

the **Pennsylvania** Summer 2007  
**Accountant**



The Magazine Of The Pennsylvania Society of Public Accountants

✓ ***60th Annual Meeting Hi-Lites***

✓ ***Significant Changes to CPA Regulations***



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## A Message From The President



I would like to extend my sincerest thank-you to the membership of the Pennsylvania Society of Public Accountants for granting me the honor to serve as your President for the coming year. Both the Pittsburgh Chapter and our State Office deserve a round of applause for the excellent celebration of PSPA's 60th anniversary held during the week June 23rd-June 30th. I am sure that all those in attendance enjoyed a wonderful week of events while on our cruise. I'd also like to thank both Tim Sundstrom and Frank Kelly for each presenting two hours of continuing education that were both insightful and relevant to our practices.

I would like to congratulate President Dan Vecchio for his insightful leadership and commitment to PSPA during his tenure as President. Additionally, I have had the good fortune of working with an extremely dedicated team this past year consisting of Executive Director Sherry DeAgostino, Administrative Assistant Bonnie Hackman, our line officers, committee chairs and board members who have tirelessly given of themselves on behalf of PSPA. I salute them one and all and ask for their continued support in the year ahead.

As I anticipate my coming year as President, I cannot help but be reflective of the founding members of PSPA and their recognition of the need for a society to champion the rights of the small practitioner. While we as a profession are light-years removed from the accounting practice of 1947 where a comptometer (what the heck is that?) was the high tech item of its day, our commitment to the issues and challenges facing our membership remains constant.

Our Long-Range Planning Committee has been a driving force behind our initiatives in the areas of legislative pro-activity, the expansion of educational opportunities to practitioners in the central and northwestern part of the state, technological enhancements to our web-site, and the addition of new membership affinity programs. Future goals of the Committee include the centralization of both the educational registration and CPE monitoring functions for our members as well as development of a public relations program for PSPA. I look forward to the continued co-operation of all committee chairs and their participation with this vitally important planning process.

The success of our Society is built upon the dedication of its members. I encourage any member who has never attended a chapter meeting to consider doing so in the coming year. Those who do will meet practitioners with similar challenges which may have a common solution through a joint effort. Our chapters serve as the network to link members with those solutions so that one strong voice is heard by all. Please consider the opportunity to be a volunteer no matter how small the task.

I attended the NSA 62nd Annual Meeting in Portland, Oregon. Congratulations to our own Richard Brasch, CPA, who was named NSA State Director of the Year. PSPA Legislative Chairman, Neil Trama, PA, was also recognized for his efforts in monitoring the PA State Board of Accountancy meetings, and was also appointed to NSA's Federal Tax Committee.

In closing, I look forward to serving PSPA in the coming year and I welcome any comments or suggestions that will benefit our Society.

Respectfully Submitted,  
Gerald L. Brenneman, CPA  
PSPA President

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# **PENNSYLVANIA TAX UPDATE**

## **Changes to Emergency and Municipal Services Tax for 2008**

By Sharon R. Paxton

On June 21, 2007, the Governor signed Senate Bill 218, which amends the administration of the Emergency and Municipal Services Tax in several major respects. First, the name of the tax has been changed to the "Local Services Tax." According to a Press Release from the Governor's Office, the purpose of this change is to help emergency medical service ("EMS") providers who saw a significant drop in donations after the tax was enacted. The name change is intended to clarify that the tax revenues support all local services.

Under the current regime, political subdivisions that levy a service tax generally deduct the full amount (maximum of \$52) from an employee's paycheck in one installment. Also, there are no required exemptions for low-income taxpayers. Senate Bill 218 makes a number of important changes for taxes levied in calendar year 2008 and subsequent years. First, political subdivisions that levy a Local Services Tax ("LST") at a rate in excess of \$10 will be required to exempt taxpayers with total earned income and net profits of less than \$12,000. Second, if the combined rate of a municipal and school LST exceeds \$10, the tax will be required to be collected in installments on a pro-rata basis determined by the number of payroll periods for the calendar year. For example, a \$52 tax would be collected at a rate of \$1 per week for employees who are paid weekly or \$2 per biweekly period for employees who are paid every other week.

An employee seeking exemption will be required to provide an exemption certificate to his or her employer on an annual basis to verify that the employee reasonably expects to earn less than \$12,000 during the calendar year. (The Department of Community and Economic Development has been charged with developing a uniform exemption form.) A copy of the employee's last pay stub(s) or W-2 forms for the prior year must be attached to the exemption certificate. Upon receipt of a proper exemption

form from an employee, an employer will be required to stop withholding the LST from that employee's wages for the year. Withholding will, however, be reinstated upon the occurrence of any of the following events: (1) instruction by the political subdivision imposing the LST, (2) notification from the employee that he or she is no longer eligible for exemption, or (3) payment to the employee of more than \$12,000 for the calendar year. If withholding is "restarted" for an employee, an employer will withhold a "catch-up" lump sum equal to the amount of tax that was not withheld as a result of the exemption and then withhold LST from subsequent paychecks on the same basis as for other employees.

As with some other local taxes, employers with places of business within a taxing jurisdiction will be required to withhold the LST from its employees only if the tax is listed in the Local Tax Register. Employers must remit taxes within 30 days after the end of each calendar quarter. There are special rules for employees with more than one employer. An individual with more than one employer should provide a pay stub from his or her principal employer and an "employee statement of principal employment" (this form is being developed by DCED) to his or her other employer(s). Employers will be relieved from liability for failing to withhold LST from employees who provide appropriate documentation that their principal employment is elsewhere. When an individual has two or more jobs in different political subdivisions during a payroll period, the priority of claim to the LST will be as follows: (1) place of principal employment, (2) place where individual resides and works, and (3) place of employment that is nearest to the individual's home. The maximum tax will remain at \$52, regardless of the number of political subdivisions in which an individual works during the year.

Municipalities will be required to use

at least 25% of LST revenues for emergency services. In addition, municipalities (but not school districts) will be permitted to use LST revenues to reduce property taxes through a homestead or farmstead exclusion.

Finally, LST exemption will be required for members of a reserve component of the armed forces called to active duty and honorably discharged veterans who served in any war or armed conflict who are blind, paraplegic, or a double or quadruple amputee as a result of military service or who are 100% disabled from a service-connected disability.

### **Pennsylvania Avoids Tax Increases for 2007-2008**

On July 17, 2007, Pennsylvania adopted a budget for the July 1, 2007-June 30, 2008 fiscal year. Most notably, from a state and local tax perspective, the budget did not include any major tax changes. As the result of a \$600 million surplus carried over from the 2006-07 fiscal year, and substantial opposition in the General Assembly, the Governor's proposals to increase the Sales and Use Tax by 1% and to impose a new "Oil Company Gross Profits Tax" were not adopted. In addition, the General Assembly did not adopt proposals for a "clean energy assessment" on electric bills, an increase in solid waste disposal fees, or a tax on payrolls of businesses not offering health insurance. The General Assembly also did not change the current phase-out of the Capital Stock and Franchise Tax, and did not adopt combined reporting or any related party expense disallowance provisions for Corporate Net Income Tax purposes.

In the end, the tax bill passed as part of the budget package included only a handful of tweaks to the tax code and two tax credit programs:

The Sales Tax Bad Debt Refund provisions were amended to apply to private label credit cards owned by finance companies unrelated to the vendor, for bad debts deducted on federal income tax returns filed after

January 1, 2008. The vendor and the finance company will have to file an election with the Department of Revenue, designating whether the vendor or the lender will be entitled to the refund of tax remitted with respect to bad debts. The provisions do not apply to co-branded cards that contain the logo of a specific vendor, but may also be used to make purchases from parties unrelated to that vendor.

- The Sales & Use Tax definition of "Manufacture" was amended to include the remanufacture of locomotive parts from used parts, and the salvaging of used parts, under certain conditions.
- The "producing of a commercial motion picture" is specifically excluded from the Sales & Use Tax definition of "Manufacture," effective October 1, 2007.
- The Sales & Use Tax exemption for use of tangible personal property by a producer of commercial motion pictures in the production of a feature-length commercial motion picture is repealed, effective October 1, 2007.
- Companies contracting with unrelated Powder Metallurgy parts manufacturers may own dies and molds used and stored at the manufacturer's plant, visit the plant in connection with the contract, and own product produced by the manufacturer and stored at the plant prior to shipment and use out-of-state, without triggering nexus for Corporate Net Income Tax and Franchise Tax purposes.
- The requirement that state tax assessments be mailed by certified mail, effective January 1, 2008, was amended to apply only to assessments for \$300 or more. This applies to Sales Tax, Personal Income Tax, Corporate Net Income Tax, Capital Stock and Franchise Tax, Bank Shares Tax, Realty Transfer Tax and Malt Beverage Tax.
- Personal Income Tax checkoffs first applicable after December 31, 2003, are now generally subject to a four-year sunset; checkoffs for Breast and Cervical Cancer Research and for Juvenile Diabetes

Research are exempt from the sunset; checkoffs for Wild Resource Conservation and for Organ and Tissue Donation Awareness are extended through 2009.

- Bank Shares Tax "combination provisions" were amended to include acquisitions required to be accounted for by using the purchase method of accounting.
- The Department of Community and Economic Development is authorized to grant Film Production Tax Credits of up to \$75 million per year, up to 25% of "Qualified Film Production Expenses" per film. A film includes a television talk or game show series, a television commercial or pilot and each episode of a television series. Pennsylvania production expenses must comprise at least 60% of a film's total production expenses. Credits may be used against Personal Income Tax, Corporate Net Income Tax or Capital Stock and Franchise Tax. Credits may be carried forward 3 years and may be sold or assigned, subject to certain restrictions.
- The State Conservation Commission is authorized to approve Resource Enhancement and Protection Tax Credits up to \$10 million per year, with some limitations per applicant. The purpose of the program is to "encourage private investment in the implementation of best management practices on agricultural operations, the planting of riparian forest buffers and the remediation of 'Legacy Sediment.'" Credits may be used against Personal Income Tax, Corporate Net Income Tax, Capital Stock and Franchise Tax, Bank or Title Insurance Co. Shares Taxes, Insurance Premiums Tax or Mutual Thrift Institutions Tax. Credits may be carried forward 15 years and may be sold or assigned, subject to certain restrictions.
- The Neighborhood Assistance Tax Credit program was amended to apply to pass-through entities, including assignment of credit

under certain circumstances to their partners, members or shareholders. \$2 million of credits annually are set aside for pass-through entities. Credit limitations are expanded.

### **Commonwealth Court Revisits Canned Software Issue**

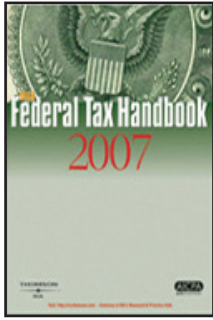
Pursuant to the Commonwealth Court's 2005 decision in *Graham Packaging Company v. Commonwealth*, the Department of Revenue has been subjecting all "canned" computer software to Sales and Use Tax since November 1, 2005. In *Graham Packaging*, a three-judge panel of the Commonwealth Court overturned the Department's longstanding policy that tax did not apply to transactions involving "canned" software transmitted entirely via electronic means with no transfer of tangible personal property, or to license renewals of software originally provided electronically. While many viewed the *Graham Packaging* decision as flawed, the taxpayer did not appeal the panel decision. A new case addressing the taxability of canned software licenses, license renewals and support and maintenance agreements is slowly winding its way through the courts. The taxpayer is essentially asking the Court to overrule the *Graham Packaging* decision. On April 25, 2007, a three-judge panel of the Commonwealth Court denied a refund claim filed by *Dechert LLP* for tax paid in connection with canned software licenses on the basis that *Graham Packaging* was directly on point and, therefore, controlling. *Dechert* has appealed the panel decision, and argument will be heard by the full Court in September. An appeal to the Pennsylvania Supreme Court is expected regardless of the ultimate decision of the Commonwealth Court.

Companies paying significant tax on canned computer software should consider raising refund counterclaims in audit appeals or filing protective refund claims, to preserve the issue pending final resolution by the courts.

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



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## NSA State Director's Message



NSA State Director  
of the Year

On behalf of the National Society of Accountants, NSA President Robert H. Fukuhara, Jr., District Governor Robert H. Sommer, and the entire staff of NSA, I would like to congratulate the PA Society of Public Accountants on the occasion of their 60th Annual Meeting held in June.

Wow! Sixty years of service! That's quite an accomplishment, and a real tribute to the staff and all the men and women who have volunteered to serve over the years. On the occasion of such a milestone, NSA is proud to continue its partnership with PSPA to work together for the advancement of the accounting profession. As a Past President of PSPA, it is indeed a great honor to have been a small part of this great organization.

I congratulate Dan Vecchio on his Presidency, and thank him for his contribution to PSPA's success. Several years ago, I recall encouraging Dan to serve as a state officer. It was clear then he'd be a great officer, and his leadership this year only serves to evidence that fact.

With the installation of Gerald Brenneman as its 42nd President, I look forward to the year ahead, working with Jerry to promote the mutual goals of both PSPA and NSA, and to safeguard the practice rights of our members. Jerry has a long history of service to this organization, and his election as President epitomizes everything that PSPA is about, that is, a family of dedicated individuals, unselfishly serving for the betterment of the accounting profession.

### **Congratulations PSPA!**

#### **NSA Annual Meeting**

In August 2007, I attended NSA's 62nd Annual Convention and Expo in Portland, Oregon. Members from around the country meet annually to conduct business activities and elect officers for the upcoming fiscal year. The Pennsylvania delegation included PSPA President Gerald Brenneman, W. Raymond Bucks, Neil Trama, Frank Kelly and Lisa Brown. Andrew T. Morehead of Eaton, CO was elected as

President for the upcoming year. In his acceptance speech, incoming President Morehead emphasized the challenges that exist at both the state and national levels regarding regulation of the accounting industry. President Morehead promised a vigorous defense to protect our right to practice.

Also elected were James H. Nolen of Oklahoma City, OK as First Vice President, and Robert L. Cross of Northglenn, CO as Second Vice President. Donny J. Woods of Nashville, AR was re-elected as Secretary/Treasurer. In addition, elections were held for all District Governors in the "odd" numbered districts, and all State Directors in the "even" numbered districts. I was elected to serve another two year term as NSA State Director for Pennsylvania (District II).

#### **Tax Preparer Legislation**

One of NSA's keynote speakers, Michael Chesman, from the Office of Professional Responsibility (OPR), addressed the impending Tax Preparer Legislation. Mr. Chesman estimates that there are as many as one million unlicensed preparers of tax returns that could be impacted by this legislation. Although no bill has been introduced as of this writing, NSA anticipates that the tax preparer legislation will be part of the Senate Finance Committee's proposed tax changes, and part of a "good government" bill that will likely be introduced this fall as part of a much larger tax reform bill. Mr. Chesman further stated that congress had previously indicated their desire to implement the registration program, designed to test the knowledge and technical competency of individuals who prepare federal tax returns, within one year of passage, but he felt that might not be achievable given the resources available. Mr. Chesman also indicated that IRS is currently working on developing a database of the 46,000 Enrolled Agents, similar to listings used by states to identify licensed preparers, so the public can identify legitimate preparers.

#### **Accreditation Council for Accountancy and Taxation (ACAT)**

ACAT President Peggy Johnson, CPA, reports a significant membership increase in ACAT members over the past year, as tax preparers have sought a

nationally recognized credential in response to the impending tax preparer registration. In December, ACAT will offer a computerized exam at over 500 testing locations nationwide. For a limited time, ACAT will continue to waive testing for the Accredited Tax Preparer credential for those individuals who can offer a qualifying educational registration. If you can demonstrate the successful completion of at least 60 hours of qualifying education (CPEs) in tax preparation and/or planning, you may be eligible for this credential. Qualifying education is determined by the ACAT Board of Directors. The ACAT 60-Hour Qualifying Education Application is available at <http://acatcredentials.org/Registration%20Forms/ATP60Hour.pdf>. For additional information contact ACAT toll free at (888) 289-7763 x1343.

#### **Awards**

PSPA was once again recognized with an award for their vigilance in successfully monitoring the State Board of Accountancy. PSPA continues to champion the protection of the independent accountants' right to practice throughout Pennsylvania. In addition, I was chosen as the recipient of the State Director of the Year Award, an honor I will always cherish. I would like to extend congratulations to Neil Trama on his appointment to NSA's prestigious Federal Tax Committee.

#### **Scholarships**

Foundation Chairman Harold F. Krieger, Jr., reported that 40 scholarships ranging from \$500 to \$1,000 were awarded to deserving students nationwide. NSA has partnered with Scholarship America to review and recommend the final recipients out of over 400 applications. Krieger reported that no overhead dollars are charged to the foundation, and every dollar received is awarded in student scholarships.

Please feel free to contact me with any questions regarding NSA via email at: [rbrschcpa@verizon.net](mailto:rbrschcpa@verizon.net)

Respectfully submitted,  
Richard Brasch Jr., CPA  
NSA State Director - Pennsylvania



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3 years:	_____	_____
2 years:	_____	_____
1 year:	_____	_____
<1 year:	_____	_____
<b>Total:</b>	_____	_____

\*Average of 25 hours per week or less

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

Renewal: \_\_\_/\_\_\_/\_\_\_ Insurer: \_\_\_\_\_ Limit: \$ \_\_\_\_\_ Deductible: \$ \_\_\_\_\_ Premium: \$ \_\_\_\_\_  
 What is the retroactive date on your current policy \_\_\_/\_\_\_/\_\_\_  None  N/A

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*	
<b>Total</b>	<b>100%</b>

\*\*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)	\$ _____	\$ _____	\$ _____



## Significant Changes to CPA Regulations

The Independent Regulatory Review Commission (IRRC) approved proposed revisions to Pennsylvania CPA regulations at its meeting on May 19, 2007. Regulations are written to implement the CPA Law, and these regulations were formerly adopted by the State Board of Accountancy. While many of the changes were administrative in nature, several will have an impact on individual practitioners as well as members in business and industry. Two of the most significant

changes for our members are:

*Use of the designation “certified public accountant” and the abbreviation “CPA” solely as a mark of achievement by individual without a current license.* CPAs in business and industry who elect to place their license on inactive status will no longer be permitted to use the CPA designation on any printed medium unless the designation is followed by the word “inactive.”

*Form of Business Name Disclosure.* A sole practitioner who uses a business name that includes a variation of the phrase “and Company” or “and Associates” must disclose in writing to a potential client that he is a sole practitioner before entering into an engagement agreement with the potential client and must disclose in writing to a current client that he is a sole practitioner before renewing an engagement agreement with the current client.

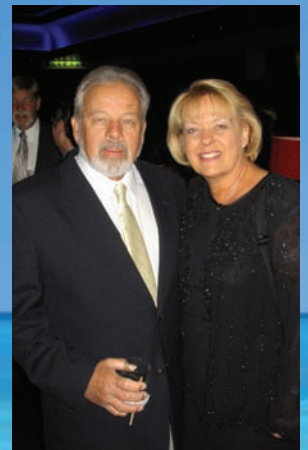
## PSPA Welcomes New Members

*(The following members joined from 7-1-2007 through present)*

Joel Anderson, CPA	Joel A. Anderson and Company CPA, PC	WC	AC
James Armstrong, Jr.	James S. Armstrong Associates	SOC	AC
Lester Bahr	Miller, Bahr & Wills, P.C.	LHV	AC
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Frank Deininger, CPA	Hershey Tax Service	SOC	AC
David Fegely, CPA	Lang, Faylor, Chomo & Company, P.C.	LHV	AC
Jeffrey Gogolski, CPA	Alfred D. Beck, CPA	NE	AC
Lisa Green	RLO & Company	WP	AC
Richard Kramer, CPA	Tax Management Group	NE	AC
Dennis Kotzan, CPA		WP	AC
Robert Mann, CPA		LHV	AC
Michael McGrath	McGrath & Associates	WP	AC
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Raymond Minich, CPA	R P Minich, PC	BX	AC
Gail Moyer, CPA	Titcher, Kritzstein & Company, CPA	BX	AC
Barry Musser, CPA, CFP	Hamilton & Musser, P.C.	SOC	AC
Jasmin Ortiz, EA	Ortiz Business Solutions Inc.	LHV	AC
Steven Rothberg, Esq.	Capital 1031 Exchange Company LLC	PH	AC
Barry Rush, CPA	Rush Accounting	WP	AC
Robert Rutolo, CPA		CTL	AC
Diane Sabol	Family Hospice & Palliative Care	WP	AC
Michael Saltzman, CPA	Titcher, Kritzstein & Company, LLP	BX	AC
Irina Shcherbik	IVS Financial & Accounting Services	BX	AC
Wayne Strader, CPA	Strader & Associates	LHV	AC
Earlene Thorne	Thorne & Lowe Tax & Acctg Service	BX	AC
Maynard Upright, CPA		NE	AC
Dodie Werner	Butler, Naylor, Alleman	SOC	AC

# Hi-Lites of the 60th Annual Meeting

Eastern Caribbean Cruise  
Norwegian Spirit  
June 23 - July 1, 2007





***PSPA State Secretary Irving Braunstein presents lifetime membership certificate to out-going President Daniel J. Vecchio.***

# 2007 SEMINAR GUIDE

## ACCOUNTING PROGRAMS

DATE	TITLE	SPEAKERS	LOCATION	SPONSOR	CPE
Sept. 19	Accounting & Auditing Update for Non-Issuers	National Panel	Webcast Seminar	PSPA	8 Hours A&A
Sept. 25	Gear Up Accounting Seminar	Gear Up Speakers	Best Western, Bethlehem	Lehigh Valley Chapter	8 Hours A&A
Dec. 5	Gear Up Accounting Seminar	Gear Up Speakers	Springfield Country Club, Springfield	Philadelphia Chapter	8 Hours A&A

## TAX PROGRAMS

Sept. 11	Gear Up Business Entities Seminar	Gear Up Speakers	Days Inn Penn State, State College	PSPA	8 Hours Tax
Sept. 18	Gear Up Fraud Detection	Gear Up Speakers	Radisson Hotel, Trevoise	Buxmont Chapter	8 Hours Tax
Sept. 19	Gear Up Business Entities Seminar	Gear Up Speakers	Springfield Country Club, Springfield	Philadelphia Chapter	8 Hours Tax
Sept. 19	Gear Up Estates & Trusts	Gear Up Speakers	Radisson Hotel, Trevoise	Buxmont Chapter	8 Hours Tax
Sept. 24 & 25	Gear Up Business Entities Seminar	Gear Up Speakers	Radisson Penn Harris	Central/SOC	16 Hours Tax
Sept. 24	PA Revenue Tax Seminar	PA Dept. of Revenue	Best Western, Bethlehem	Lehigh Valley Chapter	8 Hours Tax
Oct. 10	Jennings Seminar - 1120/1065/1120S	Bob Jennings	Holiday Inn Scranton East	Northeast Chapter	8 Hours Tax
Oct. 17	Tax Controversy Toolkit	National Panel	Webcast Seminar	PSPA	8 Hours Tax
Oct. 18 & 19	Gear Up Business Entities Seminar	Gear Up Speakers	Radisson Hotel, Trevoise	Buxmont Chapter	16 Hours Tax
Oct. 26	Gear Up Business Entities Seminar	Gear Up Speakers	Edgewood Country Club	Western PA Chapter	8 Hours Tax
Nov. 5 & 6	Gear Up 1040 Seminar	Gear Up Speakers	Days Inn Penn State, State College	PSPA	16 Hours Tax
Nov. 5 & 6	Gear Up 1040 Seminar	Gear Up Speakers	Best Western, Bethlehem	Lehigh Valley Chapter	16 Hours Tax
Nov. 6 & 7	Gear Up 1040 Seminar	Gear Up Speakers	Bel Aire Hotel, Erie	PSPA	16 Hours Tax
Nov. 7 & 8	Gear Up 1040 Seminar	Gear Up Speakers	Woodlands, Wilkes Barre	Northeast Chapter	16 Hours Tax
Nov. 13 & 14	Gear Up 1040 Seminar	Gear Up Speakers	Springfield Country Club, Springfield	Philadelphia & Southeast Chapters	16 Hours Tax
Nov. 14	Estate & Financial Planning for the Small Business Owner	National Panel	Webcast Seminar	PSPA	8 Hours Tax
Nov. 19 & 20	Gear Up 1040	Gear Up Speakers	Sheraton Harrisburg-Hershey	Central/SOC	16 Hours Tax
Dec. 3 & 4	Gear Up 1040 Seminar	Gear Up Speakers	Radisson Hotel, Trevoise	Buxmont Chapter	16 Hours Tax
Dec. 10 & 11	Gear Up 1040	Gear Up Speakers	Sheraton Harrisburg-Hershey	Central/SOC	16 Hours Tax
Dec. 12	Annual Tax Update	National Panel	Webcast Seminar	PSPA	8 Hours Tax
Dec. 13 & 14	Gear Up 1040 Seminar	Gear Up Speakers	Radisson Hotel, Monroeville	Western PA Chapter	16 Hours Tax

## DO YOU HAVE A QUESTION?

## WANT AN ANSWER?

Register Today for PSPA's Email Discussion Group it Could Save You Valuable Time During Tax Season!

### This valuable resource is offered FREE to PSPA members.

The purpose of the discussion group is to provide members with the ability to post questions, challenges, ideas etc. via email to other members of the discussion group. Members of the group then have the opportunity to respond. You decide if you'd like to receive the information once a day in a daily digest format or in real time as the questions/responses are posted.

Imagine the convenience of being able to post a tax question and get an answer all at the click of a button.

Join the PSPA Email Discussion Group by logging on to the PSPA website at [www.pspa-state.org](http://www.pspa-state.org) and accessing the 'members only' area of the site. From the 'members only' homepage, click on 'email discussion group' and click on 'instructions and disclaimer' at the top of the page. We suggest printing out a copy of the instructions to avoid going back and forth between windows. Follow the simple instructions for subscribing to the service. If you have any questions, or would like our office to set up your subscription please contact 1-800-270-3352.

### FIRST TIME VISITORS TO THE PSPA MEMBERS ONLY AREA

If you do not know your ID Number it can be found on your PSPA member card or you may contact 1-800-270-3352 to obtain the number.

If you have not obtained a password from the Members Only area you must do that before subscribing to the discussion group. In order to obtain your password, you must log on to the PSPA website at [www.pspa-state.org](http://www.pspa-state.org) and click on 'members only' on the left side of the page. Enter your email address at the prompt at the bottom of the 'members only' page. Once you do this, you will automatically be sent your password via email. If you have any difficulties with this please contact 1-800-270-3352. Once your password is sent via email, you will have the opportunity to change your password by following the instructions provided. If you have any questions, please contact 1-800-270-3352.

# CHAPTER MEETINGS

Go to [www.pspa-state.org/chapters](http://www.pspa-state.org/chapters) to download a registration form or contact the  
PSPA Executive Office at 1-800-270-3352

	TOPIC	SPEAKER	LOCATION	CPE
<b>Buxmont</b>				
Sept 25	GAAP Update	John Rossi, CPA	Williamson's Restaurant	4 A&A
Oct 23	Insurance for Small Business	Bill Kane(Peterman Company)	Williamson's Restaurant	2 Other
Nov 27	IRS Update & Ethics*	Richard Furlong, IRS	Williamson's Restaurant	4 Tax
Dec 18	PA Ind. & Corp Tax Update	Jeffrey Creveling & David Braden PA Dept. of Revenue		4 Tax
<b>Central</b>				
Sept 20	Legislator Appreciation Night		Inn at Reading	2 Tax
Oct 16	LLC's/Corp Tax Update		Inn at Reading	4 Tax
Nov 13	Divorce - Accountants Role		Edin Resort	4 Other
<b>Lehigh Valley</b>				
Sept 18	Accounting & Auditing Update	John D. Russi III, CPA	Best Western	2 A&A
Oct 16	IRS Tax Update & Ethics*	Richard Furlong, IRS	Best Western	4 Tax
Nov 20	NJ Corporate Tax Update	James Trussel	Best Western	2 Tax
Dec 4	Tax Law Update	Mary Lew Cehm, CPA	Best Western	2 Tax
Dec 17	Holiday Party			
<b>Northeast</b>				
Sept 19	IRS Update & Ethics*	Richard Furlong, IRS	Holiday Inn at Scranton East	4 Tax
<b>Philadelphia</b>				
Oct 15	PA Corp Tax Update	Jeffrey Creveling PA Dept of Revenue	Springfield Country Club	2 Tax/ 2 Other
<b>Southeast</b>				
Sept 19				
Oct 17				
Jan 16				
<b>South Central</b>				
Sept 19	Section 1031 Exchanges			
Oct 17	PA Inheritance Tax			
Nov 14	Forensic Accounting			
<b>West Central</b>				
<b>Western PA</b>				
Sept 19	Pension Reform Act/Hospitality Law		Edgewood Country Club	2 Tax/ 2 Other
Oct 17	Trust In Estate Issues/Compilatiton & Review Issues			2 Tax/ 2 Accounting
Nov 1	PPC Check List for Financial Statements/Divorce/Separation		Edgewood Country Club	2 Ethics/ 2 Accounting
Dec 15	Holiday Party			
Jan 17	State Tax Update/SAS New Regulations of Auditing		Edgewood Country Club	2 Tax/ 2 Accounting
Feb 14	Round Table Discussion	Penny Erbe, Kevin Matschner	Edgewood Country Club	2 Other
May 12	After Tax Season Party			

\* Fulfills EA Ethics Requirement



**ARSC Votes to Issue SSARS No. 15**

At its June 2007 meeting, the ARSC voted to issue SSARS No. 15, Elimination of Certain References to Statements on Auditing Standards and Incorporation of Appropriate Guidance Into Statements on Standards for Accounting and Review Services. The Statement amends AR sections 100, 200, 300, and 400 by eliminating references to auditing literature from the SSARS and, where deemed appropriate, guidance similar to that originally referenced has been incorporated into the SSARS. The major revisions resulting from the Statement include:

- A definition of OCBOA.
- A listing of suitable OCBOA financial statement titles.
- OCBOA reporting guidance.
- Guidance related to an emphasis of a matter.
- Guidance related to subsequent discovery of facts.
- Revised Illustrative Representation Letter.
- Addition of Appendix I, "Analytical Procedures the Accountant May Consider Performing When Conducting a Review of Financial Statements in a Review Engagement."
- Addition of Appendix J, "Sources of Generally Accepted Accounting Principles."
- Deletion of Interpretation No. 12, "Reporting on a Comprehensive Basis of Accounting Other Than Generally Accepted Accounting Principles."

The Statement will be effective for compilations and reviews of financial statements for periods ending on or after December 15, 2007, with earlier application permitted.

**New Electronic PIN Signature Requirement Begins in 2008**

The Internal Revenue Service announced (IR-2007-130) it will simplify the signature process for electronically filed individual income tax returns submitted by tax practitioners. The simplification eliminates the need for a paper signature document to be sent to the IRS in support of electronically filed tax returns.

Beginning with the 2008 filing season, tax practitioners can e-file individual income tax returns only if the returns are signed electronically using one of two methods: either a Self-Select Personal Identification Number (PIN)

or a Practitioner PIN. A Self-Select PIN allows taxpayers to electronically sign their e-filed return by selecting a five-digit PIN. A Practitioner PIN is used when a taxpayer authorizes an Electronic Return Originator (ERO) to input an electronic signature on behalf of the taxpayer. Practitioner PINs require the use of Form 8879, IRS e-file Signature Authorization, which is retained by the ERO.

Out of some 55 million e-filed returns that have come from tax professionals this year, more than 49 million used the Self-Select PIN or the Practitioner PIN. Overall, more than 77 million individual tax returns have been e-filed so far this year.

The change will simplify tracking, verification and follow-up on the paper signature documents, which were required for tax returns that did not use an electronic signature.

Tax practitioners will no longer submit a paper signature for e-filed returns by using Form 8453, U.S. Individual Income Tax Declaration for an IRS e-file Return. Instead, a newly designed Form 8453 will be used to transmit supporting paper documents that are required to be submitted to the IRS with e-filed returns. The new Form 8453 will be released later for use during the 2008 filing season.

**New Rule Will Not Affect Teacher Salaries in Upcoming School Year**

IR-2007-142. Moving to clear up confusion about a recent tax law change, the IRS is reassuring teachers and other school employees that new deferred-compensation rules will not affect the way their pay is taxed during the upcoming school year.

Recently, the IRS has received inquiries from teachers who had been told that they had to make certain decisions about their pay, this month, or risk severe penalties. At issue is a 2004 law change that applies to people who decide to defer compensation from one year to a future year. In April, the Treasury Department and the IRS issued final rules implementing this law change.

Under the 2004 law, when teachers and other employees are given an annualization election—that is, they are allowed to choose between being paid only during the school year and being paid over a 12-month period—and they choose the 12-month period, they are deferring part of their income from one year to the next. For instance, a teacher

who chooses to get paid over a 12-month period, running from August of one year through July of the next year, rather than over the August to May school year, falls under this law.

The IRS clarified that the new rules do not require school districts to offer teachers an annualization election. Thus, school districts that have not been offering teachers this election are not required to start.

School districts that offer annualization elections may have to make some changes in their procedures. The IRS announced that the new deferred-compensation rules will not be applied to annualization elections for school years beginning before Jan. 1, 2008, so school districts and teachers will have time to make any changes that are needed.

**IRS Frequently Asked Questions on Sec. 409A Deferred Compensation**

The questions and answers below explain that, for purposes of section 409A:

- School districts are not required to offer their employees an election between being paid over the school year and being paid over a 12-month period
- School districts that choose to offer such an election need not make any changes prior to 2008 and their employees will not be subject to additional taxes
- Any changes required for 2008 are likely to be minor

The following questions and answers are intended to help explain how section 409A may apply to these types of arrangements, and similar arrangements of taxpayers with part-year work periods. For convenience of reference, the questions and answers refer to school districts and their employees, although certain other taxpayers are also covered.

**What is section 409A?** Section 409A was enacted in October 2004 and was generally effective on Jan. 1, 2005. Section 409A applies to compensation that workers earn in one year but that is not paid until a future year. This is referred to as nonqualified deferred compensation. However, section 409A does not apply to qualified plans (such as a section 401(k) plan) or to a section 403(b) plan or a section 457(b) plan.

**How does coverage under section 409A affect an employee's taxes?** If deferred compensation covered by section 409A meets the requirements of

section 409A, then section 409A has no effect on the employee's taxes. The compensation is taxed in the same manner as it would be taxed if it were not covered by section 409A. If the arrangement does not meet the requirements of section 409A, the compensation is subject to certain additional taxes, including a 20% additional income tax. Section 409A has no effect on FICA (Social Security and Medicare) tax.

**How does a teacher's ability to have his or her salary spread over 12 months create deferred compensation?** Generally, deferred compensation arises in an arrangement under which compensation earned in one year is paid in a later year. For example, assume a school year starts Aug. 1, 2007, and ends May 31, 2008 (10 months), and that a teacher earns \$5,400 per month (\$54,000 per year). If the teacher were paid over 10 months, the teacher would receive \$27,000 in 2007 for the five months of August through December, and would receive \$27,000 in 2008 for the five months of January through May. If instead, the teacher were paid over 12 months, the teacher would receive \$4,500 per month. The teacher would receive only \$22,500 in 2007 for the five months of August through December and would receive \$31,500 in 2008 for the seven months of January through July. In this example, \$4,500 that the teacher earned in 2007 is paid in 2008. In other words, the \$4,500 of 2007 pay is deferred until 2008 and the arrangement generally would be considered deferred compensation that is subject to section 409A.

**Does section 409A require that an employee be provided an election?** No, section 409A does not require that an employee be provided any election regarding how the employee is paid. For example, a school district may provide that all teachers will have their pay spread over 12 months, without providing any election to the teachers. In that case, the election rules discussed below would not apply and no additional taxes would be imposed under section 409A.

**What does section 409A require if an election is offered?** Section 409A generally establishes deadlines for when employees have to make their elections to defer compensation. The general rule under the law is that an employee who wants to defer payment of compensation to be earned in one year until a later year must make an election to do that not later than the end of the prior year. In other words, if an employee wanted to defer some of his or her salary that would be earned in 2007, the employee would have to make the election not later than Dec. 31, 2006. Congress gave the IRS and Treasury Department authority to provide additional rules for elections, however. Under final

section 409A regulations issued in April, special rules allow teachers (or other taxpayers with similar part-year work periods) to make an election to spread their compensation out for up to 12 months, if their employer is willing to give them that choice. Generally, the regulations require the following:

- The teacher (or other employee) must give a written (or electronic) election to the employer that notifies the employer that the employee wants to spread out the compensation.
- The election must be made before the beginning of the work period (for example, before the first day of the school year for which the teacher is paid, which may be before the first day students arrive for class).
- The election must be irrevocable, so that it can't be changed after the work period begins.
- The election must state how the compensation is going to be paid if the election is made (for example, ratably over the 12 months starting with the beginning of the school year).
- No particular form is necessary for the election and it does not have to be filed with the IRS.

**What if an employee doesn't submit an election, or misses the deadline?** If an employee doesn't submit an election, or submits an election after the deadline, the employee must be paid in the same way as other employees who do not make an election. For example, a school district may provide that if a teacher submits an election on time, the teacher will be paid ratably over 12 months starting with the beginning of the school year, but if the teacher is late or never submits an election, the teacher will be paid during the school year only.

**If a school district provides for an election, must the election requirements be met in writing?** Yes. But section 409A does not require any specific type of plan document. For example, if the teacher signed an election form with the required information, that would be sufficient. In addition, an election can be made electronically, such as by e-mail. Other rules, such as the inability to change the election and the deadlines for the election, can be provided in any other applicable document, such as an employee handbook or school board rules and regulations.

**Is an employee required to make this election every year?** No. An arrangement may provide that a pre-existing election will remain in place until the employee elects a change. For example, a teacher could elect to receive his or her salary over 12 months, and that election could remain in effect indefinitely until the teacher changed the election. However, if the teacher wants to change his or her election, the change must be made before the beginning of the

school year to which the change applies, and could only apply to that future school year. A teacher generally cannot change the method of payment in the middle of the school year.

**Do school districts and their employees need to make any changes now?** No. The IRS has decided not to require school districts and their employees to make any changes now to the way teachers or other employees elect to annualize their pay.

**What changes do school districts that offer elections need to make for 2008?** The final regulations are not applicable until Jan. 1, 2008. By then, school districts that offer elections must have set forth in writing how the teachers are to be paid for the compensation earned for the rest of the scheduled work period (for example, for the remainder of the school year). In addition, for a work period or school year starting after 2007, employers and employees will need to meet the requirements set forth above for any elections to annualize compensation (for example, for the 2008-2009 school year).

**Will the IRS impose any additional taxes if a school district and its employees fail to meet the requirements of the final regulations for school years beginning before 2008?** No. The IRS will not impose additional taxes for failure to meet the deferral election timing and written plan requirements with respect to the annualization of compensation for work periods or school years beginning before Jan. 1, 2008. This relief applies only to compensation that qualifies for the special deferral election timing rule in the 409A regulations applicable to elections to annualize recurring part-year compensation, and only to the extent the compensation is paid on or before Dec. 31, 2008.

### **IRS Seeks Comments on Updates to Corporate and Partnership Tax Forms**

The IRS has released for comment and discussion draft revisions to Form 1065, U.S. Return of Partnership Income, and Form 1120, U.S. Corporation Income Tax Return. The IRS plans to have the forms and related schedules ready for use for taxable years ending on or after Dec. 31, 2008. Comments are due from the public by Sept. 14, 2007.

The changes to Forms 1065 and 1120 will provide the IRS with a more accurate understanding of these entities and their ownership structures. The proposed changes will enable the IRS to focus compliance resources on returns and issues that warrant examination. The IRS is soliciting comments from the public as to whether the proposed revisions will enhance compliance and the extent to which the changes may affect taxpayer burden.

"The current business models of our taxpayers involve multiple entities operating in different forms, both foreign and domestic," said Deborah M. Nolan, Commissioner of the Large and Mid-Size Business Division. "These changes are designed to increase the transparency of the relationships between entities that make up these enterprises, enabling us to be much more efficient and effective."

The major change to Form 1120 involves ownership. In particular, a corporation will be required to identify entities which own 10 percent or more of the corporation and individuals who own 50 percent or more of the corporation. A corporation will also be required to identify any foreign or domestic corporation in which it owns 10 percent or more of the total stock voting power, any disregarded entity that it owns and any foreign or domestic partnership or trust in which it owns an interest of 10 percent or more.

Additionally, a new Schedule B is added for Form 1120 filers required to file Schedule M-3. New Schedule B asks questions concerning ownership, allocations, transfers of interest, cost sharing arrangements and changes in methods of accounting. Small corporations, those having less than \$10 million in assets, will not be required to file the new Schedule B.

The major changes to the Form 1065 also involve ownership issues. The revisions add new questions to the existing Schedule B. The revised Schedule B includes reporting requirements for partnerships having complex ownership structures. These partnerships are required to identify entities having direct and indirect (through attribution) ownership interests of 10 percent or more in the partnership and to identify entities in which the partnership owns interests of 10 percent or more. The revised Schedule B also asks for information about cancelled debt, and like-kind exchanges that the partnership may have participated in at any time during the tax year.

Additionally, for Form 1065 filers required to file Schedule M-3, there is a new Schedule C requiring the partnership to provide additional information about related party transactions. The new Schedule C also asks for the identity of individuals or entities owning 50 percent or more of the partnership and of other entities required to file U.S. income tax returns.

Minor revisions have been made to Schedule K-1. These revisions require the partnership to identify contributions and distributions of built-in gain or loss property and to identify the maximum percentage of a partner's share of profit, loss and capital in cases where those amounts change during the year.

Some small partnerships will have a

reduction in burden, as the asset threshold for filing certain schedules with Form 1065 has been increased from \$600,000 to \$1,000,000. However, partnerships with complicated ownership structures, related party transactions, contributions and distributions of built-in gain or loss property, special allocation issues and optional basis adjustments may spend more time providing information.

The IRS has taken care to ask only for information that in most cases will be readily available. The redesign of the Forms 1065 and 1120 is based on two guiding principles:

- Promoting compliance by accurately reflecting the entity's ownership structure so the IRS may efficiently assess the risk of noncompliance; and
- Minimizing the filing burden on most taxpayers by requiring this information only from complex entities.
- The redesigned forms are available under Draft Forms on IRS.gov.

### **IRS Issues Proposed Regulations on 2% Floor on Trust Expenses**

#### **Background and Proposed Rules**

Some miscellaneous expenses are fully deductible on Schedule A of an individual tax return (e.g., gambling losses). However, the most frequently encountered ones, such as investment expenses, are subject to a 2% floor. That means only the amount in excess of 2 percent of your adjusted gross income (AGI) are deductible. Section 67(e) provides that the adjusted gross income of an estate or trust must be computed in the same manner as that of an individual. However, Section 67(e)(1) provides that the deductions for costs paid or incurred in connection with the administration of the estate or trust and which would not have been incurred if the property were not held in such estate or trust shall be treated as allowable in arriving at adjusted gross income. Therefore, these deductions are not subject to the 2-percent floor.

**Example**—The Fred Flood Testamentary Trust has interest from interest, dividends, and capital gains of \$310,000 for 2007. Its only expenses consist of investment management fees of \$30,000. The expenses are subject to the 2-percent floor, \$6,200. Thus, only the expenses in excess of that amount, \$23,800 (\$30,000 less \$6,200) are deductible. Or, looking at it another way, the first \$6,200 of expenses aren't deductible.

Different courts have interpreted the rule differently in determining which costs are subject to the 2-percent floor. In one case the court found that, under state law, the trustee was required to engage an investment advisor to meet its fiduciary obligations and to incur fees that the trust would not have incurred if the property

were not held in trust. The court held that estate or trust expenditures that are necessary to meet specific fiduciary obligations under state law are not subject to the 2-percent floor. In a different circuit, the court concluded that a trust expense is subject to the 2-percent floor if it is an expense commonly or customarily incurred by individuals; another court looked to whether such an expense was "peculiar to trusts" and "could not" be incurred by an individual.

In an effort to clarify and make uniform the rule, the IRS is issuing proposed regulations (REG-128244-06). The proposed regulations provide that costs incurred by estates or non-grantor trusts that are unique to an estate or trust are not subject to the 2-percent floor. For this purpose, a cost is unique to an estate or trust if an individual could not have incurred that cost in connection with property not held in an estate or trust. To the extent that expenses paid or incurred by an estate or non-grantor trust do not meet this standard, they are subject to the 2-percent floor of Section 67(a). (Neither Section 67 nor this rule applies to expenses that are excluded under Section 67(b) from the definition of miscellaneous itemized deductions, or to expenses related to a trade or business.)

Under the proposed regulations, whether costs are subject to the 2-percent floor on miscellaneous itemized deductions depends on the type of services provided, rather than on taxpayer characterizations or labels for such services. Thus, taxpayers may not circumvent the 2-percent floor by "bundling" investment advisory fees and trustees' fees into a single fee. The regulations provide that, if an estate or non-grantor trust pays a single fee that includes both costs that are unique to estates and trusts and costs that are not, then the estate or non-grantor trust must use a reasonable method to allocate the single fee between the two types of costs. The regulations also provide a non-exclusive list of services for which the cost is either exempt from or subject to the 2-percent floor. The IRS is inviting comments on whether any safe harbors or other guidance, concerning allocation methods or otherwise, would be helpful.

The issue is important for many taxpayers who have set up trusts that are taxed separately. (A grantor trust, where the person who contributed the property to the trust is still in control of the property and, therefore, for tax purposes still the owner aren't affected.) And the use of trusts for estate planning and tax purposes have expanded sharply in recent years. The issue is so significant that the U.S. Supreme Court has agreed to hear a case (Rudkin) where the court sided with the IRS in ruling the 2-percent floor applied.

Despite the publication of proposed



regulations, the issue is still in flux. The Supreme Court decision may modify the proposed regulation as could public comments.

### **IRS Notice 2007-73; IRB 2007-36 - Transactions of Interest**

The IRS has reported (Notice 2007-73; IRB 2007-36) it is aware of a type of transaction (transaction of interest) that uses a grantor trust, and the purported termination and subsequent re-creation of the trust's grantor trust status, for the purpose of allowing the grantor to claim a tax loss greater than any actual economic loss sustained by the taxpayer or to avoid inappropriately the recognition of gain. The IRS and Treasury Department believe this transaction has the potential for tax avoidance or evasion, but lack sufficient information to determine whether the transaction should be identified specifically as a tax avoidance transaction.

### **GAO Report Shows Sole Proprietors Underreported Net Business Income**

A General Accountability Office report (GAO-07-1014) found, based on IRS information, that most sole proprietors, at least an estimated 61 percent, underreported net business income, but a small proportion of them accounted for the bulk of understated taxes. Both gross income and expenses were misreported. Most of the resulting understated taxes were in relatively small amounts. Half the understatements that IRS examiners could find were less than \$903. However, 10 percent of the tax understatements, made by over 1 million sole proprietors, were above \$6,200. In this top group, the mean understatement of tax was \$18,000. IRS's two main sole proprietor enforcement programs—the Automated Underreporter Program, which computer matches information on a tax return with information submitted to IRS by third parties, and examinations (audits)—have limited reach. The two programs each annually contact less than 3 percent of estimated noncompliant sole proprietors. The limited reach exists for a variety of reasons. In 2001, about 25 percent of sole proprietor gross income was reported on information returns by third parties; expenses generally are not subject to such reporting. Even when required, various barriers make information reporting inconvenient. Examinations of sole proprietors yield less in additional tax assessed and cost more to conduct than examinations for other taxpayers. However, because of the extent of sole proprietor noncompliance, any effect that examinations have on voluntary compliance by other sole proprietors could result in significant revenue.

### **Estate tax returns are due 9 months after the death of the decedent.**

In *Estate of Gertrude Zlotowski et al.* (T.C. Memo. 2007-203) the executors were generally disengaged from the administration of the estate, leaving it to an attorney. The situation was more complicated because the decedent was a U.S. citizen, domiciled in Germany who made two wills—a U.S. will and a later German will which revoked the U.S. will. Initially, only the U.S. will was known and admitted for probate. The estate claimed the delinquency in filing was due to reasonable cause and not willful neglect. The IRS claimed the estate did not establish reasonable cause. The IRS argued that reliance on the advice of an attorney concerning matters of law constitutes reasonable cause. However, a taxpayer's reliance on the advice of an attorney with respect to matters such as meeting filing deadlines generally does not constitute reasonable cause. The IRS further argued that reliance on an attorney to file the estate tax return was an impermissible delegation of their responsibility as executors. Finally, the IRS noted that if the executor is unable to obtain complete information about the decedent's assets, he must still file a timely tax return based on the information available at that time. The Court held the estate failed to show that the late filing was due to reasonable cause and upheld the penalties.

### **The IRS has issued new proposed regulations for employee benefit plans under Section 125.**

The plans, called "cafeteria plans," allow employees to make a choice between receiving taxable cash compensation or tax-free employee benefits, such as health care, dependent care, and other fringe benefits. The new proposed regulations generally preserve the rules of the existing proposed regulations, while adding clarifications relating to statutory changes and administrative guidance changes since the previous regulations were published. The new regulations also address many issues on which the IRS has previously provided informal guidance. The new proposed regulations:

- Clarify that cafeteria plans are generally the sole method of preserving the nontaxable nature of employer-provided benefits where employees are allowed to elect between taxable compensation and nontaxable benefits.
- Include new rules for determining if a cafeteria plan improperly discriminates in favor of highly compensated employees, including definitions of key terms. The new rules are generally consistent with the rules

for qualified retirement plans. Also, the rules provide an objective test to determine if the actual election of benefits is discriminatory.

- Incorporate guidance previously issued relating to debit cards and grace periods for using health Flexible Spending Arrangements (health FSAs) money after the end of a plan year.
- Generally retain the rules in the prior regulations for health flexible spending arrangements (health FSAs), including a 12-month plan year, requirements that the full reimbursement be available at anytime during the plan year, restrictions on changing elections in mid-plan year, and the requirement that unused amounts at plan year end are forfeited (the "use-or-lose" rule).

### **Pa. Businesses Can Now File Their State Corporate Taxes Electronically**

Revenue Secretary Tom Wolf announced on July 20 that Pennsylvania businesses now can electronically file their state corporate tax reports, schedules and payments for tax year 2006.

Pennsylvania joins six other states, including neighboring New York and Maryland, in partnering with the IRS and software vendors to provide a single-point electronic filing method that allows federal and state corporate tax returns to be filed simultaneously.

For a list of software vendors approved by the state to prepare electronic corporate tax reports, visit the Revenue Department's e-Services Center. Software developers and products will be added to the list in alphabetical order as vendors are approved.

The Pennsylvania Corporate Tax Report (form RCT-101) is used to file the corporate net income, capital stock and foreign franchise and corporate loans taxes. Pennsylvania corporate tax reports are due April 15 for corporations operating on a calendar-year basis — Oct. 15 for those businesses that requested a six-month extension of time to file — or 30 days after the federal corporate tax due date for corporations operating on a fiscal-year basis.

The IRS has offered electronic filing for federal corporate tax returns since 2004 and now requires some large and mid-size corporations to file electronically. The IRS requires corporations with assets exceeding \$10 million and that file at least 250 federal returns each year, such as Form W-2 and Form 1099, to file corporate tax returns electronically. These businesses can now electronically file their Pennsylvania corporate tax reports at the same time.

The Pa. Department of Revenue requires business tax payments of \$20,000 or more to be submitted electronically.

**PROPERTY TAX/RENT  
REBATE PROGRAM DEADLINE  
EXTENDED TO END OF THE  
YEAR**

The deadline to apply for Pennsylvania's recently-expanded Property Tax/Rent Rebate program has been extended from June 30 to Dec. 31.

"We are extending the program deadline again this year because we want to be sure that those who are eligible have ample time to apply for property tax or rent rebates," Secretary of Revenue Thomas W. Wolf said today. "The rebate program was dramatically expanded this year, so we especially want to give some extra time to those people who are applying for a rebate for the first time."

The rebate program benefits eligible Pennsylvanians age 65 and older; widows and widowers age 50 and older; and people with disabilities age 18 and older. Last year, Governor Edward G. Rendell signed a law expanding the rebate program by increasing the income limit from \$15,000 to \$35,000 for homeowners and raising the maximum rebate for both homeowners and renters from \$500 to \$650. Applicants can exclude, as income, one-half of Social Security, Supplemental Security Income and Railroad Retirement Tier 1 benefits.

The expanded household income limits and rebate amounts are:

- \$0 and \$8,000 \$650 rebate
- \$8,001 to \$15,000 \$500 rebate
- \$15,001 to \$18,000 \$300 rebate
- \$18,001 to \$35,000 \$250 rebate

Renters with incomes between \$0 and \$8,000 will now receive a \$650 rebate and those with incomes between \$8,001 and \$15,000 will receive a \$500 rebate.

The Department has received more than 460,000 Property Tax/Rent Rebate applications. Rebates for property taxes or rent paid during 2006 will be distributed beginning on July 1, as specified by law. After June 30, rebates will be distributed as the claims are received and approved.

To check on the receipt and status of a claim, call the department's automated FACT and Information Line at 1-888-PATAXES (1-888-728-2937). Touch-tone telephone service is required. Callers will need their Social Security Number and the amount of their rebate. People can also call 1-888-222-9190 between 7:30 a.m. and 5:30 p.m. for help.

Property Tax/Rent Rebate claim forms (PA-1000) are available online at [www.revenue.state.pa.us](http://www.revenue.state.pa.us) or by calling 1-888-222-9190. Forms and assistance also are available at the department's district offices (listed in the government section of local telephone directories), local area agencies on aging, senior centers and state legislators' offices. Claimants are reminded to provide all the necessary income,

property tax or rental information for their claims to be processed accurately and quickly.

The Property Tax/Rent Rebate Program is one of four programs supported by the Pennsylvania Lottery. Since the program's 1971 inception, \$3.76 billion has been paid to qualified applicants. The expanded portion of the rebate program is being paid for with revenue from slots gaming.

**PENNSYLVANIANS WHO  
PURCHASED CIGARETTES  
OVER THE INTERNET MUST  
PAY PA STATE TAXES**

**Revenue Department Mailing Letters to  
4,329 People**

Pennsylvanians who purchased cigarettes over the Internet, or from out-of-state mail order companies, will soon receive a letter from the PA Department of Revenue asking them to pay state taxes on the purchases.

Under the federal Jenkins Act, vendors that ship cigarettes into another state are required to release information about the purchases to state taxing authorities.

"Unfortunately, many Web sites falsely advertise that cigarettes can be purchased tax-free," said acting Secretary of Revenue Thomas W. Wolf. "In fact, in Pennsylvania and most other states, people who purchase cigarettes from another state are required to pay cigarette taxes to their home state.

The Revenue Department mailed cigarette tax forms and letters explaining Pennsylvania's cigarette tax law to 4,329 people who purchased at least 100 cartons of cigarettes from out-of-state sources since January 2005.

The department estimates that the commonwealth is owed about \$9.3 million in cigarette taxes and another \$1.1 million in sales and use taxes from these purchases. These individuals purchased a total of 694,126 cartons of cigarettes; the average number of cartons purchased was 160. If recipients of the letters respond by the due date listed, the department will waive late-payment penalties. Deferred payment plans are available for those who cannot afford to pay the taxes they owe at one time.

The state Revenue Department has been receiving information on cigarette purchases from a number of Web sites nationwide. At least 13 other states, including neighboring New Jersey, Ohio and New York, have also been using the federal information to collect cigarettes taxes.

All cigarettes sold legally in Pennsylvania are marked with a Pennsylvania cigarette tax stamp on the bottom of the pack to show that the appropriate tax has been paid. The cigarette tax is imposed on the ultimate consumer, but licensed cigarette stamping agents remit the tax, currently \$1.35 per pack of 20 cigarettes, to the

commonwealth.

Possessing or selling untaxed cigarettes in Pennsylvania is illegal. By law, Pennsylvanians may possess no more than one carton of out-of-state cigarettes (not bearing a genuine Pennsylvania cigarette tax stamp on the bottom of the pack). However, the person who possesses the cigarettes is still responsible for paying the appropriate cigarette and use taxes to the state Revenue Department on a Consumer Cigarette Excise Tax Return (REV-791). Cigarette purchases from Native American reservations are also subject to Pennsylvania taxes.

Cigarette tax revenue helps fund the Children's Health Insurance Program, or CHIP, which provides quality health insurance for children of working families, the Agricultural Conservation Easement Purchase Fund for farmland preservation and the Health Care Provider Retention Account that helps reduce medical malpractice insurance costs.

**Tax Professional e-Services  
Center**

Tax Professionals are encouraged to use the department's new Tax Professional e-Services Center for easy access to their client's tax information.

For questions concerning the Center, refer to the department's Online Customer Service Center or call (717) 787-1392.

**Revenue Collects \$31.4 Million  
In Delinquent Taxes By Citing  
Businesses Operating Without  
A Sales Tax License**

Act 46 of 2003, granted PA Department of Revenue enforcement agents the authority to issue citations to people who sell or lease items subject to Pennsylvania sales tax without a valid sales tax license.

Since 2003, the Revenue Department has collected more than \$31.4 million in delinquent taxes from issuing citations to businesses operating without a sales tax license. The department's tax enforcement agents, located across the state, have issued 590 citations to 513 businesses since the program started. Ninety-one of the businesses failed to comply with the first citation and were issued more than one citation.

The penalties for making sales without a valid license can include a fine between \$300 and \$1,500 for each violation, as determined by a magisterial district judge. If the person maintaining the business fails to pay the fines, he/she could be imprisoned for five to 30 days.

This authority continues to be one of the most successful collection tools available to the department in collecting delinquent taxes. It also helps ensure that businesses located within the commonwealth operate on a level playing field.



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	11 – 20	\$38	\$35	
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	2 – 10	\$72	\$67	
	11 – 20	\$68	\$63	
	21+	\$63	\$58	
<b>NEW! Quick Guide-2006 &amp; Spring 2007 Tax Acts</b>	Each	\$49	\$45	\$5.00 ea.
<b>NEW! Client Quick Reference Tax &amp; Wealth Schedules (Set of 5)</b>	Each	\$12	\$11	\$1.00 ea
<b>NEW! Wall Calendar w/ Discount Coupons</b>	Each	\$10	\$9	\$1.00 ea.
Package QF-X (Individuals or Businesses)	Each	\$12	\$9	\$1.00 ea
Tax Tables (Individuals or Businesses)	Each	\$12	\$9	\$1.00 ea
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Handbook-Based Self-Study CPE	Per course	\$22	\$19	\$2.00 ea
Ethics Self-Study CPE	Per course	\$22	\$19	\$2.00 ea
Tax Practice Management CPE (DM4T)	Per course	\$199	\$179	\$5.00 ea
Tax Training CPE (DBIT, DCIT, DBTT)	Per course	\$99	\$89	\$5.00 ea
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