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The Magazine Of The Pennsylvania Society of Public Accountants



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A Message From The President



I hope this issue of the Pennsylvania Accountant finds you unwinding from the pressure of what I hope was a very prosperous tax season. The PSPA listserve was certainly active the past several months with more than two hundred posts in March alone. Member postings included issues involving software, e-filing, estate and trusts, social security, Philadelphia taxes, identity theft, 990's, bankruptcy, and the PUC debacle as well as many others. The listserve is a valuable membership benefit that has gained considerable popularity over the past three years. Don't be discouraged by the volume of additional email; you can simply choose to receive one email at the end of each day that includes

all of the posts for that day. It is reassuring to know that you have somewhere to go when you need guidance that you just can't find in your research. If you are not subscribed to the listserve you are missing out on a great membership resource. You can quickly and easily subscribe to the listserve by contacting the PSPA Executive Office at 1-800-270-3359

Tucked in the center pages of this publication is our 2012 Spring Education Catalog. Take some time and look over the classes we are offering for this year. We have partnered with CPE Link to provide additional online education that is primarily focused on a wide range of technology issues including Quickbooks, the use of social media for accounting firms, cloud computing, expanding your knowledge and use of Outlook to name only a few. I am happy to report that you can now register for all of PSPA's seminars online at www.pspacpe.com. Don't overlook your chapter's monthly CPE programs. There is no better way to stay abreast of the latest changes in the industry. Our chapter meetings provide the unique opportunity to draw from the expertise of other practitioners; this open exchange is truly what makes these programs invaluable.

Throughout the past year, our Executive Director and PSPA's outside governmental consulting agency have continued to work to move our legislation. While I know that patience is a virtue, I must say that mine is running short. While both Republican and Democratic legislators agree that it is good, sound public policy it has been unfortunately detained in a quagmire of obstacles including Marcellus Shale. With Shale now out of the way, we hope that we may soon see light at the end of the tunnel. If you have a relationship with your local elected officials, either in the House or Senate please contact them in support of HB 665 (allowing for a surviving spouse to joint file a tax return in the year of a decedent's death), and HB 1333 (providing for penalty relief for a taxpayer who fails to make estimated tax payments if the taxpayer meets 100% of the prior year liability once all tax credits have been taken into account). I am extremely disappointed that we have not been able to get this done. If you have a chance, come out to this year's Day at the Capitol and help us deliver our message to the Pennsylvania Legislature.

PSPA is always looking for new volunteers. We will soon begin committee planning for the 2012-2013 fiscal year. If you have a special interest or area of expertise we'd love to have your help. Don't think you have the time? Many of our committees in fact, require very small amounts of time for active participation. I encourage you to join our efforts by volunteering with the PSPA – I guarantee you will be glad you did. If you haven't already made plans to attend the 65th Annual Meeting, I strongly

encourage you to consider joining us this year. The Buxmont Chapter has planned an extraordinary event includes both professional development and fun for the entire family. All of the information you need can be found on our website at www.pspa-state. org; registration material is also on its way via US Mail. The Annual Meeting is the time that we as an organization reflect on the accomplishments of the past year and welcome new leaders as we embark on the year ahead.

Respectfully Submitted, Lamont B. Anderson, PA PSPA President



65TH ANNUAL MEETING June 21-24, 2012

Radisson Hotel Philadelphia Northeast – Trevose Host Chapter: Buxmont

Complete registration material is available at www.pspa-state.org; PSPA members will receive registration material via US Mail the week of April 16th. Please see page 6 of this magazine to review proposed by-law changes that are scheduled to be voted on at the Annual Meeting.

Foreclosures, Bankruptcies & Everything You DIDNT Want to Know About Cancellation of Debt

On June 21st, this seminar will be held in conjunction with the 65th Annual Meeting. Gear Up speaker, Timothy Sundstrom, CPA, Attorney Scott F. Waterman, Esq., and banking expert Gary Deutsh will present a 6-hour course focused on the bankruptcy process and its alternatives, the tax implications of debt forgiveness and the foreclosure process from a banking perspective. If you have clients that are facing these issues in these turbulent times, you should attend this seminar. A registration form will be included in the annual meeting registration packet; you

at www.pspacpe.com. The program will take place at the Radisson Hotel in Trevose and the cost for members is just \$99 (includes lunch). If you are attending the annual meeting the cost of the seminar is included in your registration fee.



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You can Make a Difference by helping your elected officials see small business and the accounting profession through YOUR eyes!

TUESDAY, JUNE 5, 2012

- > This is a FREE EVENT for ALL PSPA Members. Attend the legislative breakfast and talk to leadership and committee chairs you might not otherwise meet, schedule an individual appointment with your own elected House and Senate members, tour PA's State of the Art Gaming Laboratory, enjoy lunch at the Harrisburg Hilton, attend our Legislative Workshop and receive 2 hours of CPE.
- > Tour the PA Gaming Lab. This is an exclusive tour for PSPA that is not available to the public. See the state of the art laboratory where government technicians test slots and other electronic gambling devises to ensure they operate fairly, comply with state rules and accurately tally winnings so taxes can be collected.
- Watch for the 2012 Day at the Capitol brochure to come via US Mail, or download the brochure from the PSPA website at www.pspa-state.org. It is an event you can't afford to miss!

Recruit A New Member _ Attend Any Seminar of Your Choice Absolutely FREE!

Members tell us all the time how much they value their PSPA membership. PSPA is more than just CPE; we are the whole package. The advocacy that we provide smaller accounting firms and sole practitioners with the Pennsylvania Legislature in Harrisburg, with the Pennsylvania Department of Revenue, with the IRS, as well as with other state agencies is priceless - it is representation you are not getting anywhere else. Consider the other ways PSPA supports your practice: the listserve; updates on late-breaking accounting and tax information; publication discounts (Quickfinder, CCH, The Tax Book, RIA); insurance discounts (professional liability, long term care, auto, life, disability, health); discounts on products & services including UPS, Hertz Car Rentals, and office supplies; 15% discount on Verizon Wireless services plus much more.

It is not surprising that PSPA is experiencing a tremendous growth period as the word is getting out and more and more professionals are taking notice to what we offer. YOU can be a part of our recruitment efforts and it is as easy as telling a colleague about your experience. Recruit just one new member outside of your own firm to join the PSPA and we will reward you with a FREE 8-hour seminar of your choice. All you have to do is make sure your name appears on the application. Download an application from our website and be sure to have it with you at the upcoming seminars as this is a perfect place to recruit a new member.

Thanks For Your Help!



PSPA WORKS WITH PA UNEMPLOYMENT COMPENSATION TO REDUCE MEMBER BURDEN

On March 6, 2012, PSPA issued a formal request for action to Pennsylvania Unemployment Compensation in response to a UC computer glitch that resulted in the mail distribution of an undisclosed number of incorrect contribution rate notices to Pennsylvania employers. The error began with notices with a mail date of February 29th and later. The computer glitch caused a 3% delinquency rate to be added to many employer accounts as a result of miscalculated interest that was erroneously applied from the previous quarter. According to PUC their system failed to properly back out the interest.

PSPA urged PUC to resolve the error swiftly and to establish a consistent and efficient resolution process that would impose a minimal burden on practitioners. We stressed that requiring the practitioner community to take responsibility for this error and to file appeals during the tax filing season was an undue burden that should not have to be borne by practitioners at their busiest time of year. PUC responded to PSPA's concerns by assigning additional staff to their Employer Helpline and having those staff respond to practitioners via telephone without the need for the filing of an appeal. While many practitioners had success with this process, others were met with resistance due to some PUC staff requiring a Power of Attorney. PSPA again intervened for clarification and to advocate on behalf of its membership that PUC make the corrections via telephone without the need for a power of attorney. We further urged PUC's thorough communication and education of their staff to ensure that practitioners received consistent results. Based on positive member feedback we believe we have effectively resolved this issue. We anticipate that many practitioners will address their client's UC issues after tax season; please continue to report any problems or issues you experience to Sherry DeAgostino at sherry@pspa-state.org or 1-800-270-3352.

You Didn't Receive This Information?

This information was communicated to our membership through the PSPA listserve and through multiple membership email alerts. If you did not receive this information then either we do not have a valid email address for you, the information went into your spam filter (please approve our address to receive emails) and/or you are not subscribed to PSPA's listserve. When situations arise of an immediate nature we inform the membership through email - don't miss out on important information - make sure we have your current email address at all times.



RENEW YOUR PSPA MEMBERSHIP: The PSPA membership year ends on June 30, 2012. Beginning in early May and throughout June, you can renew your membership dues online. You will receive an email advising you of when we will begin accepting online renewals. Dues renewal notices will be distributed via US Mail in early June. Your membership must be renewed for the 2012-2013 dues year in order to attend any PSPA program at the reduced membership rate after the June 30, 2012 membership expiration date.



PENNSYLVANIA STATE BOARD OF ACCOUNTANCY AGAIN POSTPONES ETHICS REQUIREMENT

In case you've missed it previously, Certified Public Accountants and Public Accountants in Pennsylvania **will not** be required to have four hours of ethics during the biennial licensing period that began on January 1, 2012 and ends December 31, 2013. This requirement is once again being postponed as the regulations will not be promulgated in time for it to apply to the current licensing period. As you may recall, the ethics requirement was initially scheduled to be in effect for the period that ended December 31, 2011 but was also postponed due to time constraints. If you've already taken an ethics course or if you plan to take one the credits still count toward your 80-hour overall requirement. Please be advised that this article refers only to Pennsylvania state licensing requirements for licensed practitioners. Enrolled Agents and Registered Return Preparers are not bound by state licensure law but must adhere instead to Circular 230 Requirements which do require ethics credits.

Make Sure the Course Qualifies BEFORE You Take It

Effective immediately, Enrolled Agents and Registered Tax Return Preparers must obtain qualifying CPE from an *IRS Approved CE Sponsor*. This means that the provider of the course must have applied for and received an active CE Sponsor Number. (**PSPA's Sponsor ID Number is E3S5R**) The IRS has posted a list of all approved sponsors on their website, and the list is smaller than you might think. Don't waste your time or your money, be sure to verify this *BEFORE* you take the course!

CE Sponsors are required to list their *IRS CE Sponsor Number* on the attendance certificate as well as the individual IRS course number for that particular course. Qualifying CE credits for Enrolled Agents and Registered Tax Return Preparers should be listed as *Federal Tax* on the certificate (or ethics if applicable).

Approved IRS CPE Sponsors must begin collecting and maintaining required PTIN information for attendees in 2012. Enrolled Agents and Registered Return Preparers should be sure to have the PTIN number readily available at all upcoming CPE events as this will ensure proper credit reporting. Certified Public Accountants and Public Accountants (as long as they are not also enrolled agents) are not affected by this change as their CE requirements are set by the State of Pennsylvania. Please be advised that Public Accountants who are also Enrolled Agents **DO** need to comply with the new requirement. We have had numerous inquiries from members regarding this issue and there is a lot of confusion. If you have questions on this please email: sherry@pspa-state.org or contact the Executive Office at 1-800-270-3352.

Verizon Wireless – Another Great Reason to be a Member of PSPA!

PSPA is pleased to offer PSPA members an extreme cost-savings discount through Verizon Enterprise Center (VEC) for Verizon Wireless services. Through a unique partnership, this program will make available to PSPA members a corporate discount that is normally reserved for large corporations and government agencies. The discount is available for both current and new Verizon Wireless customers, and it

DELAY FOR SOME ENROLLED AGENTS AWAITING RENEWAL CARDS

For the past seven months, IRS has had a moratorium on enrolled agent application processing in order to complete the procedure of reducing the renewal fee from \$125 to \$30. IRS reports that the process has taken longer than expected and continues to affect the processing of renewal applications for social security numbers ending in 7, 8, 9, and null. While 3,500 renewals have already been processed, approximately 7,100 are waiting completion. It is likely that some will not be completed until May 31, 2012. For those individuals who timely filed their renewal application and have an enrollment card with an expiration date of March 31, 2012, the card is valid for another 60 days or until receipt of a new card. Enrollment will not expire due to this IRS delay.

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Proposed Amendments to the PSPA By Laws

The following changes were submitted to the PSPA By-Laws Committee to be voted on at the 65th Annual meeting on June 22-23, 2012. The change being proposed to Article VI, allows for an expansion of communication methods to include email or an electronic newsletter. Also proposed, a decrease to the amount of time required to inform the membership of a by-law change from 60 days to 30 days. The primary reason for this change is due to the lack of time available between the end of the tax filing season and the annual meeting. The proposed changes to Article XIII, again standardizes the communication method required to include methods other than direct mail.

ARTICLE VI - Member Meetings

Section 1. The members of the Society shall meet at least once each year. This Annual Meeting shall be held between the months of May and September at the place and on a date to be designated by the Board of Directors. It shall be the duty of the Executive Director to mail a notice of communicate such Annual Meeting to all members in good standing in the Society at least sixty (60) thirty (30) days prior to the official opening of said meeting along with the

day and time that the election of officers shall take place. However, in the event an official bulletin or periodical is mailed to each member in accordance with the above time limit, the notice of the Annual Meeting and the time and date of the election of Officers may be published in such bulletin or periodical in lieu of such notice of the Executive Director.

ARTICLE XIII - Amendments

Section 1. Amendments may be made to these by-laws at the Annual Meeting or at a special meeting of the members called for that purpose, and only by a two-thirds (2/3) vote of the members present or by a referendum-conducted through the United States mail; no amendment shall be considered at the Annual Meeting (except by unanimous consent of those present) unless a A copy of the same have been any proposed amendments may be submitted to, or by the By-Laws Committee as provided in Article X, Section 32. and Notice of the intention to offer the same amendments shall have been included in the notice of the Annual Meeting communicated to members at least 30 days prior to the Annual Meeting.



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PENNSYLVANIA TAX UPDATE

By Sharon R. Paxton

PROPERTY TAX REASSESSMENTS COMING!

The counties of Lehigh, Lebanon and Erie will be conducting countywide reassessments in 2012. (Also, reassessment notices were issued earlier this year for a countywide reassessment conducted by Allegheny County.) Property owners should review a notice of reassessment carefully. In addition to examining the reassessed value, scrutiny should be given to the property description, location, acreage, etc. on the notice. During a countywide reassessment, every property in a county is reassessed. Because of the sheer volume of the undertaking, mistakes will happen.

With respect to analyzing valuation, the "new" reassessed value should be compared with the imputed fair market value of the "old" assessment in order to determine if the new reassessed value is appropriate. In general, to determine the imputed fair market value of the "old" assessment, take the "old" assessment and divide it by the common level ratio for your county published at www.steb.state.pa.us. Broadly speaking, property values have not gone up over the last several years, especially for commercial and industrial properties. So, if the reassessed value indicates a rise in fair market value, an appeal may be in

There are some traps for the unwary in the reassessment process. First, the appeal process can often be confusing given that most counties will run both informal and formal appeals. Even if a taxpayer chooses to go to an informal hearing, it is crucial that a formal appeal be filed as well. Strictly speaking, the filing of an informal appeal does not negate the need to file a formal appeal.

Second, reassessment notices often include information about the tax load under the "old" assessment and the load under the "new" reassessed value. While the tax comparison can be helpful, it is not dispositive. For instance, an appeal may be warranted even though the taxes will stay the same or will go down if the

property happened to be over assessed under the "old" assessment. Further, taxpayers should be aware that even though the amount by which a taxing jurisdiction can raise millage rates in the first year after reassessment is capped, there is nothing in the law limiting the amount of increase in a subsequent year.

Finally, taxpayers should analyze the reassessment quickly so that the appropriate professionals can be engaged. Appraisers, for example, are often in very high demand in areas undergoing a reassessment.

If you or your clients own or lease property in the counties undertaking countywide reassessments and have questions about the process, or if you would like assistance in analyzing a reassessment, please feel free to contact any of the following members of the McNees State and Local Tax group: Randy Varner at rvarner@mwn.com, Bert Goodman at bgoodman@mwn.com or Tim Horstmann at thorstmann@mwn.com.

PA SUPREME COURT CLARIFIES APPLICATION OF SALES AND USE TAX TO CONSTRUCTION CONTRACTS WITH NON-EXEMPT ENTITIES

In a consolidated decision issued on December 21, 2011, the Pennsylvania Supreme Court reversed the Commonwealth Court's 2009 decisions in Northeastern Pennsylvania Imaging Center v. Commonwealth and Medical Associates of the Lehigh Valley, P.C. v. Commonwealth, which had held that MRIs and other medical scanning systems installed in the taxpayers' imaging centers became part of the "real estate" under the Sheetz test discussed below, so that the taxpayers were entitled to a refund of sales tax paid on their purchase and lease of installed scanning systems. The Supreme Court held that the scanning systems retained their identity as tangible personal property after installation, but remanded the cases to the Commonwealth Court for consideration of the taxpayers' argument that the Department of

Revenue's denial of their refund claims violated the Uniformity Clause of the Pennsylvania Constitution because the Department had granted refunds to other similarly situated taxpayers. The Commonwealth Court did not previously address the Uniformity Clause issue because it had ruled in favor of the taxpayers on the merits.

More significant than the particular ruling in this case was the Supreme Court's holding that the "test" enunciated in Commonwealth v. Beck Electric Construction, Inc., 403 A.2d 553 (Pa. 1979), rather than the standard enunciated by the Commonwealth Court in In re Appeal of Sheetz, 657 A.2d 1011 (Pa. Cmwlth. 1995), appeal denied, 666 A.2d 1060 (Pa. 1995), applies for purposes of determining whether property that is attached to real estate becomes a permanent part of the real estate for sales and use tax purposes. This "realtypersonalty" analysis determines whether a contract with a non-exempt entity for the sale and installation of property constitutes a "construction contract" (in which case the installed property is "used" by, and taxable to, the installer) or a sale of tangible personal property (in which case the installer claims the resale exclusion when purchasing the property and collects any applicable sales tax from the purchaser).

While the sales tax consequences of contracts with non-exempt entities depend on whether the property being installed becomes part of the real estate, neither the Sales and Use Tax statute nor the Department of Revenue's regulations define the term "real estate." The Department's regulation at 61 Pa. Code § 31.11 lists items that are presumed to become a permanent part of the real estate upon installation and items that are presumed to remain "tangible personal property," but that regulation contains no explicit test for determining whether an item becomes part of the real estate. Since the term "real estate" is not defined by statute or regulation, the parties in Northeastern and

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Practicing Safe Security - What You Need to Know About Responsible Password Behavior

By Michael Webb, Chief Technology Officer, SmartVault

It's a mobile world we live in. Increasingly, professionals work from iPads, smart phones, and laptops on the go—in airports, restaurants, and clients' offices. And while the convenience of "mobility" is exceptional, it does open up a world of security concerns in relation to keeping data safe. Consider that, often without thinking, you log into public networks and exchange sensitive information via email. These practices can leave you vulnerable to data theft.

There are many precautions you can take to ensure the security of your data, but one of the most obvious is practicing responsible password behavior. Whether working from your office, home, or a remote location, good password behavior is key to keeping your data secure. Consider also that when working from a mobile location and accessing public networks, to an extended degree, you give up control of data security. Passwords are one area where you have complete control. You are solely in charge of how secure (or not) your data is because you are the one creating new passwords and determining the frequency of changing existing ones. And if you are creating strong, unique passwords, your data is far more safe than others who depend on a password made up of their dog's name or date of birth.

By applying guidelines to how you handle passwords, you begin to develop your own custom password policy—and arm yourself against intruders. Having a sound password policy in place is smart, especially in today's highly mobile world. To help you create your own policy, here are a few key tips and guidelines.

Tip 1: Basic Password Etiquette

Create strong passwords right from the start—this is your best defense against data theft. The days of assigning the same password across accounts are over—the hackers have long since figured out that tactic. Along the same lines, developing passwords that have a direct connection to your personal life are also a big no-no. With social media a dominant form of communication these days, you are putting out far more personal information (to the world) than you think. Outsiders have access to your Facebook and Twitter feeds—they know that name of your dog or your birthday. So, don't assign passwords based on highly personal information. It's just bad, unsafe practice.

Your best defense is to create unique passwords that are easy to remember, yet challenging. A combination of letters and numbers is always a good idea. Here's an easy method to accomplish creating a strong password:

- 1. Use a phrase. Pick a phrase that you can remember, but would be hard for someone else to guess. For example: "If only there were a few more hours in the day."
- 2. Create a password by using the first letter of each word: iotwafmhitd. Already you have an eleven-word code!
- 3. Make it even more complex by adding a number or two to the beginning or end. For example, your favorite baseball player's number: "32." Now your new unique password becomes: "iotwafmhitd32"

Other basic guidelines include:

- Never share your passwords. You never know who is going to share your password...or worse, lose it after you've written it down for them. Sharing passwords is like sharing your ATM code, and you would never do that. Keeping your passwords to yourself is the safest practice.
- Do not recycle your passwords

across several accounts. Once someone finds out one password, that means that have ALL your passwords—email account, online bank accounts, retail sites, and so forth.

Tip 2: Password Management

There's no doubt that despite how clever you are with creating strong, easy-to-remember codes, it's still a chore to manage multiple passwords especially once you move past twenty. To help with this issue, there are password management tools available. These applications allow you to store all your unique passwords in one location—in an encrypted format for heightened security. Your passwords are only decrypted once you enter your password and unlock the management tool. The biggest value, second only to security, is the fact that you only need to memorize a single password to access the manager application. As an added bonus, you can also use these solutions to generate strong passwords for use on your accounts.

Tip 3: Password Storage

Criteria for storing passwords is still somewhat under debate. Historically, popular opinion supported never writing down your passwords. This has changed over the years. Consider having a unique code for nearly every application or account. You are probably looking at 50+ passwords (if not more) to manage. Writing down passwords on a single piece of paper and then storing that list in a personal wallet or purse is good practice. After all, most people go to great lengths to protect these items. For those overly concerned with this method, it's easy to add a level of security. For each of your unique passwords, add a common set of numbers to the end (but don't

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Welcome New Members (December 2011-March 2012)

LAST NAME	FIRM NAME	CHAFIEN		LAST INAINE		CHAPIEN	
Acharya, Jasoda		빙	ST	Lang, CPA, Martin	Lang, Faylor, Chomo & Co. PC	F	AC
Alexander, CPA, Donna		BX	AC	Lewis, CPA, George	Lewis and Associates, P.C.	30C	AC
Bauder, Robyn		200	AC	Lindsey, Bonnie	1111Bookkeeping	LHV	AS
Blatt, CPA, Barry	Barry C. Blatt, CPA	BX	AC	Link, Paul	Moses & Associates, P.C.	WC	AC
Block, CPA, Sanford	Sanford L. Block CPA	SOC	AC	Lynch, Thomas		풉	AC
Booz, CPA, Stanley		BX	AC	Maines, CPA, Jendy	Central Pennsylvania Accounting, LLC	_	AC
Brancaleone, CPA, Joan		H	AC	Maniaci, CPA, Carol		몺	AC
Buber, CPA, Paul	Paul E. Buber	CTL	AC	Matchett, CPA, Kerri Conner	Anita T. Conner & Associates, P.C.	BX	AC
Buerger, CPA, William		밀	AC	Mayolo, CPA, Peter		WP	AC
Burgard, CPA, Donald	Smoker, Smith and Associates	SOC	AC	McKay, CPA, Clyde	McKay DeRito	BX	AC
Burian , Keith	John Andras and Company	CTL	AC	McLaughlin, CPA, Mark	McLaughlin and Associates	WP	AC
Carbo, CPA, Anthony		표	AC	Mealing, EA, Sheryl		CTL	AC
Chen, Xiaotong		푼	ST	Mellinger Rennae		CTL	AC
Clark, CPA, Thomas		SOC	AC	Miller, CPA, Kathleen		MC	AC
Conner, CPA, Anita	Anita T. Conner & Associates. P.C.	BX	AC	Moore, CPA, Michael		WP	AC
D'Amico, CPA, Anthony	Anthony J. D'Amico, CPA	표	AC	Murphy, CPA, Glynn		뮏	AC
Daubenspeck, EA, Ronald	Buckno Lisicky & Company, PC	LHV	AC	Naeher, CPA, David		믣	AC
Davis, Anthony	Davis Financial Group	푼	AC	Owens, Elaine	Miller, Seales, Bahr Wills LLC	Æ	AC
DeGangi, Sonja		LHV	AC	Patten, Jr., CPA Ernest		BX	AC
Deon, Frank		BX	AC	Pontarelli, CPA, Anthony	Anthony M. Pontarelli, CPA, LLC	BX	AC
DerSimonian, CPA, Nancy		폾	AC	PORTANOVA, WILLIAM	WILLIAM PORTANOVA ACCOUNTING	믣	AC
Difilippo, CPA, James	DiFilippo & Company, Inc.	푼	AC	Pothering, CPA, Theresa	Rowlands and Pothering CPAs	Æ	AC
Dinardo, CPA, Daniel	Daniel J. Dianrdo CPA	표	AC	Quach, Sean		FI	ST
DiPaolo, Michael	Murray and Goldstein, PC	BX	AC	Quinn, CPA, Mary Cynthia	M. Cynthia Quinn CPA	BX	AC
Dostillio, Christine		푼	AC	Radick, EA, Charles,	CZR / FACTS	띨	AC
Ellis, CPA, CDFA, DABFA, Barnett	Strouss Hui Roomberg Ellis, P.C.	BX	AC	Rago, CPA, Joseph		품	AC
Farquharson, Sr., Arthur		푼	AC	Ransom, Jr., Donald	Ag Accounting Services	岁	AC
Fazio, Martin	Santoro Services Inc	BX	AC	Roswog, Francis		200	AC
Fiedler, Melita	Fiedler & Company, Inc.	SOC	AC	Rowlands, CPA, Maria	Rowlands and Pothering CPAs	FH	AC
Fink, Mitchell	Fink's Tax Service	LHV	AS	Sandler, Jonathon		SE	AC
Foster, CPA, Jimmie	J. R. Foster, CPA	200	AC	Sharer, CPA, Michele		풉	AC
Gandy, Tamra	Tamra Gandy Accounting Services	W.	AC	Simonic, Stephen		30C	AC
Gillespie III, EA, John	Gillespie & Company	빙	AC	Skaist, Marjory		Wb	AC
Ginsberg, CPA, Steven	Hano and Ginsberg, LLP	BX	AC	Sobolewski, Carrie	Snavely Accounting Services	岁	AC
Hagstrom, CPA, David	David W. Hagstrom, CPA	WC	AC	Stech, CPA, Glenn		CT	AC
Hass, CPA, Arthur	Athru J. Hass, MBA, CPA	BX	AC	Sweigart, Beth	Jeffery S. Hogg CPA	JJ.	AC
Hook, Aaron		LHV	AS	Travers, CPA, Thomas	Lutz & Travers, P.C.	SE	AC
Hopkins, Leonard		울 :	AC	Tyson, CPA, Judith	J Tyson and Co., LLC	푼	S S
lon, Carmen		푼	ST	Webber, Stephen	Pocono Mountain Tax Svc	FA	AC
Jarzab, Cynthia	John L. Jarzab, CPA	WP	AS	Weems, CPA, Shauna	Simplified Accounting Solutions	200	AC
Jones, Deborah		LHV	AC	Weiss, CPA, Arthur		BX	AC
Jones, James	NNF Group Inc.	BX	AC	Williams, Elizabeth	Margaret Hileman Tax Service	MC	AC
Keitz Neal	NH Keitz Ltd.	푼	AC	Wise, Carrie		SOC	AC
Kennedy, CPA, James	Kennedy and Associates LLC	BX	AC	Yando-Patel, Amy	Tatulli and Associates, LLC	믣	AC
Kimble, Natalya		WP	ST	Zelenak, CPA, James		FI	AC
Kostrab, John	John Andras and Company	СТ	AC	Zinsner, Kay		MC	AC
Kroft, Andrew	STorm Scullion and Co., PC	30C	AC	Zisa, CPA, Kimberly		BX	AC
Kushner Edward		₹	V				

S'AUNOIHIUMAG

Pennsylvania ACCOUNTANT



CORNER

Ban on Texting-While-Driving - Now Law in Pennsylvania

A new Pennsylvania law that prohibits sending, reading, or writing text messages on interactive wireless communication devices for all drivers while operating a vehicle became law on March 8. It is a primary offense, meaning the police can stop drivers for texting behind the wheel and no other violation. Pennsylvania is one of 34 states and the District of Columbia that prohibit drivers from texting while driving.

Exempt Organizations Select Check

The IRS has launched a new online search tool, Exempt Organizations Select Check; to help users more easily find key information about tax-exempt organizations, such as federal tax status and filings. Users can now go to Select Check, select a tax-exempt organization, and check if the organization:

- Is eligible to receive taxdeductible charitable contributions (Publication 78 data, which is incorporated here). Users may rely on this list in determining deductibility of contributions (just as they did when Publication 78 was a separate electronic publication rather than part of Select Check).
- Has had its federal tax exemption automatically revoked under the law for not filing a Form 990-series return or notice for three consecutive years (known as the Auto-Revocation List).
- Has filed a Form 990-N (e-Postcard) annual electronic notice. (Most small

organizations whose annual gross receipts are normally \$50,000 or less are required to electronically submit Form 990-N, unless they choose instead to file a completed Form 990 or Form 990-EZ.)

EO Select Check also offers improved search functions. For example, users can now look for organizations eligible to receive deductible contributions by **Employer Identification Number** (EIN), which was previously not a searchable or sortable field in the electronic Publication 78. And data about organizations eligible to receive deductible contributions are now updated monthly, rather than quarterly. In addition, organizations that have automatically lost their tax exemptions may now be searched by EIN, name, city, state, ZIP Code, country, exemption type, and revocation posting date, rather than only by state. EO Select Check also provides new pop-up help text to assist users in understanding the significance of auto-revocation search results, including the meaning of, and distinctions between, revocation dates and revocation posting dates.

Employee or independent contractor?

That was the question in *John Keller, Action Auto Body* (T.C. Memo. 2012-62). The taxpayer was a 50% partner in an auto body repair shop. The business employed seven auto body mechanics. Each had his own space in the shop to perform work, but they did not pay rent. The taxpayer paid all the workers weekly by check, the amount varying depending on commissions and the type of work they performed. Three other workers were employed as an

estimate writer and two secretaries. All ten individuals were treated as independent contractors by the business.

The Tax Court looks at seven factors, (1) The degree of control exercised by the principal; (2) which party invests in work facilities used by the individual; (3) the opportunity of the individual for profit or loss; (4) whether the principal can discharge the individual; (5) whether the work is part of the principal's regular business; (6) the permanency of the relationship; and (7) the relationship the parties believed they were creating when determining the status of a worker.

The Court noted that this list of factors is not exclusive. and other factors may also be considered such as the provision of employee benefits. All of the facts and circumstances of each case are considered, and no single factor is dispositive. The Court examined and weighed the factors and concluded that the seven auto body repair workers were independent contractors, but the estimate writer and the two secretaries were employees. The Court also determined that because the taxpayer failed to file Forms 1099-MISC on the workers classified as employees, he could not claim relief from penalties under Sec. 530.

IRS Sends Test Results: First Registered Tax Return Preparer Certificates

Internal Revenue Service (IRS) has begun providing test results to tax return preparers who have taken the new return preparer competency test. Those who pass the test and a tax compliance check will be given a new



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Approximately percentages of income receive Activity	ed from the followi	ng activities for		eriod: tivity	%
Audit: Public Companies**		Litigation	Support		
Audit: Other		Managei	ment Advisory S	Services	
Review		Assuran	ce Services		
Compilation		Financia	l Planning		
Bookkeeping			anagement		
Tax			/lutual Funds		
Business Valuation			banes Oxley R	elated Services**	
Computer Consulting		Other*			
Litigation Support		Total			100%
** Call for a supplement					
CLAIMS HISTORY (within the past five years)	ı: ∏ None				
Date claim(s) Reported One: / Amount Paid, including Defense Expenses		Two:	/ /	Three: / / \$	
(if closed) \$ Reserve amount		\$			
(if open) \$		\$			

designation: Registered Tax Return Preparer.

Since the test became available in November 2011 it has been in a calibration phase as the IRS validated the test questions and set the passing score. This phase has now ended. The 120-question test has a perfect score of 500. Preparers must score 350 or higher to receive a passing grade.

All individuals who have taken the test to date were recently sent a letter from the IRS informing them whether they passed or failed. Those who pass the test must still pass a tax compliance check performed by the IRS, which will generally be completed within a couple of weeks after the test score is issued. Those individuals passing both the test and the tax compliance check will be sent a Registered Tax Return Preparer certificate. Only those tax return preparers who have received a Registered Tax Return Preparer certificate may call themselves Registered Tax Return Preparers.

The test is part of a larger IRS effort to ensure competency and professional standards in the tax preparation industry. All paid tax return preparers must obtain and annually renew a Preparer Tax Identification Number (PTIN). Certain return preparers must also complete 15 hours of continuing education annually, pass the one-time competency test by December 31, 2013, and pass a tax compliance check.

Certified Public Accountants, attorneys and Enrolled Agents are exempt from the new continuing education and testing requirements as well as Public Accountants in some states including Pennsylvania because they already have separate requirements. Also exempt are non-signing preparers supervised by CPAs, attorneys or Enrolled Agents and those who do not prepare the Form 1040 series.

Although preparers have nearly two years to take the test, the IRS encourages them to complete the requirement as soon as they can.

Preparers with a testing requirement can schedule the test by accessing their PTIN account at IRS.gov/ptin. The test can be taken at more than 260 sites and the test fee is \$116.

Preparers can find more details about the test at IRS. gov/taxpros/tests. There are helpful resources available such as a Candidate Information Bulletin, which provides a list of recommended study materials; a test demonstration; and a video of what to expect on test day. PSPA has partnered with national leader, Fast Forward Academy to offer an online review course for exam preparation. The course is offered at a discounted rate to PSPA members and can be found on the homepage of the PSPA website at www.pspa-state.org.

Testing was suspended for a two week period beginning April 1 and resume on April 16, 2012. Those taking the test on or after April 16th will receive immediate test results at the test center after completion of the test.

Special Enrollment Examination remains unchanged

The process for individuals to become an Enrolled Agent remains unchanged. Most Enrolled Agents have passed a comprehensive three-part IRS test (the Special Enrollment Examination) covering individual and business standards and representation rules. Enrolled Agents also must complete 72 hours of continuing education every three years.

More information on the Special Enrollment Examination and the Registered Tax Return Preparer Competency Test is available at IRS.gov/taxpros/tests.

Continued from page 8

include these added characters when you write your passwords down). In the event that your wallet is stolen, your passwords are still secure because they are incomplete.

Tip 4: Password Policy

All of the above information should be elements within a standard password policy. By developing a policy, you create accountability and will be more likely to stick to your own rules. Create a personal policy for yourself, and then create a policy for your business—so everyone is practicing safe security. Make sure your policy outlines:

- How to create strong passwords
- The do NOT's of password security—never share and don't recycle
- Identify password management applications that support encryption
- How to safely store passwords Practicing safe security isn't as hard as one might think. If you consider the power a strong password has in protecting your data, it seems much easier. The fact is that you are in control of your passwords—the main link to your information. By following a few tips and tactics, you can build an armor around your data that is impenetrable by evil influences.

About the Author

Michael Webb—As Chief Technology Officer and a founding member of SmartVault, Michael is responsible for the design and delivery of SmartVault's Software-as-a-Service (SaaS) platform, managing the R&D group, and ensuring the overall security of SmartVault's platform. Michael has more than a decade of experience in the commercial software industry and has emerged as a leading expert in the area of data security. Contact Michael at mwebb@smartvault.com

Continued from page 7

Medical Associates took the position that the common law doctrine of fixtures, as delineated in the *Sheetz* case, represented the proper standard.

In Sheetz, the Commonwealth Court articulated a three-factor test for determining whether items become part of the real estate for property tax purposes. Under the Sheetz test, in determining whether items that are affixed to real estate, but can be removed without material injury to themselves or to the real estate, are realty or personalty, the following three factors must be considered: (1) the manner in which the item is physically attached or installed, (2) the extent to which the item is essential to the permanent use of a building or other improvement, and (3) the objective intention of the parties. The Supreme Court rejected use of the Sheetz test for sales and use tax purposes on the basis that Sheetz was a real estate tax case, which involved a different tax statute, and there is apposite Supreme Court precedent ("Beck") which addresses the issue of whether a contractor is a "user" of goods or a "vendor" entitled to claim the "resale" exclusion.

The Beck test has been characterized by the courts as involving a determination as to whether property is "easily" removable without damage to itself or to the surrounding real estate. The Supreme Court did not establish an independent "realty-personalty" test in Beck, however, but simply construed the Department of Revenue's regulations in effect at the time. While both the Sheetz and Beck tests require a consideration of the method of attachment to the real estate, the Sheetz test also takes into account whether an item is an integral part of the real estate, as it is currently being used. By way of contrast, some of the items that were held to remain tangible personal property in Beck were integral parts of the electrical systems of the buildings in which they were installed.

The Supreme Court purportedly relied on *Beck* to conclude that the medical scanning systems in these cases did not become part of the real estate after they were installed in the imaging centers. Nevertheless, the Court did not analyze

the ease with which the scanning systems could be removed from the imaging centers or whether such removal would damage the real estate. Rather, after stating that the *Beck* test applied, the Court analyzed the character of the medical scanning systems by simply comparing those systems to other items listed in the Department's regulation that are found "in a medical setting." The Court essentially determined that the scanning systems remained tangible personal property because they were "more like x-ray equipment than a nurses' station."

Based on the Court's analysis in the Northeastern and Medical Associates cases, the tax treatment of items affixed to real estate remains unclear in the context of contracts with non-exempt entities. For example, the Court relied almost exclusively on its interpretation of the Department's regulation to conclude that the scanning systems remained tangible personal property. It is not clear, therefore, whether the Beck "test" involves anything more than an evaluation of the lists of presumptions in the Department of Revenue's regulation at 61 Pa. Code § 31.11. The presumptions listed in the Department's regulation apply "in the absence of satisfactory evidence to the contrary," but the Court has not articulated what evidence would be required to overcome these presumptions. To the extent the Court's decision stands for the proposition that any item that can be removed and replaced remains tangible personal property under the Beck test, then many items that are presumed to become part of the real estate under the Department's regulation, and under letter rulings issued by the Department, would presumably remain tangible personal property under the Court's analysis.

Contractors and other taxpayers will need to carefully evaluate their tax compliance procedures in light of this decision.

COURT UPHOLDS IFTA LIABILITY AGAINST MOTOR CARRIER WITH INADEQUATE RECORDS

A three-judge panel of the Commonwealth Court has upheld the

results of an audit conducted by the Pennsylvania Department of Revenue under the International Fuel Tax Agreement, which imposed a substantial tax liability against a brokerage company that failed to comply with IFTA mileage and fuel documentation requirements. *R* & *R Express v. Commonwealth*, No. 533 F.R. 2007 (February 8, 2012). The taxpayer, R & R Express, has appealed the panel's decision, and argument before the full Court has tentatively been scheduled for June 2012.

R & R Express is a brokerage company that uses owner operators to haul steel and other commodities throughout the United States. All fuel used in the company's motor carrier operations is purchased at retail locations. The company's owner/operators did not consistently turn in trip reports and fuel receipts for their activity. Since the company did not maintain adequate mileage and fuel records, the determination of additional tax liability was based, in part, on estimates of unreported miles and fuel consumption.

R & R Express essentially contended that the audit deficiency should be stricken because it had already paid tax on all fuel used in its motor carrier operations (at the time of purchase), and the Department's audit methodology therefore resulted in double taxation. Although the Court seemed sympathetic to the taxpayer's situation, it agreed with the Commonwealth that strict compliance with the reporting framework set forth in the tax statute, the IFTA Agreement, and accompanying regulations and guidelines, is required.

The Court's decision in *R* & *R* Express demonstrates that a motor carrier's failure to properly maintain mileage and fuel records for IFTA reporting purposes could have a devastating impact in the event of an audit. The taxpayer's appeal in this case may not be finally resolved until sometime next year. In the meantime, it remains to be seen how this decision will impact settlement negotiations for IFTA audit appeals filed by other taxpayers.

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



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