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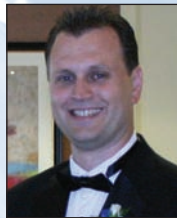
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A Message From The President



As I reflect back on the events of the Pennsylvania Society of Public Accountants' 61st Annual Convention held in Hershey, I would like to express my gratitude to the membership for extending to me the privilege of serving you as President throughout this next year. I would also like to specifically thank Joanne Hauer and all of the volunteers from the South Central Chapter who worked diligently to provide us with a wonderful, memorable and educational experience.

On behalf of the entire organization, I would like to congratulate and express our thanks to Gerald Brenneman on a job well done while serving as our President this past year. I would also like to express appreciation to the line officers, committee chairpersons, board of directors, Executive Director, Sherry DeAgostino and Administrative Assistant, Bonnie Hackman, for all of the time and energy they have dedicated to the PSPA. Your constant efforts have proven to be an invaluable asset to our organization.

As I look ahead to my coming year as president, I am excited by the programs, opportunities and benefits that the PSPA continues to offer you, the members. We are continuing with our commitment to provide relevant, affordable CPE to all areas of the state. We have also made significant strides in the technological improvements to our website, with additional enhancements anticipated throughout the year. The Long Range Planning Committee and the Membership Committee have already had initial meetings to discuss the threats to, and opportunities for, our organization so that we can continue to be proactive in ways that will benefit our members. As these committees meet, one thing to remember is that this organization exists to serve you, its members. If you have any concerns or ideas for any of our committees to consider, please contact the state office to let them know. Additionally, we are always looking for passionate energetic volunteers to get involved in pushing the PSPA forward in a positive direction.

During the coming year I will be traveling throughout the state and hope to meet many of the members at your individual chapter meetings. For those of you who may not attend your chapter's meetings, I would encourage you to do so. The friendships that are formed in these settings prove to be one of the strongest, most meaningful benefits that this organization has to offer. I would ask that you keep this in mind as you meet and work with other colleagues in our field who may not currently be members. As you build these relationships, I encourage you

to invite others to join you at one of your chapter functions. It is my belief that each person brings a unique perspective to our organization, which serves to diversify and strengthen our ranks.

I am looking forward to another year of challenges and opportunities for growth. Thank you once again for placing your support in me as your president. Please do not hesitate to contact me to share any comments or ideas that would continue to strengthen our organization.

Respectfully,
Randy L. Brandt, CPA
PSPA President



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Questions for the Pennsylvania Department of Revenue?



The PSPA Committee on Cooperation with the PA Department of Revenue is gearing up for its meeting this fall. If you have any questions/issues you would like to be included on the agenda please forward them to the PSPA Executive Office either via email: info@pspa-state.org or via fax: 717-737-6847. Please include enough information to make the questions easily understandable and provide all necessary supporting documentation.



Martin Moran of PNC Bank addresses PSPA attendees at the 61st Annual Meeting in Hershey PA, June 26-28 2008. PSPA awarded Mr. Moran a "Small Business Champion" award in recognition of his efforts on behalf of the PSPA membership.

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PENNSYLVANIA TAX UPDATE

PA Capital Stock & Franchise Tax Phase-Out Preserved

By Sharon R. Paxton

When Governor Rendell issued his budget proposal for 2008-09, he indicated that it would preserve the January 1, 2011 termination date for Pennsylvania's Capital Stock and Franchise Taxes, but he proposed an interim adjustment to the rate phase-out schedule that would have cost Pennsylvania businesses many millions of dollars during the 2008-09 fiscal year. Fortunately, even though the faltering national economy has depressed Pennsylvania tax revenues, the 2008-09 budget adopted by the General Assembly and signed by the Governor on July 4th, did not include the Governor's proposal, and preserved the pre-existing phase-out schedule. The tax rate for tax years beginning in 2008 remains at 2.89 mills, for 2009 at 1.89 mills, and for 2010 at 0.89 mills.

Even so, businesses seeking a single Sales Factor or increased Sales Factor weighting, and an increased NOL cap under the Corporate Net Income Tax were thwarted by the faltering economy. With the projected 2007-08 surplus and revenue projections for 2008-09 reduced by several hundred million dollars, the budget left no room for tax adjustments significantly impacting revenue. With substantial support in both the Pennsylvania House and Senate, it would seem reasonable to assume that these changes may be enacted in a future tax year, when the economy smiles more favorably on the Commonwealth's coffers.

Just how soon that will be remains to be seen. Although the Governor and General Assembly were able to adopt a 2008-09 budget without any general tax increases, rumors and public speculation abound, to the effect that the Commonwealth could face a \$1 billion or greater shortfall by the time this budget year ends.

Local Income Tax Collection Consolidated

Although businesses did not gain additional tax base relief in the 2008-09 budget, they will benefit

administratively from the consolidation of local Earned Income Tax collection. Act 32 (SB 1063), signed by the Governor on July 2nd, reduces the number of EIT collectors from 590 to 69. The EIT is levied in counties other than Philadelphia. In most counties, one tax collection agency will be established; in Allegheny County, four agencies will be established. Uniform withholding and remittance requirements will be established, with multi-county employers required to remit only to one county. These changes will take effect in 2012.

Other highlights from Act 32:

- Will correct deficiencies in the current collection system, which allow \$237 million per year to fall through the cracks, according to a study by the Pennsylvania Economy League.
- Employers will be required to withhold taxes from all employees, regardless of residence, but may choose to remit to only one local tax collection agency.
- The Department of Community and Economic Development will maintain a register of tax rates on its website.
- County tax collection committees may name as the tax collector a municipality, a school district, a private company or a non-profit bureau.
- County tax collectors will be able to exchange tax information with the PA Department of Revenue and will be authorized to request and examine taxpayers' state and federal returns for information relevant to local taxes.
- County tax collection committees will be subject to the Right to Know Law, the State Adverse Interest Act, the Open Meetings Law and state rules for ethics and financial disclosure.
- Penalties on unpaid taxes will increase from 0.5% per month to 1% per month. Fines and prison terms for criminal violations will be increased significantly.
- Expanded statutory definitions clarify that clergy housing allowances are

not subject to tax as "compensation." Gains on sale of farm machinery, sale of certain livestock and sale of other capital farming assets are not taxable as "net profits."

- Each tax collection committee will establish an appeals board. Taxpayer and employer appeals will be conducted in a manner consistent with the Local Taxpayer Bill of Rights.
- Taxpayer and Employer audits will conform to the Local Taxpayer Bill of Rights.
- The Department of Community and Economic Development will promulgate regulations, develop standard forms and provide other assistance and oversight to ensure the effective implementation and operation of the new system.

Commonwealth Court Upholds Panel Decision Denying Refund Claim for Sales Tax Paid on Electricity Distribution, Transmission and Transition Charges

On April 30, 2008, the Commonwealth Court denied the exceptions filed by Spectrum Arena Limited Partnership to the Court's April 18, 2007 decision that distribution, transmission and transition charges associated with the purchase of electricity for non-residential purposes are subject to Pennsylvania Sales Tax. (Numerous refund claims have been filed with the administrative boards and the Commonwealth Court seeking a refund of Sales Tax paid on itemized charges for distribution, transmission and transition charges included on commercial electricity bills.)

Two judges dissented on the basis that (1) the "delivery" was provided and billed by someone other than the vendor of the electricity, (2) sales tax is not imposed on charges for the delivery of natural gas, and (3) any ambiguity should be resolved in favor of the taxpayer.

The taxpayer had argued that the disputed charges were not subject to sales tax because the transmission and

continued on page 9

NSA State Director's Message



NSA State Director
of the Year

Tax Preparer Registration Legislation

NSA continues to keep a steady eye on tax preparer legislation. NSA representatives have met, and will continue to meet, with key Senators, Representatives and congressional and Treasury Department staff to discuss essential elements of such legislation, including an exemption from any testing requirement for those who have passed any comprehensive national tax examination such as the examination associated with the Accredited Tax Preparer or Accredited Business Accountant credentials offered by ACAT.

According to House Ways and Means Committee Chairman Charles Rangel, the Committee will hold a hearing during September and will likely introduce a large tax reform bill as part of a "good government" bill, and committee sources have told NSA that tax preparer registration will likely be a component of such a bill. The Senate and House bills will likely be combined into one tax package before it is sent to the President, assuming it gets to that point.

Scholarships Awarded

The NSA Scholarship Foundation Board of Trustees has announced the awarding of 44 scholarships totaling \$35,200., for the 2008-2009 academic year. Applicants for awards are judged on the basis of scholastic achievement, demonstrated leadership ability, and financial need. Selections were made by Scholarship America, an independent agency, from among 378 applicants. The scholarships are made possible through donations received

from members and affiliated state organizations. The PA Society of Public Accountants sponsored a \$1,000 NSA scholarship which was to be awarded to a student from Pennsylvania. This year's winner was Christine Fairchild from Lehigh, PA. Christine attends Radford University in Virginia and will graduate May 2009.

NSA's 63rd Annual Meeting

The National Society of Accountants will hold their 63rd Annual Meeting on August 27-30, 2008 at the Hyatt Regency Crown Center, Kansas City MO.

Past State President Raymond Bucks has announced that he is a candidate for NSA Governor –District II, to replace Robert Sommer, whose term is expiring. The election will be held as part of NSA's Annual Meeting. Please join me in extending best of luck to Ray in his quest for District Governor.

2008 Leadership Networking Conference

NSA will hold its Annual Legislative Strategy and Leadership Training Conference in Phoenix, AZ beginning the evening of Thursday, October 30th until noon Sunday, November 2nd at the Crown Plaza Hotel at the Phoenix Airport. Conference Fee is \$160. Room rate \$129 per night (free wireless internet in every room). Arizona Society of Practicing Accountants will host a social event on the evening of October 30th.

Education

NSA continues to make quality education programs available on your desktop through **ConnectED**, a series of one hour webinars to help Accountants and Tax Professionals. As a special introductory offer for NSA members, anyone signing up for

3 webinars at \$35 each will get a fourth FREE. For more information regarding the webinars please contact NSA toll free at (800) 966-6679.

Upcoming Webinars:

- Thursday, August 28, 2008:
The \$500 Marketing Plan
- Thursday, Sept. 25, 2008:
Easy Client Communications
- Thursday, October 23, 2008:
Paperless Possibilities
- Thursday, Nov. 20, 2008:
Tax Season Preparedness
- Thursday, Dec. 18, 2008:
Handy Handouts

Membership

The National Society of Accountants continues to offer a discounted membership to any PSPA member who joins NSA as a new member incentive. PSPA members can join NSA for \$159, and save \$30 off the regular \$189 membership fee. This offer expires on December 31, 2008.

If you are not an NSA member, why not complement your valuable PSPA membership and experience the benefits that membership in a national organization has to offer? You can download a membership application at www.nsacct.org.

Please feel free to contact me with any questions via email at rbraschcpa@verizon.net

Respectfully submitted,

Richard Brasch Jr., CPA
NSA State Director - Pennsylvania

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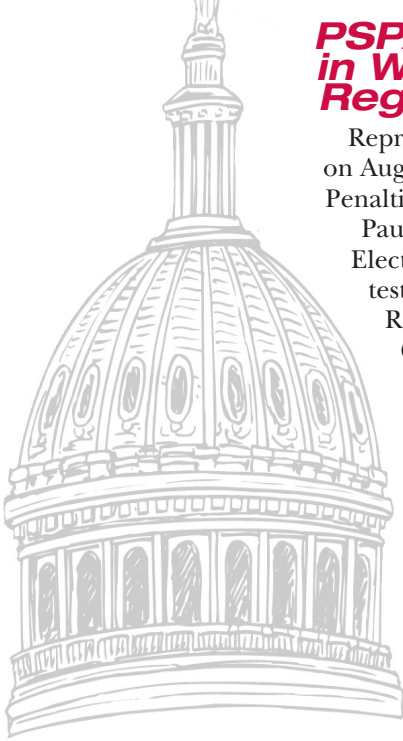
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PSPA Represents Small Practitioners at Hearing in Washington D.C. Regarding Tax Preparer Penalties

Representatives of the Pennsylvania Society of Public Accountants traveled to Washington DC on August 18, 2008 to participate in a hearing regarding REG-129243-07- Tax Return Preparer Penalties, IRS Code Section 6694.

Paul J. Cannataro, CPA of Drexel Hill (Philadelphia Tri-County Chapter) PSPA President Elect and Co-Chairman of the PSPA Committee on Cooperation with the IRS offered testimony on behalf of the organization. Also representing PSPA at the hearing were Marvin R. Huttman, CPA, Past President and Co-Chairman of the PSPA Committee on Cooperation with the IRS, Neil C. Trama, PA, Past President and Legislative Committee Chairman and Sherry L. DeAgostino, PSPA Executive Director.

Mr. Cannataro eloquently and effectively represented PSPA members through his testimony which called for the elimination of the double standard created by holding taxpayers to a lower standard than their tax preparers, explained the significant impact the new preparer penalties and proposed regulations will have on smaller entities and called for IRS to accept alternative reference sources when determining reasonable cause and good faith.

PSPA was the only organization to address the view of the smaller accounting firms and was the only statewide membership association represented at the hearing. Other organizations and companies included Padgett Business Systems, AICPA, H&R Block, National Association of Bond Lawyers, and the American Association of Independent Appraisers.

Some of Mr. Cannataro's comments regarding use of alternative reference sources, disclosure and the unequal standard placed on preparers and taxpayers appeared in *CCH's Tax News Headlines* released on August 19, 2008. Below is an excerpt from this *CCH's Tax News Headlines*:

The Pennsylvania Society of Public Accountants (PSPA) asked the IRS to expand the factors and acceptance of alternative reference sources in addition to the authorities in Reg. 1.662-4(d)(3)(iii). "The alternative reference sources would be for purposes of sustaining that a preparer has reasonable cause and acted in good faith," Paul J. Cannataro, speaking on behalf of the PSPA, explained. An example of an alternative reference source would be CCH's Master Tax Guide, Cannataro told CCH.

"The pressure from taxpayers to complete returns causes practitioners to work as many as 80 to 90 hours week," Cannataro said. "For less complicated issues, the alternative reference sources provide a more expedient solution to the overwhelmed practitioner's problems."

***Disclosure** - The proposed regulations permit a preparer to contemporaneously document in his or her file that disclosure was made to the client. However, boilerplate language is not allowed. The IRS has estimated that preparers will be able to prepare the contemporaneous document in 15 minutes. "The 15 minute estimate is inaccurate and misleading," Cannataro said.*

The PSPA urged the IRS to support equalizing the preparer and taxpayer standards at substantial authority at the hearing. "The IRS has the obligation to make Congress aware of laws that cause inefficiency in the tax system. One such example is the unequal standard placed on preparers versus taxpayers," Cannataro said.

Governor Signs Senate Bill 1063

Reduces number of local earned income tax collections from 560 to 69

On July 2, 2008, Governor Edward G. Rendell signed Senate Bill 1063, legislation reforming the state's current local earned income tax collection system. This legislation is the result of four years of work by various stakeholders- PSPA being one. Those of you who attended the PSPA Day at the Capitol, and heard the DCED's presentation understand the arduous path this legislation has experienced to passage. We thank those PSPA members (and there are many of you) who took the time to contact your legislators throughout this process.

The legislation was a direct result of a 2004 report published by the Department of Community and Economic Development, which documented the fragmentation, complexity and inefficiency of the earned income collection system.

Under SB 1063, Pennsylvania's number of earned income tax collectors will be reduced from 560 to 69 – roughly congruent

with counties, but not a function of county government.

In addition, the legislation includes a number of important improvements:

- Establishing uniform withholding, remittance, and distribution requirements.
- Requiring that employers withhold all local income taxes imposed on the compensation of their employees and remit those taxes to only one collector, even if an employer operates in multiple counties.
- Instituting a continually updated, comprehensive tax register, maximum twice-yearly rate changes, a uniform definition of taxable income and a system of appeals.
- Strengthening reporting requirements so that each tax dollar is tracked from the time it is withheld until it is received by the appropriate taxing jurisdiction.
- Requiring that the commonwealth issue one set of rules & regulations that apply to all collectors, taxpayers, and employers.
- Requiring that the Department of Community and Economic Development develop uniform forms, notices, reports, returns, schedules, and codes for school districts, municipalities, and tax collection districts.
- Requiring that tax collectors keep a record of all public monies received and distributed, and submit monthly reports to each taxing jurisdiction and the tax collection district that must be reconciled with other records in an annual audit.
- Providing for more accountability, transparency, oversight, and enforcement.

Senate Bill 838 Signed by Governor

Governor Rendell signed SB 838 on July 10, 2008; it will take effect 60 days from the date of signature. As you are aware, the bill had been stalled in the House Professional Licensure Committee since December.

PSPA spent a tremendous amount of time and effort educating the Committee on the perspective of our members. PSPA was successful in advocating the elimination of the member/non member rates that the PICPA charges as the administering administration for peer review. There will now be one fee for both members and non-members. Due to this change, licensees will no longer have to maintain a membership in the PICPA in order to receive the savings on the administrative fee for peer review.

This PICPA backed bill will:

1. Further reduce the required CPA equity interest in a CPA firm to a simple majority. PSPA fought to preserve the current 2/3 CPA ownership requirement. Non-CPAs already have the ability to have ownership in CPA firms, and our position opted for increased public protection.
2. Mandate 150 Hour Education Requirement, while at the same time reducing the experience requirement from two years to one. Pennsylvania already has a voluntary 150 Hour Requirement. There has been a dramatic decline in the number of students sitting for the CPA exam which has hampered the ability for small firms to hire qualified individuals. Most disturbing is the fact that the experience requirement will be reduced from two years to only one year of practical experience.
3. Enact substantial equivalency/mobility language. Although mobility legislation has passed in many other states, the promise of "reciprocity" has failed. States for the most part are not passing the same version of the legislation which is preventing true mobility.

If you have any questions on the legislation please contact the PSPA Executive Office at 1-800-270-3352.

PA Tax Update

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distribution of electricity (as well as transition charges added to the cost of the service) do not constitute the sale of tangible personal property or a specifically enumerated taxable service. The taxpayer further contended that the disputed charges were not part of the purchase price of non-residential electricity and that to combine them into the purchase price of electricity would "rebundle" what the Electricity Generation Customer Choice and Competition Act ("Competition Act") required electric utilities to unbundle.

Interest and Penalties on Business Privilege Tax Liabilities Barred by Doctrine of "Laches"

On April 18, 2008, in an unreported opinion, a three-judge panel of the Commonwealth Court ruled in *Borough of Braddock and Central Tax Bureau of Pennsylvania, Inc. v. Sullivan Plumbing, Inc.*, that a Borough was barred from collecting interest and penalties on Business Privilege Tax liabilities for the years 1994 through 2003 because it did not perform an audit until 2005, which was eleven years after the taxes were first owed. The Court determined that the delay arose from the failure of the Borough to exercise due diligence (no one from the Borough or the tax collection agency had made any effort to check whether the taxpayer was paying the business privilege tax or was aware of its obligation to pay) and that there was no basis to assume that the taxpayer would knowingly and willingly incur liability for interest and penalties for a period of ten years.

Sharon R. Paxton is a member of McNeese Wallace & Nurick LLC's State and Local Tax Group.

pspa

61st ANNUAL MEETING



June 26 - 29, 2008

Hershey, PA



Joanne Y. Hauer, CPA, 61st Chairperson along with Gerald L. PSPA President, welcome attendees





CPA, 61st Annual Meeting
Gerald L. Breneman, CPA,
the attendees to Hershey, PA.

If You Are a Trustee, Read This

Written By: Patti Spencer, Esq., Spencer Law Firm, Lancaster, PA

Trustees of Pennsylvania trusts have until November 6, 2008 to comply with the new notice requirements of the Pennsylvania Uniform Trust Act (PA UTA). This new legislation requires notice to beneficiaries and interested parties of the existence of trusts.

Until now, there have been many "secret" trusts in Pennsylvania. There are many trusts whose beneficiaries don't know that the trust exists. A trustee had no duty to tell beneficiaries about the existence of the trust they managed or to provide any information to beneficiaries about the trust, its investments, or provisions.

Secret trusts were bad enough, but the situation was exacerbated because at the same time the Pennsylvania state law of trusts has always been "beneficiary enforced," meaning that there is no independent review of the trustee's actions by a court or any other entity. The only way a trustee can be criticized and brought to task is by an action brought by beneficiaries. If the beneficiaries don't know the trust exists, then they obviously can't review the trustee's actions to determine if legal action is necessary. Who is looking over the trustee's shoulder? Many times, no one. This had been a sorry state of affairs indeed.

The Act applies only to trusts that are funded and are not going to change. Assume a Settlor creates and funds a revocable trust. As long as the Settlor is alive and competent no notice is required. If Mom's will creates a trust for her children, the Act requires no notice until after she dies since she can revoke the will at any time while she is still alive.

But, under the new Act, trustees are required to give notice when certain events occur. The law applies not only

to new trusts but also to trusts created any time in the past that are now still in existence. Following is a brief summary of the notice provisions. If you are a trustee, we urge you to get legal counsel as there are many twists and turns to the law which cannot be addressed in this short column.

There are five triggering events for sending notices to "current beneficiaries." A current beneficiary is a person 18 years of age or older to or for whom income or principal of a trust must be distributed currently, or a person 25 years of age or older to or for whom income or principal of a trust may, in the trustee's discretion, be distributed currently. Here are the events and the notice requirements:

1. **Death of a Settlor** (the person who created the trust.). If the Settlor died before November 6, 2006 and if the trust was revocable (including testamentary trusts) give notice to current beneficiaries, the executor of Settlor's estate, Settlor's spouse and children (or to their guardians) by November 6, 2008. If the trust was irrevocable, give notice to current beneficiaries by November 6, 2008.

If the Settlor died on or after November 6, 2006 and if the trust was revocable (including testamentary trusts), give notice to current beneficiaries, the executor of Settlor's estate, Settlor's spouse and children (or to their guardians) within 30 days Trustee learns of the Settlor's death. If the trust was irrevocable, give notice to current beneficiaries within 30 days Trustee learns of death.

2. **New Current Beneficiary** A new beneficiary is entitled to notice. Examples would be a discretionary beneficiary who attains age 25, or a new beneficiary taking a deceased beneficiary's share.
3. **Change of Trustee.** This applies only to irrevocable trusts and

then notice must be given to all current beneficiaries.

4. **Incapacity of Settlor.** If the Settlor was adjudicated incapacitated before November 6, 2006, and the trust was revocable, then give notice to Settlor's guardian by November 6, 2008. If the trust was irrevocable, give notice to current beneficiaries by November 6, 2008.

If the Settlor was adjudicated incapacitated after November 6, 2006 and the trust was revocable, then give notice to the Settlor's guardian within 30 days after Trustee learns of adjudication. If the trust was irrevocable, give notice to current beneficiaries within 30 days after Trustee learns of adjudication

5. **Opt-in Beneficiaries.** Give notice to any other beneficiary who has sent the Trustee a written request for notice.

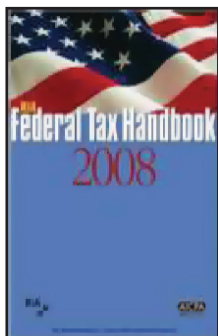
What is in the notice? Again, you should consult counsel to make sure the notice is crafted to reduce liability exposure. The notice must include the fact of the trust's existence, the identity of the Settlor, the trustee's name, address and telephone number, the recipient's right to receive upon request a copy of the trust instrument, and the recipients' right to receive upon request an annual written report of the trusts' assets and their market values if feasible, the trust's liabilities and the trust's receipts and disbursements since the date of the last such report. This is big. Not only does the beneficiary learn there is a trust, but the beneficiary is entitled to a complete report of its transactions. And then the fun begins!

This article was reprinted with the permission of Patti Spencer, Esq. Patti Spencer, Esq. is a nationally recognized Trust & Estates attorney, expert witness, and author.
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CORNER

Update on the Business Use Tax Voluntary Compliance Initiative

The Pennsylvania Department of Revenue continues to inform Pennsylvania businesses about their use tax obligations.

As part of this initiative, the department is preparing to mail self-audit worksheets and PA-1 Use Tax forms to Pennsylvania businesses in the financial and insurance industries. Businesses receiving these worksheets will be asked to review their records and determine their use tax liability. Businesses that remit the return in a timely manner along with their use tax payment will have penalties waived on the related tax due.

In preparation of this mailing, the department is inviting financial and insurance industry associations to a use tax seminar. The seminar explains how use tax and the department's voluntary compliance program works. The department looks forward to continuing these meetings.

The department is also following-up with businesses in other industry segments that were mailed information about the program but failed to respond. The department is also continuing its efforts to identify and monitor established businesses that have no use tax filing history for further action.

Since the inception of the program in 2005, the department has collected millions of dollars of unreported use tax and many taxpayers have continued to pay use tax after making their initial voluntary compliance payment.

Treatment of Federal Economic Stimulus Payments

On April 28, the U.S. Treasury Department began issuing federal economic stimulus payments to qualifying taxpayers.

The Pennsylvania Department of Revenue has determined that the 2008 federal stimulus payments are not to be included as a taxable source of income for personal

income tax or Property Tax/Rent Rebate program purposes. In addition, these payments should not be included in eligibility income for personal income tax, tax forgiveness purposes.

However, federal economic stimulus payments are subject to PA Inheritance Tax. If a decedent filed a 2007 personal income tax return, or one was filed on his/her behalf after his/her death, the decedent was eligible for and due the payment. Even if the decedent died prior to receiving the payment, it was obligated to him/her during their lifetime. Consequently, the payment becomes a part of their taxable estate upon payment and ultimately distributed to the beneficiary.

Property Tax/Rent Rebate Program Extended to Dec. 31

\$221 million distributed to more than 424,000 households by mid-July

The deadline for seniors and disabled residents to apply for rebates for property taxes or rent paid in 2007 has been extended from June 30 to Dec. 31. The Property Tax/Rent Rebate Program benefits eligible Pennsylvanians age 65 and older; widows and widowers age 50 and older; and people with disabilities age 18 and older.

Secretary of Revenue Tom Wolf also recently announced that a record number of rebates were distributed by mail and direct deposit on July 1, the first day rebates can be distributed, by law. Nearly \$204 million was distributed to 417,052 homeowners, 107,113 more rebates than were distributed last year on July 1.

As of July 11, \$221 million was distributed to 454,009 homeowners and renters through the Property Tax/Rent Rebate Program, 27.3 percent more rebates than were issued by the same time last year.

An estimated 68,000 senior homeowners will have school property taxes completely eliminated when rebates combine with the more than \$600 million in

slots gaming-funded general property tax reduction that all homeowners are seeing itemized on school district property tax bills this summer.

In 2006, Governor Edward G. Rendell signed a law to dramatically expand the rebate program by increasing the income limit for homeowners from \$15,000 to \$35,000 and raising the maximum rebate for homeowners and renters from \$500 to \$650. Applicants can exclude one-half of Social Security wages, Supplemental Security payments and Railroad Retirement Tier 1 benefits as income.

About 600,000 seniors are expected to benefit from rebates this year, compared to 310,000 before the program's expansion. Last year more than 562,000 seniors received more than \$240 million in rebates.

The 2006 Taxpayer Relief Act that dramatically expanded the Property Tax/Rent Rebate Program also provided for additional money to be added to the program when statewide property tax relief money became available. These supplemental rebates, equal to 50 percent of base rebates and automatically calculated by the Department of Revenue, are available this year for the first time to an estimated 187,000 seniors who live on limited incomes in areas of particularly high tax-burden.

Property Tax/Rent Rebate forms (PA-1000) are available at www.PaPropertyTaxRelief.com and by calling 1-888-222-9190. Forms and assistance also are available at Revenue district offices (listed in the blue pages of local phone directories), local Area Agencies on Aging, senior centers and state legislators' offices. Rebates will continue to be distributed as claims are received and processed through the rest of the year.

The Property Tax/Rent Rebate Program is one of five programs supported by the Pennsylvania Lottery. Since the program's 1971 inception, seniors and disabled adults have received \$4 billion

worth of property tax and rent rebates. The expanded portion of the rebate program is being paid for with revenue from slots gaming.

IRS Revises Voluntary Correction Program for Retirement Plans

The Internal Revenue Service issued updated guidance on the voluntary correction program for employee retirement plans – the Employee Plans Compliance Resolution System (EPCRS).

Under EPCRS, plan sponsors and plan professionals can correct certain errors in employee retirement plans, in some cases without having to notify the IRS. Correcting plans in this way allows participants to continue receiving tax-favored retirement benefits and protects the retirement benefits of employees and retirees. There are three levels of correction programs in EPCRS:

- The Self-Correction Program (SCP) permits a plan sponsor to correct insignificant operational failures in plans such as qualified plans, 403(b) plans, SEPs or SIMPLE IRA plans without having to notify the IRS and without paying any fee or sanction. In many instances, a plan sponsor may correct significant operational failures without notifying the IRS and without paying a fee or sanction.
- The Voluntary Correction Program (VCP) allows a plan sponsor, at any time before an audit, to pay a limited fee and receive the IRS's approval for a correction of a qualified plan, a 403(b) plan, SEP or SIMPLE IRA plan.
- The Audit Closing Agreement Program (Audit CAP) allows a sponsor to correct a failure or an error that has been identified on audit and pay a sanction based on the nature, extent and severity of the failure being corrected.

In revising the EPCRS revenue procedure, the IRS incorporated comments from the retirement plans community by adding flexibility and increasing correction methods. The new guidance, which is a revenue

procedure, makes the following improvements:

- Expands the availability of SCP in situations where operational mistakes have been partially corrected when the plan comes under examination. Also, new examples relating to the exclusion of employees from 401(k) plans have been added to the standardized corrections. The new examples will benefit those who use SCP to correct the failures described in those examples.
- Establishes streamlined application procedures under VCP for numerous issues, including failure to amend plans for law changes, loan problems, failure to make minimum distributions to participants, excess elective deferrals made by participants to 401(k) plans and plans established by ineligible employers. In addition, streamlined application procedures have been developed for SEPs, SARSEPs and SIMPLE IRAs.
- Includes a sample application format that may be used for all other VCP applications. "These revised application procedures should make the correction programs more accessible to small business employers," said Joyce Kahn, who directs the voluntary compliance program. "Also, we anticipate that the new procedures will facilitate an expedited review of a significant number of VCP applications."
- Makes it easier to correct loan failures under VCP. Loans that violate section 72(p) of the Internal Revenue Code may still be corrected even if the loans do not violate the terms of the plan. Also, in many cases, the fee under VCP for correcting loan failures will be reduced by 50 percent.

Taxpayers with 25 or More Heavy Vehicles Now Must File Excise Tax Forms Electronically

Individuals and organizations with 25 or more trucks, tractors or other

heavy vehicles used on highways now are required to make their excise tax filings with the Internal Revenue Service electronically, rather than by paper.

Form 2290, Heavy Highway Vehicle Use Tax Return, is used to report and pay highway-use excise taxes. Last year truckers and others filed over 700,000 Forms 2290 and paid over \$1 billion in federal highway use taxes. E-filing of Form 2290 began in August 2007.

Electronic filing streamlines the processing of the Form 2290, is more safe and reliable than paper filing and reduces preparation and processing errors. Although electronically-filing Form 2290 is not required for taxpayers reporting fewer than 25 vehicles, all taxpayers are encouraged to file their forms electronically. Most Forms 2290 are due by August 31.

Another advantage of e-filing Form 2290 is that taxpayers don't have to wait for a stamped version of the Schedule 1, Schedule of Heavy Highway Vehicles, to be returned by mail because they will almost instantly receive the equivalent of a stamped version electronically. This means truckers won't have to wait to register their vehicles with the appropriate state authority when obtaining the proper license tags.

To file electronically, taxpayers need to select an approved transmitter/software provider for Form 2290. More Form 2290 information is available on the IRS Web site. In addition to Form 2290, Form 720, Quarterly Federal Excise Tax Return, and Form 8849, Claim for Refund of Excise Tax, may also be e-filed electronically.

Revenue Procedure 2008-48

Revenue Procedure 2008-48 describes the circumstances under which the IRS will treat a child of parents who are divorced, separated, or living apart as the dependent of both parents for purposes Secs. 105(b) (employer-provided medical reimbursements), 106(a) (employer-provided health insurance), 132(h)(B) (employer provided fringe benefits), 213(d)(5) (medical expenses), 220(d)(2) and 223(d)(2) (MSAs and HSAs) when the custodial parent has not released the

claim to the exemption for the child under Sec. 152(e)(2).

Guidance on S Corporations Under American Jobs Creation Act of 2004

The IRS has issued final regulations (T.D. 9422) that provide guidance regarding certain changes made to the rules governing S corporations under the American Jobs Creation Act of 2004 and the Gulf Opportunity Zone Act of 2005. The regulations replace obsolete references in the current regulations and allow taxpayers to make proper use of the provisions that made changes to prior law. The regulations include guidance on the S corporation family shareholder rules, the definitions of "powers of appointment" and "potential current beneficiaries" (PCBs) with regard to electing small business trusts (ESBTs), the allowance of suspended losses to the spouse or former spouse of an S corporation shareholder, and relief for inadvertently terminated or invalid qualified subchapter S subsidiary (QSub) elections.

New Markets Tax Credit

REG-149404-07 contains proposed regulations relating to the new markets tax credit under Section 45D. The proposed regulations revise and clarify certain rules relating to recapture of the new markets tax credit and will affect certain taxpayers claiming the new markets tax credit.

Interest Rates Under Farm Credit System

Rev. Rul. 2008-44 (IRB 2008-32) contains a list of the average annual effective interest rates on new loans under the Farm Credit System. This revenue ruling also contains a list of the states within each Farm Credit System Bank Chartered Territory. Under Sec. 2032A(e)(7)(A)(ii), rates on new Farm Credit System Bank loans are used in computing the special use value of real property used as a farm for which an election is made under Sec. 2032A.

Guidance for Charitable Contributions Under Section 170

The IRS has issued proposed regulations (REG-140029-07) that

provide guidance concerning substantiation and reporting requirements for cash and noncash charitable contributions under Section 170. The regulations reflect the enactment of provisions of the American Jobs Creation Act of 2004 and the Pension Protection Act of 2006. The regulations provide guidance to individuals, partnerships, and corporations that make charitable contributions. The proposed regulations provide guidance with respect to substantiation requirements for contributions of motor vehicles, new definitions of qualified appraisal and qualified appraiser, clarify the current rules with respect to timing of the appraisal and the valuation effective date and substantiation of noncash contributions.

IRS Issues Instructions for New Form 990

The Internal Revenue Service released the revised instructions that tax-exempt organizations will need to fill out the redesigned Form 990, which must be filed starting with tax year 2008 (filed in 2009).

Most charities and other tax-exempt organizations must file an annual informational return with the IRS to maintain their tax-exempt status. Information reported on Form 990 is made available to the public.

Form 990 had previously not seen major revisions since 1979. The revised instructions and redesigned Form 990 can be found on the IRS website.

The revised instructions feature several new tools that make it easier to answer questions line-by-line and that facilitate uniform reporting. Input from the tax-exempt community played a major role in how the new instructions were designed.

The IRS expects to release instructions to the 2008 Form 990-EZ, Short Form Return of Organization Exempt from Income Tax, in the next few weeks.

As part of the phase in of the redesigned Form 990 over a three-year transition period, many organizations not eligible to file the Form 990-EZ for 2007 will be eligible to file Form 990-EZ or Form 990 for 2008. A summary of the transition period filing requirements for Form 990, 990-EZ, and 990-N is available at

<http://www.irs.gov/charities/article/0,,id=184445,00.html>.

IRS Loses Demutualization Argument in Court of Claims

The Court of Federal Claims ruled in early August against the longstanding IRS position that assigns zero basis to stock received in insurance company demutualizations. As of 3/15/2006 there were at least 34 Mutual Life Insurance Companies who have converted from mutual to stock ownership in a process referred to as demutualization. The court ruled that basis should be allocated to the stock of the policy up to the amount of the sales price of the stock under the "open transaction" doctrine.

If a client has sold stock received in a demutualization for any year in which the three-year statute of limitations is open, you should consider filing a "protective claim for refund" to ensure that the statute of limitations periods remains open until the case is settled. If the 2004 return was on second extension, you have until October 15 to file a claim, using Form 1040X or other amended return (trust, etc) and possibly state amended returns as well. If an extension for 2004 was not applied for, the statute of limitations has passed for that year. If clients sold demutualized stock in 2005-2007, you may want to consider filing the claim for those years as well.

The decision is not the end for this issue. The IRS can be expected to appeal to the U.S. Court of Appeals for the Federal Circuit, and it is unlikely to issue refunds any time soon. But filing a protective claim will extend the statute of limitations.

Case Citation: Eugene A. Fisher et al. v. United States; Ct. Claims No. 1:04-cv-01726.

ERISA Trumps PA Probate Law

A Pennsylvania state appellate court has ruled that the Employee Retirement Income Security Act (ERISA) trumps a Keystone State probate law calling for a revocation of beneficiary designations in the case of a divorce.

In 1997 group life insurance was issued by Hartford Life Insurance Co. to employees of C.S. Davidson, including Paul J. Sauers III. Shortly

after the policy was issued, Paul Sauers married Jodie L. Sauers and named her as his primary beneficiary and his nephew as the contingent beneficiary.

The two were divorced in 2002 and after the divorce, Paul failed to remove his ex-wife as his primary beneficiary. Paul died in 2006 and Hartford paid benefits to Jodie Sauers as named beneficiary.

Paul Sauers's estate sued Jodie to recover the benefits. The estate argued that the designation of the ex-wife was legally withdrawn after the divorce (under PA law) while the ex-wife argued for ERISA pre-emption. Initially, a state trial court ruled in favor of the estate.

The Pennsylvania Superior Court ruled 2 - 1 that the Pennsylvania law is similar to a Washington state statute, which the U.S. Supreme Court ruled in 2001 was pre-empted by ERISA.

"As such, when, as here, a life insurance policy is governed by ERISA, (the Pennsylvania statute), like the Washington statute at issue in (the 2001 Supreme Court case), binds the ERISA plan administrator to determine beneficiary status in a manner contrary to the plain language of the plan instrument," said Senior Judge Robert E. Colville, writing for the court. "Therefore, (the Pennsylvania statute) "runs counter to ERISA's command. . . that the fiduciary shall administer the plan in accordance with the documents and instruments governing the plan. Moreover, (the Pennsylvania statute) interferes with nationwide uniform plan administration, because the statute requires plan administrators to familiarize themselves with a state law to determine beneficiary status."

The ruling in re Estate of Sauers, Pa. Super. Ct., No. 1060 MDA 2007, 5/9/08 is available at http://www.superior.court.state.pa.us/opinions/S03016_08.PDF

Special Tax Breaks on In-State Bonds

The US Supreme Court ruled that dozens of states can continue to offer special tax breaks on municipal bonds issued within their borders, preventing disruptions in a \$2.6 trillion market. The high court, voting 7-2 in a Kentucky case, said the Constitution

lets states exempt interest earned on in-state bonds while taxing the income from bonds issued elsewhere.

The decision preserves tax rules in 42 states.

The case is *Kentucky v. Davis*, 06-666.

IRS Increases Mileage Rates through Dec. 31, 2008

The Internal Revenue Service announced an increase in the optional standard mileage rates for the final six months of 2008. Taxpayers may use the optional standard rates to calculate the deductible costs of operating an automobile for business, charitable, medical or moving purposes.

The rate will increase to 58.5 cents a mile for all business miles driven from July 1, 2008, through Dec. 31, 2008. This is an increase of eight (8) cents from the 50.5 cent rate in effect for the first six months of 2008, as set forth in Rev. Proc. 2007-70.

In recognition of recent gasoline price increases, the IRS made this special adjustment for the final months of 2008. The IRS normally updates the mileage rates once a year in the fall for the next calendar year.

While gasoline is a significant factor in the mileage figure, other items enter into the calculation of mileage rates, such as depreciation and insurance and other fixed and variable costs.

The optional business standard mileage rate is used to compute the deductible costs of operating an automobile for business use in lieu of tracking actual costs. This rate is also used as a benchmark by the federal government and many businesses to reimburse their employees for mileage.

The new six-month rate for computing deductible medical or moving expenses will also increase by eight (8) cents to 27 cents a mile, up from 19 cents for the first six months of 2008. The rate for providing services for charitable organizations is set by statute, not the IRS, and remains at 14 cents a mile.

The new rates are contained in Announcement 2008-63 on the optional standard mileage rates.

Taxpayers always have the option of calculating the actual costs of using their vehicle rather than using the standard mileage rates.

Filing Extensions Changing for Some Business Taxpayers Later this Year

Internal Revenue Service officials announced a change in the extended due date on certain business returns to help individuals better meet their filing obligations. The change, which reduces the extension period from six to five months, eases the burden on taxpayers who must report information from Schedules K-1 and similar documents on their individual tax returns.

Income, deductions and credits from partnerships, S corporations, estates and trusts are reported to partners, investors and beneficiaries on Schedules K-1 and other similar statements. The recipients then use that information to complete their own tax returns.

Currently, the extended due date for both businesses and individuals often falls on the same date, generally Oct. 15. This creates a burden for individual taxpayers who rely on the information from Schedule K-1 and other similar statements to prepare and file their personal tax returns in a timely manner.

The IRS issued temporary and proposed regulations that will reduce the extension of time to file tax returns for certain businesses that generate Schedules K-1 and other similar statements from six months to five. Requiring these statements to be issued one month earlier, generally by Sept. 15, will provide recipients time to prepare and file returns within the extended time frames.

This change will be effective for extension requests with respect to tax returns due on or after Jan. 1, 2009, and applies to business entities that file the following returns and forms that have a tax year ending on or after Sept. 30, 2008:

1. Form 1065, U.S. Return of Partnership Income
2. Form 1041, U.S. Income Tax Return for Estates & Trusts
3. Form 8804, Annual Return for Partnership Withholding Tax (Section 1446)

The regulation does not change the process for requesting an extension of time to file, nor does it affect extensions of time to file other types of business returns, such as those used by

S corporations.

The IRS initiated the proposal to reduce the extension of time to file; carefully weighing the impact on partnerships and other affected entities against the burden the existing deadline puts on individuals, who need this information to file timely and accurate returns.

Comments on the proposed regulations can be sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-115457-08). For further information on commenting on the proposed regulations, see REG-115457-08.

IRS Publishes Tax Guide for Churches and Religious Organizations

The IRS released an updated version of Tax Guide for Churches and

Religious Organizations (Publication 1828). Information can be found at www.irs.gov/pub/irs-pdf/p1828.pdf.

New Jersey Now Offers the Ability to Check Status of Homestead Rebates Online

You can now check the status of a client's 2005 (received in 2006), 2006 (received in 2007) and 2007 (received in 2008) rebates online in New Jersey at https://www1.state.nj.us/TYTR_Saver/jsp/common/Inquiry.jsp.

To use this service you will need a social security number and zip code.

IRS to Send 31,000 Letters in Effort to Close Tax Gap

IRS will mail a new letter, CP 2057, to more than 31,000 taxpayers in October noting that they may be underreporting. The letter instructs

the recipient to double-check the return and file an amended return if needed. The letter will not specify the amount of tax owed.

According to a Wall Street Journal article, A CP 2057 would most likely show income omitted or an expense such as mortgage interest. It might note the discrepancy if the taxpayer reported \$10 in interest income but information documents showed an interest income of \$200.

Further, it asks the taxpayer to work with employers and others to correct errors in W2s, 1099s, K-1s and other documents. Finally, it says the IRS will scrutinize the following year's return to see that similar problems don't surface.

IRS may expand this initiative depending on its success.

Housing Assistance Tax Act of 2008

The Housing Assistance Tax Act of 2008 was signed into law on July 30, 2008. The bill's tax provisions are aimed at both businesses and individuals and will have a significant impact on a large number of taxpayers. A brief summary appears below. For additional information go to the PSPA website and download the seven page summary provided by CCH.

Refundable Credit for First-Time Homebuyers

Refundable tax credit for "first-time" homebuyers of 10% of the purchase price of a principal residence up to \$7,500.

To be eligible, a taxpayer must not have had ownership in a principal residence within three years of a home purchase.

Property must have been purchased on or after April 9, 2008, and before July 1, 2009. If the home is purchased prior to July 2009, taxpayer can still elect to apply credit to 2008 taxes.

The credit must be paid back over the next 15 years in equal installments, beginning with the second year following the year of purchase.

Credit phases out for taxpayers with adjusted gross income over \$75,000 (\$150,000 for joint returns). If the property is sold before the credit has been paid back, the remaining balance will be due in the tax year the property is sold, unless the property is sold at a loss.

Property Tax Deduction

For tax year 2008, property owners who do not itemize their deductions will be able to claim a standard property deduction of up to \$500 for individuals and \$1,000 for joint filers.

Payment card reporting

The legislation will require institutions that make payments to merchants in settlement of credit and debit cards to report a merchant's annual gross payment card receipts to the IRS. Third party networks are also subject to reporting requirements if the payee receives at least \$20,000 in income annually from the transactions or has at least 200 transactions annually.

Becomes effective for sales made on or after January 1, 2011.

Exclusion of gain on sale of a principal residence not to apply to nonqualified use

Gain from the sale of a principal residence allocated to periods of nonqualified use is not excluded from gross income. A period of nonqualified use refers to any period (after January 1, 2009) during which the property is not used as a principal residence.

The amount of gain allocated to periods of nonqualified use is the amount of gain multiplied by a fraction, the numerator of which is the aggregate period of nonqualified use during which the property was owned by the taxpayer and the denominator of which is the period the taxpayer owned the property.

For a more detailed analysis of the provisions of the Housing Assistance Tax Act of 2008 go to the PSPA website at www.pspa-state.org and download the 7-page Tax Briefing provided by CCH. PSPA members can order CCH's **HOUSING ASSISTANCE TAX ACT OF 2008: LAW, EXPLANATION AND ANALYSIS** for only \$27.30 (list price \$39) through the Member Order Direct discount program. Simply log into the 'members only' area of the PSPA website and choose the 'Affinity & Discounts' link from the 'my membership' tab.



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Firm:		Contact:
Address:		
City:	State:	Zip:
Phone:	Fax:	Email:

Annual Fees: \$ _____ YIE: _____

Number of accountants (with years of experience):

F/Time: _____ P/Time*: _____

5+ years: _____

4 years: _____

3 years: _____

2 years: _____

1 year: _____

<1 year: _____

Total: _____

*Average of 25 hours per week or less

Renewal: ___/___/___ Insurer: _____ Limit: \$ _____ Deductible: \$ _____ Premium: \$ _____

What is the retroactive date on your current policy ___/___/___ None N/A

In the past three years, how many firm members attended a loss control seminar _____

On what date was the firm established _____

Within the past 5 years:

Has the firm provided services to a client that is engaged in the issuance, offering, registration or sale of securities or bonds; or provided clients with forecasts or projections for inclusion in sales literature, etc., of any securities or bonds? YES NO

Has any member of the firm provided services or acted as a director/officer/committee member for any financial institution? YES NO

Has any member of the firm had an accounting license or authority to practice accounting revoked, or been subject to disciplinary action, fine reprimand, or criminal penalty related to performance of professional services? YES NO

Approximately percentage of income received from the following activities for the last annual period:

Activity	%
Audit: Public Companies**	
Audit: Other	
Review	
Compilation	
Bookkeeping	
Tax	
Business Valuation	
Computer Consulting	
Litigation Support	

Activity	%
Litigation Support	
Management Advisory Services	
Assurance Services	
Financial Planning	
Asset Management	
Sale of Mutual Funds	
SEC/Sarbanes Oxley Related Services**	
Other*	
Total	100%

••Calls for a supplement

CLAIMS HISTORY (within the past five years):

Date claim(s) Reported One: ___/___/19 _____ Two: ___/___/19 _____ Three: ___/___/19 _____

Amount Paid, including \$ _____ \$ _____ \$ _____

Defense Expenses (if closed) \$ _____ \$ _____ \$ _____

Reserve amount (if open) \$ _____ \$ _____ \$ _____

Please return to Custom Brokers Insurance, 3659 Green Road Suite 209, Beachwood, Ohio 44122

Tel: 800-969-7475 – Fax: 216-831-6819 Email to: rditomaso@job-cbi.com – <http://www.cpagold.com>

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