

the **Pennsylvania** Summer 2010

**Accountant**

**pspa**  
Community Accounting  
& Tax Professionals

The Magazine Of The Pennsylvania Society of Public Accountants

- ✓ ***Upcoming Seminar & Webcast Dates***
- ✓ ***Tax Preparer Registration – Get Your PTIN Now & Avoid the Rush!***
- ✓ ***Convention Highlights***



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## **A Message From The President**



PSPA's 63rd Annual Meeting was a great success. The event was held in Cooperstown, New York, at the beautiful Otesaga Resort on the bank of the Otsego Lake which is where the head waters of the Susquehanna River begin. Special thanks to the Philadelphia Tri-County Chapter for hosting such a memorable event.

It is a great honor to serve as your president for the upcoming year. I am looking forward to meeting many of you as I make my way around the state and visit the chapters at their monthly CPE meetings. I invite and encourage your input and I challenge you to take an active role in PSPA. Get out to your monthly chapter meetings, join the PSPA listserve, volunteer to be on a committee; these are all great ways to make the most of your membership and to be an active participant in your profession. I guarantee that the time you spend will be well worth the investment.

As you know, there are many changes on the horizon for our profession. The new tax return preparer registration, the federal and state electronic filing mandates and ongoing tax law changes just to name a few. As an organization we must navigate through these changes and chart a clear course by continuing to offer quality continuing professional education, proactive legislative involvement and continuing to grow and retain our membership.

Respectfully Submitted  
Barry L. Meyer PA, EA  
PSPA President



*The 2010-2011 Officers were installed at the 63rd Annual Meeting in Cooperstown, New York, June 24-27, 2010. Officers include (from left): Francis J. Cellini, First Vice President; Lamont B. Anderson, President-Elect; Barry L. Meyer, PSPA President; Irving Braunstein, Second Vice President; Frank H. Kelly, Secretary and John J. Komarnicki, Treasurer (Missing from Photo).*

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To place your order, access the CCH Member Direct Program through the PSPA 'members only' website. PSPA members should keep checking back to the CCH Partner Page as new monthly special promotions are being added to provide even deeper discounts on selected titles.

**Submit Your Questions to the PA  
Department of Revenue**

The PSPA Committee on Cooperation with the PA Department of Revenue will once again hold its annual meeting this fall. All PSPA members are invited to submit questions, issues or problems you have experienced. We ask that questions be of a systemic nature rather than specific client inquiries. You can submit your questions via email at [info@pspa-state.org](mailto:info@pspa-state.org) or via fax at 717-737-6847. Please have your questions concisely worded, providing enough background information and details as necessary. Please do not send any specific client information. If you are sending a form or notice that contains client information, please black the information out.



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SEMINAR 2010-2011**

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**REMINDER**

Licensees of the Pennsylvania State Board of Accountancy (Certified Public Accountants and Public Accountants) must have at least 20 hours of CPE by December 31, 2010. Licensees must also have 4 hours of ethics by the end of the 2-year CPE cycle which ends December 31, 2011 in order to renew their license.



# UPCOMING SEMINAR DATES

## ACCOUNTING PROGRAMS

DATE	TITLE	LOCATION	SPONSOR	CPE
09/22/10	Gear Up Accounting Seminar	Treose, Radisson Hotel	Buxmont Chapter	8 Hours A&A
09/28/10	Gear Up Accounting Seminar	Bethlehem, Best Western	Lehigh Valley Chapter	8 Hours A&A
12/07/10	Gear Up Accounting Seminar	Springfield, Springfield Country Club	Philadelphia Tri County Chapter	8 Hours A&A

## TAX PROGRAMS

DATE	TITLE	LOCATION	SPONSOR	CPE
09/20/10	Assisting Small Business from A to Z	Treose - Radisson Hotel	Buxmont Chapter	8 Hours Tax
09/22/10	1120/1065/1120S - Jennings Seminars	Woodlands, Wilkes Barre	Northeast Chapter	8 Hours Tax
09/22/10	Gear Up Business Entities Seminar	Springfield Country Club, Springfield	Philadelphia Tri County Chapter	8 Hours Tax
09/27 & 09/28/10	Gear Up Business Entities Seminar	Camp Hill, Radisson Penn Harris	Central/South Central Chapters	16 Hours Tax
10/08/10	Gear Up Business Entities Seminar	Pittsburgh, Hilton Garden Inn	Western PA Chapter	8 Hours Tax
10/19/10	Gear Up Fiduciary Taxation Seminar (1041)	Lancaster, Eden Resort	Central/South Central Chapters	8 Hours Tax
10/20/10	Gear Up Fiduciary Taxation Seminar (1041)	Springfield Country Club, Springfield	Philadelphia Tri County Chapter	8 Hours Tax
10/20/10	PA Department of Revenue Tax Seminar	Bethlehem, Best Western	Lehigh Valley Chapter	8 Hours Tax
10/21 & 10/22/10	Gear Up Business Entities Seminar	Treose - Radisson Hotel	Buxmont Chapter	16 Hours Tax
11/8 & 11/9/10	Gear Up 1040 Tax Seminar	Altoona, Altoona Ramada Hotel	PSPA	16 Hours Tax
11/8 & 11/9/10	Gear Up 1040 Tax Seminar	Springfield Country Club, Springfield	Philadelphia Tri County/ Southeast Chapters	16 Hours Tax
11/11 & 11/12/10	Gear Up 1040 Tax Seminar	Erie, Courtyard by Marriott	PSPA	16 Hours Tax
11/15 & 11/16/10	Gear Up 1040 Tax Seminar	Pittsburgh, Hilton Garden Inn	Western PA Chapter	16 Hours Tax
11/17 & 11/18/10	Gear Up 1040 Tax Seminar	Wilkes Barre - Woodlands Resort	Northeast Chapter	16 Hours Tax
11/18 & 11/19/10	Gear Up 1040 Tax Seminar	Bethlehem - Best Western	Lehigh Valley Chapter	16 Hours Tax
11/22 & 11/23/10	Gear Up 1040 Tax Seminar	Harrisburg - Sheraton Harrisburg Hershey	Central/South Central Chapters	16 Hours Tax
12/2 & 12/3/10	Gear Up 1040 Tax Seminar	Treose - Radisson Hotel	Buxmont Chapter	16 Hours Tax
12/13 & 12/14/10	Gear Up 1040 Tax Seminar	Harrisburg - Sheraton Harrisburg Hershey	Central/South Central Chapters	16 Hours Tax

## ETHICS PROGRAMS

DATE	TITLE	LOCATION	SPONSOR	CPE
09/28/10	IRS Update and Ethics	Willow Grove - Williamson's Restaurant	Buxmont Chapter	2 Ethics
10/19/2010	IRS Update and Ethics	Wilkes Barre - Woodlands Inn	Northeast Chapter	4 Ethics
12/08/10	IRS Update and Ethics	Harrisburg, Holiday Inn East	South Central Chapter	4 Ethics

# Live, Interactive **WEBCASTS**... It's Just Like Being There

DATE	TOPIC	CPE	Time
8/20/2010	Understanding Your Liability and How to Secure and Protect Corporate Information	8 Other	10:00 am EDT
8/24/2010	State of the CPA Profession	1 Other	9:00 am EDT
8/24/2010	The BP Oil Spill Reimbursement Process	4 Other	9:00 am EDT
8/25/2010	Compilation & Review Update	8 A&A	10:00 am EDT
8/24/2010	IFRS Adoption and Financial Statement Convergence	4 A&A	3:00 pm EDT
8/26/2010	Best Practices - Selecting & Implementing Accounting Software	8 Other	10:00 am EDT
8/27/2010	Best Practices - Creating & Managing Electronic Documents & Information	8 Other	10:00 am EDT
8/27/2010	Budgeting - Basic Elements of Effective Operational Budgeting	2	10:00 am EDT
8/30/2010	Ethics in Turbulent Times: How the World is Changing for Financial Managers	2 Ethics	9:00 am EDT
8/30/2010	Financial Statement Presentation and Disclosure - Part 1	4 A&A	10:00 am EDT
8/30/2010	Financial Statement Presentation and Disclosure - Part 2	4 A&A	3:00 am EDT
8/31/2010	Resolving Ethical Conflicts	2 Ethics	9:00 am EDT
8/30/2010	Change Management: Making Improvement Happen	2 Other	3:00 pm EDT
8/31/2010	The CFO's Role in Banking and Financing	2 A&A	12:00 pm EDT
9/8/2010	Banking Financial and Compliance Update Series - 3rd Q 2010	4 A&A	11:00 am EDT
9/22/2010	Government Contracting: Audits, Investigations and Reviews	2 A&A	9:00 am EDT
9/22/2010	Representing Clients in the Marriage Dissolution Process	8 Tax	10:00 am EDT
9/28/2010	Accounting Basics for Finance Professionals	4 A&A	11:00 am EDT
9/29/2010	Healthcare Conference	4 Other	8:15 am EDT
10/20/2010	2010 Accounting & Auditing Update	8 A&A	10:00 am EDT
11/20/2010	Business Fraud, Internal Controls and Forensic Analysis	8 A&A	10:00 am EDT
12/8/2010	Annual Tax Update	8 Tax	10:00 am EDT

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## NSA State Director's Message



NSA State Director  
of the Year

### NSA President Elect Woods Installs PSPA Officers

National Society  
of Accountants  
President Elect  
Donny J. Woods  
conducted the  
officer installation  
ceremony at  
PSPA's 63<sup>rd</sup> Annual  
Meeting held in

Cooperstown, NY.

Donny addressed the PSPA membership during one of the business meetings. He emphasized that NSA is proud to continue its partnership with PSPA and all Affiliated State Organizations (ASO). Donny referenced a recent letter from NSA President Robert Cross asking all ASO's to open up a new dialogue to redefine the partnership between the respective organizations, to create a new sense of accountability, and to establish a clear understanding of each organization's mutual expectations. In August of this year, Mr. Woods will assume the top job as NSA's President.

### NSA's 65th Annual Meeting

On August 18-21, 2010 NSA will hold their 65th Annual Meeting at the Hyatt Regency Crystal City in Arlington, VA. The east coast location offers an excellent opportunity for NSA's members from PA to attend and cast a vote for their leadership. Past PSPA President W. Raymond Bucks (2002-2003), will be running for re-election for a second two year term as NSA Governor of District II (PA, NY, NJ, DE & Puerto Rico). This is the highest office ever achieved at NSA by a PA delegate. Karen Hawkins, Director of the Internal Revenue Service (IRS) Office of Professional Responsibility, will keynote the NSA Annual Meeting, with an in-depth review of recent initiatives by her office to promote competency for filers and enforce compliance with ethics and

disclosure requirements. She will also review the impending IRS tax preparer registration and testing regulations. Registration information is available on NSA's website at [www.nsacct.org](http://www.nsacct.org)

### NSA Supports Amendment to Eliminate Section 413 from American Jobs and Closing Tax Loophole Act of 2010

NSA has sent a letter to U.S. Senators supporting an amendment to the American Jobs and Closing Tax Loophole Act of 2010. The amendment to the bill, which was passed by the U.S. House of Representatives, would eliminate Section 413 which, as written, would result in a significant increase in taxes and complexity for S corporations and their shareholders. The NSA letter states: "While it has been described as a "loophole closer" and a "payroll tax," it is neither. It is a new tax on small employers that will overturn more than fifty years of established tax policy. We believe Section 413 is overly broad and will result in more increased tax collections than increased tax compliance. "This new tax would hurt job creation. It would be imposed regardless of whether the affected firms make distributions to shareholders and partners, or retain that income to reinvest in jobs and capital equipment. Shareholders and partners of "flow-through" businesses are taxed on their firm's income even when that income is not actually distributed. As a result, this provision will reduce the capital these employers have to create jobs and invest in their businesses.

### NSA Leadership Networking & Legislative Strategy Conference

The 2010 Leadership Conference will be held September 24-26, 2010 in Oklahoma City, OK. This program is geared towards professional development and is open to everyone. The program spans 2 ½ days and offers learning tracks in Administration, Leadership & Legislative training. The

program includes workshops for each of the training categories. Attendees will earn up to 16 hours of Continuing Professional Education. Additional information is available on NSA's website at [www.nsacct.org](http://www.nsacct.org).

### NSA Offering Enrolled Agent Exam Review Course

In connection with its upcoming NSA 65th Annual Meeting, NSA is offering a three-day Enrolled Agent Exam Review Course on August 16-18, 2010. The Enrolled Agent Review Course provides a comprehensive review of all topics covered on the IRS Enrolled Agent exam, ranging from individuals to partnerships to corporations to property to estate and gift taxes to ethics and more. All facets of the exam will be covered, including test-taking tips, memory devices, planning tips, and war stories to help students better understand the material. Comprehensive handouts with numerous test questions will be provided to reinforce all learning concepts. The course provides 24 hours of CPE credit. For more information about the Enrolled Agent Exam Review Course, visit [www.nsacct.org](http://www.nsacct.org).

### Education

NSA continues to make quality education programs available on your desktop through **ConnectED**, a series of one hour webinars to help Accountants and Tax Professionals. For more information regarding the webinars please contact NSA toll free at (800) 966-6679.

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

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





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 Number of billable employees (with years of experience):

	F/Time:	P/Time*:
5+ years:	_____	_____
4 years:	_____	_____
3 years:	_____	_____
2 years:	_____	_____
1 years:	_____	_____
<1 years:	_____	_____
<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 percentages 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>

\*\* Call for a supplement

CLAIMS HISTORY (within the past five years):  None

Date claim(s) Reported	One: / /	Two: / /	Three: / /
Amount Paid, including	\$ _____	\$ _____	\$ _____
Defense Expenses	\$ _____	\$ _____	\$ _____
(if closed)	\$ _____	\$ _____	\$ _____
Reserve amount	\$ _____	\$ _____	\$ _____
(if open)	\$ _____	\$ _____	\$ _____

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If You're Not a Member  
of PSPA's Email  
Discussion Group...

## YOU'RE REALLY MISSING THE BOAT

### RECENT TOPICS OF DISCUSSION INCLUDE:

- Tax Preparer Registration
- Homebuyer's Credit
- Roth IRA Conversions
- Cancellation of Debt
- Efiling

Send an e-mail to [info@pspa-state.org](mailto:info@pspa-state.org) to  
subscribe to this **FREE** membership benefit!

## Tax Preparer Registration - Get Your PTIN Now & Avoid the Rush!

PSPA strongly suggests that all members who prepares taxes obtain a PTIN if you do not already have one, using form W-7P . Please be advised that preparers are **REQUIRED** to have a PTIN by December 31, 2010 to prepare taxes for the 2011 season. Return preparers who obtain PTINs before testing becomes available will have until December 31, 2013 to pass the competency testing. After testing becomes available, new return preparers will be required to pass the competency testing before they can obtain a PTIN. Circular 230 practitioners (CPAs, PAs, EAs & Attorneys) do not have to take the exam, but they are still required to have a PTIN.

IRS anticipates that the Tax Preparer Registration system (administered by Accenture) will be available by September 1, 2010. All practitioners who have a PTIN will be sent a letter to notify them that the online system is ready. At this time you will simply have to "refresh" your PTIN (your number will remain the same). Practitioners who do not have a PTIN by that time will have to apply for one then. Do it now and avoid the rush!

Although PTINs are currently issued for no charge, the IRS has recently released proposed regulations that would establish a \$50 fee for individuals who apply for a PTIN as well as an additional fee to be charged by the third-party vendor (Accenture) to operate the new online system. The registration will be an annual renewal based on your anniversary date of application (i.e. if you register on October 1st, your renewal date the following year will be October 1st).

It has not been determined when the 15 hour annual CPE requirement for preparers (those who are not Circular 230 practitioners) will go into affect.

Who needs to apply for a PTIN? We are waiting for further clarification on this issue, but the rules state that "a tax return preparer is an individual who, for compensation, prepares all or substantially all of a federal return or claim for refund." We will keep you informed if IRS offers further clarification of this issue.



*PSPA Past President Mary Lew Kehm, CPA (Lehigh Valley Chapter) was presented a distinguished service award at PSPA's 63rd Annual Meeting for her efforts on the PSPA listserv. "It is an honor to be recognized by my peers," — Mary Lew Kehm. Mary Lew chairs the PSPA Technology and Committee and moderates the PSPA email discussion group (listserv).*



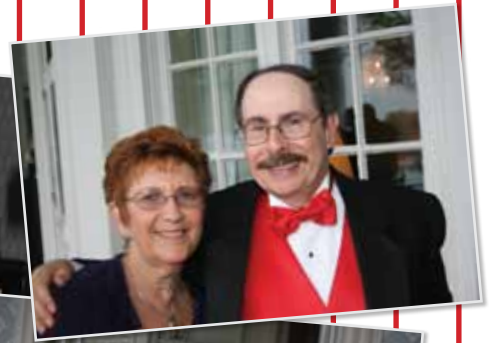
# 63rd Annual Meeting H I G H L I G H T S

June 24 - 27, 2010

Otesaga Resort of Cooperstown, NY

Hosted by: Philadelphia Tri-County Chapter









## CORNER

### **Easier Than Ever To Get An Answer From Social Security**

The Social Security Administration has recently revamped their "Frequently Asked Questions." The new page resembles a search engine. Simply type in your question, or some key words, and you'll get links to quick answers that relate directly to your subject matter. The redesigned page also features a faster response time. The FAQ can be found at [www.socialsecurity.gov](http://www.socialsecurity.gov).

### **One Time Filing Relief for Small Non-Profits Announced**

The IRS (IR-2010-87) will offer one-time filing relief to small nonprofit organizations at risk of losing their tax-exempt status for failing to file returns in the past three years. Under the program, the nonprofits must file returns by October 15 to preserve their exempt status. The IRS has posted on its website the names and last-known addresses of the at-risk organizations, along with guidance on how they may come back into compliance. Two types of relief are available for small exempt organizations: a filing extension for the smallest organizations required to file Form 990-N, "Electronic Notice (e-Postcard)," and a voluntary compliance program for small organizations eligible to file Form 990-EZ, "Short Form Return of Organization Exempt From Income Tax." Small organizations required to file Form 990-N are instructed to go to the IRS website, supply the eight information items called for on the form, and electronically file it by October 15. The relief is not available to larger organizations required to file the Form 990 or to private foundations that file the Form 990-PF. The IRS said it will maintain the list of at-risk organizations on its website until October 15 and that the exempt status of nonfiling organizations will be revoked after that time. The IRS will publish a list of the revoked organizations in early 2011.

### **IRS Removes Debt Indicator for the 2011 Filing Season**

The Internal Revenue Service announced that starting with next year's tax filing season it will no longer provide tax preparers and associated financial institutions with the "debt indicator," which is used to facilitate refund anticipation loans (RALs).

"As we prepare for tax season every year, we look at past practices and consider whether they still make sense. We no longer see a need for the debt indicator in a world where we can process a tax return and deliver a refund in 10 days," IRS Commissioner Doug Shulman said. "We encourage taxpayers to use e-file with direct deposit so they can get their refunds in just a few days."

So far this year, more than 95 million tax returns have been e-filed, representing more than 70 percent of tax returns.

The IRS has been reviewing refund settlement products, such as RALs and Refund Anticipation Checks (RACs), as part of the Return Preparer Review released in January. Specifically, the IRS announced that it would study refund settlement products.

In a related effort, the IRS plans to explore the possibility of providing a new tool for the 2012 tax filing season to give taxpayers a mechanism to use an appropriate portion of their tax refund to pay for the services of a professional tax return preparer. The IRS plans to engage with taxpayers, consumer advocates and the tax return preparer community to consider whether providing this option would be a cost-effective way for consumers to pay for tax return preparation services.

### **Pennsylvania Department of Revenue Electronic Filing Mandate**

The July 3, 2010 issue of the Pennsylvania Bulletin included the Pennsylvania Department of Revenue's announcement for the mandatory electronic filing of tax returns which becomes effective January 1, 2011

for the 2010 tax year. The following information was reprinted from the *Pennsylvania Bulletin*:

The Secretary of the Department of Revenue (Department) announces that, effective January 1, 2011, for the tax year beginning on or after January 1, 2010, except as provided in this notice, any PA-40 (2010) Pennsylvania Personal Income Tax Return prepared by a third party preparer who submitted at least 50 PA-40 (2009) Pennsylvania Personal Income Tax returns required to be filed in the 2010 calendar year or amended PA-40 Pennsylvania Personal Income Tax returns filed in the 2010 calendar year for any taxable year beginning before January 1, 2010, or both, shall be filed using the electronic method (e-file) in the manner prescribed by Departmental instructions.

For purposes of this notice, the phrase "third party preparer" means any natural person, fiduciary, corporation or other entity who or that prepares for remuneration, or who employs one or more persons to prepare for remuneration, any return for a tax administered by the Department or is assigned a Preparer Tax Identification Number (PTIN) by the Internal Revenue Service. None of the following, however, are considered third party preparers for remuneration: (1) Tax return preparers who voluntarily prepare the returns of others for no pecuniary benefit; (2) Persons who merely provide mechanical assistance such as typing; (3) Regular employees of an employer who prepare returns for other regular employees of the employer or the employer's officers and regular employees; or (4) Fiduciaries who prepare returns for the trusts or estates that they serve.

To determine if an entity meets the 50 return threshold, include all of the returns prepared by all of the members or employees of the entity. If it has multiple locations, use the combined total for all locations. Nonresident and part-year PA-40 returns are also included

in determining whether a preparer meets threshold requirements. A PA-41 Fiduciary Income Tax Return, PA-40NRC Nonresident Consolidated Income Tax Return, PA-40 KOZ Pennsylvania Income Tax Keystone Opportunity Zones Return or fiscal year return is not counted.

A third party preparer is not required to e-file a return:

- Upon which the taxpayer has specifically directed the preparer to use the paper forms prescribed by the Department.
- If the preparer's tax software does not support e-filing of a required attachment to the return.
- That may not be e-filed under Chapter 4, "Filing An Electronic Return," of PA-1345 *Handbook For Electronic Filers of Pennsylvania Individual Income Tax Returns for Tax Year 2009*.

If the tax software of a preparer who is required to e-file under this notice cannot support the e-filing of PA-40 returns in conformity with Chapter 4, "Filing An Electronic Return," of PA-1345 *Handbook For Electronic Filers of Pennsylvania Individual Income Tax Returns for Tax Year 2009*, tax software that does so support the e-filing of PA-40 returns must be acquired. In 10(c), however, the Department may waive the method accordance with 72 P.S. § of filing prescribed under this notice if the Department determines the provisions of this notice constitute undue hardship on the preparer. The preparer must request a waiver in writing that clearly states why the filing method causes an undue hardship. Requests for waivers shall be mailed to the Department of Revenue, Bureau of Individual Taxes, P. O. Box 280507, Harrisburg, PA 17128 by November 30, 2010. If the Department grants the waiver, the preparer may file a signed, paper Pennsylvania Personal Tax Return or Returns beginning on January 1, 2011, through December 31, 2011.

### **Hobby Loss Case**

The hobby loss rules can limit your deduction for losses from an activity if the IRS finds that you did not engage in the activity with an intent to make a profit. The regulations under Section 183 contain nine factors the courts can examine. In *Linda K. Betts* (T.C.

Memo. 2010-164) the taxpayer listed her profession on her Schedule C (and later Schedule F) as horse training. The Court noted that the taxpayer maintained a separate checking account, used business cards, kept an Excel spreadsheet of her income and expenses, and kept a file for each horse. However, there was little evidence that the books and records were kept for the purpose of "cutting expenses, increasing profits, and evaluating the overall performance of the operation." When asked at trial, the taxpayer was unable to allocate profits and expenses to the sale of one horse because she "didn't break it out that horse used x amount of food and x amount of shavings and x amount of farrier." Without such knowledge, the taxpayer could not have known how profitable the entire operation was. The Court said there was no doubt she expected the horses to appreciate, but some of her expectations were unrealistic. And the Court was unconvinced by her argument that the real property should be included as part of her horse activity, particularly since she also used the real estate as her residence. The Court held the activity was not engaged in for profit and she was not entitled to deduct expenses in excess of her gross income from the activity.

### **Pennsylvania Supreme Court Reaffirms Taxability of Canned Software**

The Supreme Court of Pennsylvania recently issued its decision in *Dechert LLP v. Commonwealth of Pennsylvania* regarding the taxability of canned computer software. The Court reaffirmed the January 2008 Pennsylvania Commonwealth Court decision (and the PA Department of Revenue's position) that canned software is tangible personal property and irregardless of the method of delivery, is subject to sales and use tax in the Commonwealth.

"The majority determined that although the sales tax statute is somewhat lacking in clarity, legislative action surrounding Pennsylvania's tax on computer services during the 1990's suggests that the legislature was aware of, and therefore tacitly approved, the Department of Revenue's position that canned computer software constituted tangible personal property and was

thereby taxable upon transfer. The Court upheld taxation of software transferred by disc and by electronic download.

Although the Court did not directly decide the issue, the majority opinion indicates that tax does not apply to software support and maintenance services which do not involve any transfer of software or other tangible personal property. "McNees Wallace & Nurick, PA Tax Alert, July 2010.

### **Form 5500 & Schedule SB**

Notice 2010-55 provides guidance on filing Form 5500 and Schedule SB for single-employer defined benefit plans for plan sponsors who are considering use of the special funding rules under Sec. 430(c)(2)(D). New Sec. 430(c)(2)(D) permits a plan sponsor to reduce a plan's minimum required contribution for certain years by electing to use an alternative shortfall amortization schedule. This notice also describes anticipated future guidance that will apply for sponsors of single-employer defined benefit pension plans with respect to an election to use these special funding rules. It will be published in IRB 2010-33.

### **Important Unemployment Compensation (UC) Wage and Tax Filing Information**

The Department of Labor & Industry anticipates the Employer Tax Services phase of the Unemployment Compensation Management System, or UCMS, to be available this fall.

The new management system is designed to replace the department's legacy systems that are more than 40 years old. The Employer Tax Services phase will:

- Allow real-time, 24-hour access to employer account data in a secure environment.
- Provide enhanced online access to documents, such as rate notices and general correspondence, as well as self-help information.
- More specifically: Employers, third-party administrators (TPA) and professional employer organizations (PEO) will be able to access and update their demographic and contact information from their own

self-service portal.

- Paper power of attorney (POA) forms for tax-related issues will no longer be accepted. An online interface has been developed for joint authorization by employers, TPAs and PEOs that will replace the paper POA process. All POA relationships must be reestablished in the new system for those wishing to continue accessing specific client account data or taking specific actions within an employer account. The POA process is not necessary in those instances where the TPA or PEO is only mass-filing tax and wage reports and payments on behalf of clients via FTP or Upload. Please note that the paper UC-884 POA form will still be required for UC Benefit purposes to create or change power of attorney for the notices of compensation charged, financial determination and relief from charge.
- Employers may choose to receive an e-mail alert each time a form, correspondence or notice is generated for their account.
- Online contribution rate estimation tools will be available.
- The employer portal will replace e-TIDES for online UC tax and wage filing and payments. Once UCMS is implemented, employers and/or their representatives must log in to the Department of Labor & Industry's new UC application to file and pay UC quarterly reports. Credit card, ACH credit and ACH debit will be accepted for electronic payment. E-TIDES will still be used to file and pay Pennsylvania business taxes other than UC.
- This new system has been designed to allow more self-service options to electronically report employee wage and tax information. The department will no longer accept magnetic media (magnetic tape cartridge, 3½-inch diskette, CD-R or DVD). You will have the options to electronically file employee wage and tax information via online entry or file upload from your employer portal, or submit your wage detail and tax report files via File Transfer Protocol (FTP) at any time for any quarter. Contributions due will be calculated immediately

for online filers only. For upload and FTP filers, there will be a 48-hour delay.

- The electronic filing formats and layouts currently used for magnetic media and e-TIDES will require some minor changes. An electronic filing handbook has been created with the updated file formats and layouts, and can be accessed at the UCMS Web page\*.
- TPAs will be able to submit monthly client data files to ensure data integrity and accuracy when filing future quarterly tax reports via FTP.
- Employers will have the option to utilize credits on future tax periods or have refunds direct deposited into their bank accounts.
- Employers/TPAs will be able to view their reporting and payment information online.
- Employers will be issued a monthly statement of account for all delinquencies.
- Employers will be able to obtain FUTA certification online through their self-service portal.
- Employers will be able to submit contribution rate appeals online and, in some cases, receive an immediate response. During the rate appeal period, additional online tools will be available to calculate debit reserve account balance adjustment elections and voluntary contributions.
- Other state agencies will be able to perform online clearance inquiries.

When the new UC tax system is available for use, the department will send another direct mailing that will include instructions on how to log into your self-service portal.

In 2011, the department will require electronic filing of quarterly UC tax and wage reports. This new requirement will begin with the first-quarter filing due on April 30, 2011. Paper quarterly reporting forms will no longer be mailed to employers. This supports the department's efforts in standardizing the collection of wage data and employer contributions, increasing employers' self-service options, improving the accuracy of data and making processing more efficient.

For more information on the new UC

tax system, visit the UCMS Web page, or call the UC Employer Contact Center toll-free at (866) 403-6163 or within the Harrisburg area (717) 787-7679. Employer questions regarding the new UC tax system should be submitted in an e-mail to [uc-news@state.pa.us](mailto:uc-news@state.pa.us).

To access the UC Management System Web page:

1. In your Web browser, type [www.uc.pa.gov](http://www.uc.pa.gov)
2. Click on **Employer Services**.
3. Click on **UC Management System**.

### ***Pennsylvania Increases Rebates for Home Heating Equipment***

Pennsylvania is increasing the rebate amounts to those who purchase a new, Energy Star-rated hot-water heater, furnace or boiler. The program began in April and offered rebates from \$100 to \$500. Now, for purchases made on or after August 2, 2010 rebates will range from \$250 to \$1,000. The higher the equipment's efficiency rating the larger the rebate. The \$11 million program is paid for by federal economic stimulus money. Consumers will continue to receive rebates until the funds run out; currently 72% of the funds are remaining.

### ***Basic FDIC Insurance Coverage Permanently Increased to \$250,000 Per Depositor***

On July 21, 2010, President Obama signed the Dodd-Frank Wall Street Reform and Consumer Protection Act, which, in part, permanently raises the current standard maximum deposit insurance amount to \$250,000. The standard maximum insurance amount of \$100,000 had been temporarily raised to \$250,000 until December 31, 2013. The FDIC insurance coverage limit applies per depositor, per insured depository institution for each account ownership category.

The temporary increase from \$100,000 to \$250,000 was effective from October 3, 2008, through December 31, 2010. On May 20, 2009, the temporary increase was extended through December 31, 2013.

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*The PA Accountant is published four times annually by the Pennsylvania Society of Public Accountants, 20 Erford Road, Suite 200A, Lemoyne, PA 17043. All editorial correspondence, manuscripts, etc, should be sent to: PSPA, 20 Erford Road, Suite 200A, Lemoyne, PA 17043. This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. The publication is not engaged in rendering legal, accounting or other professional services.*

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