandy Johnson and all those who attended. Carol's and Sandy's presentations were very informative and the meeting was a success. What was especially welcoming was the give and take amongst the attendees. We also want to give Mike Kaplan of Equinox Partners our thanks for sponsoring the event.

Of course, Carol kept us abreast of the current issues and tax law changes. Carol has the uncanny ability to cut to the chase on tax issues. Sandy's advice on practice management is always helpful. In fact, our firm just like Sandy's firm has grown substantially because of the give and take of MAP meetings. Another plus that comes from partaking in MAP meetings is that we, our practice and our lives have become a little bit saner. If you have not yet participated in a NCCPAP meeting you really should attend one. Just one or two tips that you may pick up at a meeting can go a long way.

At the meeting we gave out the list of upcoming meetings. In devising this list we tried to present seminars on topics relevant to small practitioners and to provide CPE credits in Accounting and Auditing and Tax. We hope that everyone gives consideration to attending one or all of these events. We are also open to any suggestions for adding or improving this list. Any input you can give us is greatly appreciated and please get the word out that WE ARE HERE TO HELP YOU!!! It is our mission.

*James Diapoulos, CPA*

### Disclaimer

IRS Circular 230 Legend: Any advice contained herein was not intended or written to be used, and cannot be used, for the purpose of avoiding U.S. federal, state, or local tax penalties. Unless otherwise specifically indicated above, you should assume that any statement in this newsletter relating to any U. S. federal, state, or local tax matter was written in connection with the promotion or marketing by other parties of the transaction(s) or matter(s) addressed in this newsletter. Each taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor. Any opinion is solely that of the author and is not necessarily the opinion of NCCPAP.

### POLICY

THE FEES FOR REGISTRATIONS ARE:  
CHAPTER MEETING (2 CPE): \$60.00 WITH \*PRE-REGISTRATION AND \$75.00 REGULAR REGISTRATION, AND/OR AT THE DOOR REGISTRATION.  
MAP MEETING: \$25.00 WITH \*PRE-REGISTRATION AND \$35.00 REGULAR REGISTRATION, AND/OR AT THE DOOR REGISTRATION.

### SEMINARS AND OTHER PROGRAMS: TBD

\*PRE-REGISTRATION MEANS: A COMPLETED REGISTRATION FORM WITH PAYMENT AND POSTMARKED, FAXED OR E-MAILED TO THE N/S CHAPTER OFFICE THE FRIDAY PROCEEDING (Unless otherwise noted) THE CHAPTER MEETING, MAP MEETING AND/OR SEMINAR THAT YOU ARE PLANNING TO ATTEND.

### CANCELLATION AND REFUND POLICY

A PRE-PAID REGISTRANT WHO CANNOT ATTEND THE CHAPTER MEETING, MAP MEETING AND/OR SEMINAR WILL BE ISSUED A REFUND IF CANCELLATION NOTICE IS GIVEN TO N/S NCCPAP CHAPTER OFFICE BY THE END OF THE CHAPTER MEETING, MAP MEETING AND/OR SEMINAR DAY.

# MEETING SCHEDULE 2013

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

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

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

**2 CPE/MAP/ADVISORY SERVICES is held at:**

**On Parade Diner, 7980 Jericho Turnpike, Woodbury NY 11797, Registration is at 7:45 AM**

**Social Media is held at:**

**Capital One Executive Dining Hall, 275 Broadhollow Road Melville, NY 11743, Registration is at 7:45 AM**

Thursday	March 7*	Tax Season Roundtable	2 CPE/Tax
	April	No Meeting	
Wednesday	April 24	MAP - Post Tax Season Roundtable	2 CPE/MAP/ADVISORY SERVICES
Thursday	May 2*	Partnership Issues	2 CPE/Tax
Tuesday	May 21	Using LinkedIn as Part of Your Marketing Plan - Social Media	2 CPE/MAP/ADVISORY SERVICES
Wednesday	May 29	What is the Direction of Your Practice? The Five Year Plan	2 CPE/MAP/ADVISORY SERVICES
Thursday	June 6*	To Be Determined	2 CPE/Tax
Wednesday	June 26	How to Work on Your Practice and Not in Your Practice	2 CPE/MAP/ADVISORY SERVICES
Thursday	June 27	All Day Accounting and Auditing Update	8 CPE/A&A
Thursday	July 11*	Not for Profit Update Accounting and Tax	2 CPE/Tax
Tues., & Wed.	July 16 & 17	1 <sup>st</sup> Annual LITPS And Accounting Today Summer Technology Conference	
		CREST HOLLOW COUNTRY CLUB, WOODBURY	
Tuesday	July 23	Blogging & Tweeting, Time to Get Your Head into the Clouds - Social Media	2 CPE/MAP/ADVISORY SERVICES
Wednesday	July 31	Sunrise, Sunset – What's Next?	2 CPE/MAP/ADVISORY SERVICES
Thursday	Aug. 1*	To Be Determined	2 CPE/Tax
Thursday	Aug. 22	Ethics	4 CPE/ETHICS
Thursday	Sept. 12*	Business Appraisal Workshop	2 CPE/Tax
Thursday	Oct. 3*	Workers' Compensation Update	2 CPE/Tax
	Nov. 20, 21 & 22, 2013	Long Island Tax Symposium	CREST HOLLOW COUNTRY CLUB, WOODBURY
Thursday	Dec. 5*	To Be Determined	2 CPE/Tax

**\* Chapter Meeting**

**All Meetings Subject to Change**

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

## LONG ISLAND EAST CHAPTER SCHEDULE

*\*Courtyard Marriott Long Island MacArthur Airport  
5000 Express Drive South  
Ronkonkoma, NY 11779*

*\*\*Airport Diner  
3760 Veterans Highway,  
Ronkonkoma, NY 11779*

Tuesday	Apr 30*	Retirement Planning Update	3 CPE/Tax
Tuesday	May 28**	Sales Tax Update	2 CPE/Tax
Tuesday	June 18**	Technology for CPAs/Paperless Office	2 CPE/MAP/ADVISORY SERVICES
Tuesday	July 30*	Accounting & Auditing	4 CPE/A&A
Tuesday	Aug 20**	Employment Issues	2 CPE/Tax
Tuesday	Sept 17**	Billing, Collections and Time Management	2 CPE/MAP/ADVISORY SERVICES
Tuesday	Oct 15**	Develop a Strategic Marketing Plan	2 CPE/MAP/ADVISORY SERVICES
Tuesday	Dec 10	Holiday Party Topic to Be Determined	3 CPE/Tax



## **MAP – MANAGEMENT OF AN ACCOUNTING PRACTICE**

What's All the Buzz About MAP?

Tax seasons come and tax seasons go. Each year you sit through 40 hours of CPE to ensure you are the best CPA you can be. What have you done lately to improve the profitability of your practice? What have you done to work more efficiently? Is the technology in your office state of the art or in a state of disrepair?



The MAP committee (Management of an Accounting Practice) addresses the "soft topics". Recent discussions include billing procedures, improving cash flow, time management, keeping up with technology, IRS security rules and more. Upcoming topics are future planning, using social media to expand your practice and succession planning. If you have not been to a MAP meeting, you owe it to the health and profitability of your practice to try us out.

The Nassau/Suffolk chapter has monthly MAP meetings that have grown in popularity since the committee's inception in 2005. We owe a huge debt of gratitude to our committee founders, Ken Hauptman and Eliot Lebenhart, and to the many individuals who have kept the committee going and growing since then.

Current co-chairs, Sandy Johnson and Doug Sinetar will be completing three years as chairs in October and so we are looking for volunteers to step up and help out. Robert Brown has graciously volunteered to be chair. Rob will need one or two people to help him out. Not only will you have fun working on this committee but your practice will flourish as a result. Volunteers for this committee do not need to be experts in practice management; they only need a willingness to help seek out the answers.

Part of the mission of NCCPAP is "Practitioners Helping Practitioners". That is the heart of MAP. The Nassau/Suffolk MAP meetings have become famous throughout NCCPAP and our MAP team has taken the show on the road! To date we have presented MAP in Philadelphia, Boston, Tarrytown and most recently South Florida. Join our committee and you too can travel to Florida in February.

April 24 is our Post Tax Season Roundtable. You can cry to your family. You can cry to your friends. Only a fellow CPA knows your pain! Join us at 8 AM at On Parade Diner as we cry together and discuss how to make it better next year.

May is a double-header! Two MAP meetings in one month! First is the next in our special series on social media. Bring your laptop as we learn how to use LinkedIn to grow our practices. This meeting will be held at and is sponsored by Capital One in Melville. Start time is 8 am sharp on May 21 but arrive early for a buffet breakfast in the executive dining room.

Next in the May lineup, "What is the Direction of your Practice? The Five Year Plan". Well known speaker and consultant to some of the most successful CPA practices, Ira Rosenbloom will guide us through the planning of the next few years of our practices. Join us on May 29 back at On Parade Diner, 8:00 AM start but arrive early to network.

Remember, MAP meetings are made great by your participation. Come on down and find out what all the buzz is about!

*Sandra Johnson CPA & Douglas Sinetar, CPA*



### **GOOD & WELFARE**

#### **Our Speedy Recovery to**

Ken Hauptman for leg and foot injury  
Steve Sternlieb for leg and foot surgery

#### **Our Praise to**

Andrea Parness for an inspiring interview on WNYC Television for her insight on Superstorm Sandy  
Robert Goldfarb, Sandra Johnson, and Carol Markman for their dedication  
in our traveling seminar presentations  
Michael Gelbien on passing his paramedic course

#### **Our Sincerest Condolences to**

Steve Greenberg, CPA and his family on the passing of his father, Raymond.

**Our Good & Welfare Chairman is Stephen Sternlieb, CPA [steve@ssternliebcpa.com](mailto:steve@ssternliebcpa.com)**

AccountingToday &amp; ncCPA Present

# THE LITPS ACCOUNTING TECHNOLOGY FORUM

**NEW  
EVENT!**



Earn Up To  
12 Credits



**JULY 16-17, 2013**  
Crest Hollow Country Club  
Woodbury, NY

## TOMORROW'S TOOLS TODAY

More than ever, technology is playing a critical role in the success of accounting firms of all sizes—*so much so that you can no longer afford to be anywhere but on the cutting edge.*

Bringing together technology experts, thought leaders, vendors and pioneering practitioners, this **new event** will offer you access to the tools, technologies and strategies you need to **make sure your firm is poised to grow in an ever-more-competitive environment.**

The **Accounting Technology Forum 2013** will also offer opportunities to network with your peers to share best practices and learn from fellow practitioners. **This is the ONLY event of its kind in the Northeast!**

## FIVE REASONS TO ATTEND

- 1 Get your firm up to speed on the latest tools
- 2 Find out the technologies where your firm can get the most profits
- 3 Learn from renowned industry experts and speakers
- 4 Become even more efficient and profitable than you already are
- 5 Three essential tracks—INCLUDING THIRTY information-packed sessions

## WHO SHOULD ATTEND

The owners and leaders of small and mid-sized firms, especially those that are looking to **boost their technology profile** and **find new ways to improve their practices** through new tools and strategies.

**Register Online Today! Attendees pay \$395, NCCPAP members \$325—2012 LI Tax Professional Symposium attendees ONLY \$275!**



For more information about sponsorships and exhibiting, please contact Jack Lynch at [jack.lynch@sourcemedia.com](mailto:jack.lynch@sourcemedia.com) or (212) 803-8803.

accountingTODAY

[www.accountingtoday.com/conferences/techforum/](http://www.accountingtoday.com/conferences/techforum/)



## **REAL ESTATE PROFESSIONALS: SURVIVING THE AUDIT**

The IRS and New York State have been aggressive in auditing real estate professionals. In order to survive the audit and prove that the statutory requirements have been met, it is critical that taxpayers establish credibility by maintaining detailed, accurate records. If the claim is denied, the losses attributable to rental real estate activities are deferred as passive activity losses.

Section 469 of the Internal Revenue Code defines a passive activity as any trade or business in which the taxpayer does not materially participate. Losses sustained from passive activities are generally not deductible and must be carried forward to be applied against passive activity income in subsequent tax years. Passive activity loss is the amount by which the taxpayer's aggregate losses from passive activities exceed the aggregate income from passive activities. Rental activities are "per se passive" regardless of material participation, subject to limited exceptions. One such exception, contained in Section 469(c)(7), provides that a taxpayer's rental real estate activities will not be considered per se passive if the taxpayer qualifies as a real estate professional.

The real estate professional test requires that the taxpayer prove (i) more than one-half of the personal services performed in trades or businesses by the taxpayer during such taxable year are performed in real property trades or businesses in which the taxpayer materially participates; and (ii) such taxpayer performs more than 750 hours of services during the taxable year in real property trades or businesses in which the taxpayer materially participates. For spouses filing jointly, the test is satisfied if either spouse qualifies as a real estate professional.

Section 469(h) defines material participation as regular, continuous, and substantial involvement. Treas. Reg. § 1.469-5T contains seven objective tests that can be used to prove material participation. Proof of participation "may be established by any reasonable means," including, but not limited to, logs, appointment books, time records, or other documents identifying the services performed and the number of hours expended.

There are no specific recordkeeping requirements in the regulations, but the Tax Court has consistently held that a "post-event ballpark guesstimate" is insufficient proof of the hours spent on a particular activity. *Hudzik v. Com'r, TC Sum. Op. 2013-4*; *Fowler v. Com'r, TC Memo 2002-223*; *Moss v. Com'r, 135 T.C. 365 (2010)*; *Goshorn v. Com'r, TC Memo 1993-578*. "[T]he credibility of a taxpayer's records is diminished where the number of hours reported appears excessive in relation to the task described." *Jafarpour v. Com'r, TC Memo 2012-165*; *Hill v. Com'r, TC 2010-200*.

To survive the audit, the taxpayer must present sufficient, credible evidence to support the statutory requirements. The taxpayer's mere testimony as to the hours spent at each property was held to be insufficient in *Hoskins v. Com'r, TC Memo 2013-36*. In *Hoskins*, the taxpayer did not maintain an appointment book, record, or log. The court denied real estate professional status, noting the lack of "contemporaneous verification."

In *Hudzik v. Com'r, TC Sum. Op. 2013-4*, a general log of time spent at two rental properties was similarly disregarded. The logs were not credible as they did not contain enough detail and were uncorroborated by additional documentation. Further, the hours reported in the logs were suspect based on the time devoted to the taxpayer's full-time job. This discrepancy was fatal to the taxpayer's claim that she spent more than one-half of her time in real property trades or businesses. Confirmation from an employer that the taxpayer had flexibility to spend time away from the office may substantiate claims of the hours devoted to rental properties.

Poor legibility, ambiguity, implausibility, and a lack of contemporaneous records were decisive in denying real estate professional status in *Jafarpour v. Com'r, TC Memo 2012-165*. Notes in an appointment book were illegible and ambiguous, while time at the taxpayer's chiropractic office was inaccurately calculated. The court was particularly skeptical of an hour spent "reading a nine-sentence email" and two nineteen-hour days visiting and researching rental properties.

To survive the audit, the taxpayer must provide detailed, accurate records as to each rental property. The records should identify the type of service and the hours devoted to that service. Prudence suggests maintaining contemporaneous records, as the cases frequently stress their importance in establishing credibility. Retention of email correspondence, notes of meetings and consultations, and records of banking, maintenance, leases, and repairs for each rental property may assist in corroborating the taxpayer's claim. Obtaining affidavits from co-workers or employers may corroborate the taxpayer's claim that more than one-half of his or her time was spent in real property trades or businesses. For taxpayers claiming real estate professional status, establishing and maintaining credibility is vital, particularly in light of the aggressive auditing by the IRS and New York State.

Robert S. Barnett is a partner at Capell Barnett Matalon & Schoenfeld LLP in Jericho, New York, where he heads the Tax and Estate Planning Departments. Rebecca K. Richards is a law clerk at the firm.



We are excited to roll out our new interactive website

Same address, But a new look!

[www.ns-nccpap.org](http://www.ns-nccpap.org)

## What can I do with the new website?

All you need to do is log-in and view "Our Community" to get started.

We are looking forward to being connected with our members  
and happy posting, all!

### **NCCPAP BIGGEST LOSER CONTEST IN FULL OPERATION**

Our moderator, Allan B. Cohen, CPA has been inspiring all of the contestants to keep going and remain with the program.

To quote directly from our own fearless leader:

I realize tax season is a tough time for us all, but that is precisely why Gary and I personally thought this was a good idea. It is so easy to lose motivation and drive resulting in weight gain during this busy and stressful time. I would have considered myself fortunate to "break even" these three months.

There is still opportunity to register..no need to furnish weight amounts, we have substantial prizes for the biggest percentage male and female loser!!

Contact Allan Cohen at [allanc@rsgnccpas.com](mailto:allanc@rsgnccpas.com) for more information.

## CHAPTER MEMBER BENEFITS AND DISCOUNTS



Receive a 30% discount on **CCH Products**. The members are billed directly. To order, go to: <http://tax.cchgroup.com/members/ns-nccpap> The CCH Code is Y3820. Our contact is Roger Franks, Account Manager, Quantity Publications (East), (877) 300-5219 phone and fax.

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An excellent scholarly **free periodic tax publication** is the "Tax News and Comment" distributed by the law firm of David L. Silverman, Esq. of Lake Success, New York. To receive issues by email, call (516) 466-5900, or reply to [dsilverman@nytaxattorney.com](mailto:dsilverman@nytaxattorney.com) or visit [nytaxattorney.com](http://nytaxattorney.com).

**Audrey Kirwin, Sound Wealth Financial Group**, recently made a presentation at a NCCPAP evening meeting session and later to the Member Benefits Committee.

Audrey has "a unique tool to coach people about their finances".

She has found that when it comes to managing money, many people get frustrated with their results. She looks at money management differently, using a revolutionary web based tool that organizes a person's entire financial picture and updates itself automatically every day.

With The Living Balance Sheet (LBS), her clients see for the first time what they have in one place and how all of their financial pieces fit together. This allows her to help them:

- Understand the effects of their financial decisions,
- Streamline costs, and
- Easily move to an improved level of overall financial balance.

Go to [www.thelivingbalancesheet.com/financialbalance](http://www.thelivingbalancesheet.com/financialbalance) to view an introductory video.

If interested please contact her at 516-677-5058.

If our members express an interest in this topic, we will have in-house explanatory sessions to be held in Audrey's Woodbury Office.

### NCCPAP ON THE HILL-SPRING 2013 Join Your Friends and Colleagues



**NCCPAP ON THE HILL  
May 8, 9, & 10, 2013**

**Washington Plaza  
10 Thomas Circle NW, Washington, D.C.**

**For hotel reservations call 202-842-1300-ncCPAp rate: \$275 single/double  
Hotel block ends April 7, 2013 or until block at capacity**



# **TAX CONSIDERATIONS OF CORPORATE INFUSIONS**

In this economy, many shareholders have infused capital into their troubled corporations. Of concern to these taxpayer shareholders should be the precise characterization of the infusion, i.e., equity or debt, should those corporations fail to survive. This difference in characterization is not mere semantics. For example, if the infusion is characterized as equity, in most cases, the best result the taxpayer could hope for would be a deduction as a capital loss. If the taxpayer has capital gains that it can use to offset the loss, the taxpayer may be able to take advantage of the capital deduction. In situations where the taxpayer, although an investor in the company, is not actively engaged in other investments, the taxpayer may not have significant capital gains with which to offset the loss. As a result, the taxpayer is precluded from maximizing the tax benefit that the loss could otherwise provide the taxpayer.

If the infusion is characterized not as equity but as debt, the infusion would be considered a debt obligation of the corporation. If the corporation is ultimately unable to pay that debt, the worthlessness of that debt to the taxpayer is deductible. The manner in which it is deductible depends on how it is characterized, i.e., a "business bad debt" which is deductible against ordinary income or a "nonbusiness bad debt" which is subject to the same capital loss deduction rules as worthlessness of equity.

When preparing taxpayers' 2012 returns this season, careful consideration should be given to the characterization of the taxpayers' infusion of capital. Section 1244 ordinary loss may be available for certain equity contributions. Good corporate recording is essential to take advantage of this opportunity. Otherwise, business bad debt classification may be available but is difficult to achieve. Good documentation is also essential for this classification. A wrong or improperly supported characterization could lead to less favorable tax treatment than the infusion of capital would otherwise be entitled to.

Presented by Robert S. Barnett, CPA, JD, MS (Taxation) & David Welch, Esq. Robert S. Barnett is a Partner at Capell Barnett Matalon & Schoenfeld LLP in Jericho, New York, where he heads the Tax and Estate Planning Departments. David Welch is an associate of the firm active in the Tax and Real Estate Departments.

## **SECOND OPINION EVALUATOR**

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**INDEPENDENT**  
**Pension Services, Inc.**  
**Consultants & Administrators**

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### **Employee Benefits Consultants & Administrators**

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**Qualified Transportation Plans**  
**COBRA Administration**  
**Welfare Benefit Plan Form 5500**  
**Health Care Reform (PPACA)**

## **25 Years Experience**

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Email: [indpdnt@indpdnt.com](mailto:indpdnt@indpdnt.com) Website: [independentpension.com](http://independentpension.com)

## **OUR NOMINATING COMMITTEE**

is now seeking volunteers to serve on the Committee to meet immediately after April 15th

### **CLASSIFIED**

Our office keeps a list of requests for Per Diem Work and Resumes. If you are looking to hire please email the office: [egelbien@ns-nccpap.org](mailto:egelbien@ns-nccpap.org)

#### **Internship**


LIU (CW Post) student looking for an internship. Contact: Alan D. Feldstein, CPA  
[afeldstein@feldsteinandstewart.com](mailto:afeldstein@feldsteinandstewart.com)

#### **Desk Space Available**

Major road, business area, mid-western Suffolk, right off LIE. Use of computer, phone system, photocopy available. [IslandiaCPA@aol.com](mailto:IslandiaCPA@aol.com)

#### **Per Diem**

Looking for Per Diem contact: [lupicacpa@aol.com](mailto:lupicacpa@aol.com)

 <b>APS Pension and Financial Services Inc.</b>	1000 Woodbury Road, Suite 310 Woodbury, NY 11797-2500
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### **Financial Services**

- |                                       |                                |
|---------------------------------------|--------------------------------|
| • Retirement Plan Consulting          | • Actuarial Services           |
| • Non Qualified Deferred Compensation | • Estate Conservation          |
| • Portfolio Analysis / Management     | • Third Party Administration   |
| • Group Health Insurance Quotes       | • Business Succession Planning |

### **401(k) Turnkey Program**

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