AUGUST 2002

THE PENNSYLVANIA ACCOUNTANT

Serving the Public Accounting Profession for over 50 years • P.S.P.A.

The Newsletter Of The Pennsylvania Society Of Public Accountants

- PSPA 55th Annual Meeting Highlights
- 2002-2003 Budget Package
- Joint & Several Liability Doctrine
- New Jersey Enacts Sweeping Corporation Business Tax Reforms

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A Message From The President

I hope everyone is enjoying their summer respite. I again want to thank the Pittsburgh Chapter for their hard work in regards to the PSPA 55th Annual Meeting which took place in June. Highlights from the convention appear on the center pages of this newsletter.

PSPA as well as the accounting industry will have many issues to face as a result of the recent accounting scandals. Every legislative body wants to show how tough they can be to the accounting industry. While much of the criticism is deserved, it will be the PSPA leadership's job to make sure it is balanced and doesn't go too far and harm small practices.

Our Board is still working with NSA in developing a peer review program for reviews and compilations (although compilations are not subject to peer reviews by PA law) as an alternative to the PICPA's program. There have been great strides made during the past few months in this area. We will keep you apprised of new developments in this area.

The Technology Committee will be setting goals for enhancing the PSPA Web Site in the coming year. The Web Site is an ongoing project, and progress will be reported to the membership in future newsletters. If you have not seen the site I encourage you to visit us at www.pspa-state.org. The 'Hot Topics' section on the home page of the site is continually updated with timely information for small firms.

Our annual leadership conference will be held before our September Board of Directors Meeting. All Chapters should be sure to send new officers and any other officers who have not attended one of these conferences.

I will be visiting all the Chapters in the coming months. I look forward to meeting many of you who are not able to attend Board meetings or our Annual Membership Meeting. Remember, PSPA can only be as strong as its membership. It is an honor to lead what can be a great and powerful membership into the battles that lie ahead in the coming year.

Repectfully Submitted,

Raymond Bucks, CPA
PSPA President

THE PENNSYLVANIA ACCOUNTANT

In Memoriam
PSPA Past President, J. Edward Snyder
Public Accountant
1928-2002

J. Edward Snyder served as President of the PSPA from 1985-1987. A member of the Central Chapter, he formerly served as Chairman of the PSPA Legislative Committee and as Chairman of the PSPA Committee for Monitoring the Pennsylvania State Board of Accountancy. Through the years, Ed established an excellent working relationship with many local legislators.

Ed practiced public accounting since 1955 and was the principal in his own accounting practice in Oley since 1971. He held a license to practice before the Internal Revenue Service.

Committed and dedicated to the advancement of PSPA and the accounting profession, he was also extremely active within his community. He was the Organist and Choir Director for Salem Shalter's UCC and Lutheran Church for over fifty years until his retirement in 2000. He served as treasurer of the Shalter's Cemetary Board, Salem Shalter's Union Church and Salem Shalters United Church of Christ. He served as a member of the advisory board of the National Penn Bank; he was a past treasurer of the Sertoma Club of Reading; he funded a scholarship at Oley Valley High School. Snyder was a 1966 graduate of the Talus CPA School and a 1954 graduate of the United States Armed Forces Institute with a degree in accounting. He was an Army veteran of the Korean War.

His contributions to the PSPA are numerous and he will be greatly missed.

2002-2003 PSPA LINE OFFICERS

Left to right: Linda M. Roth, CPA, Second Vice President; Richard Brasch Jr., CPA, First Vice President; Timothy J. Sundstrom, CPA, President Elect; W. Raymond Bucks, CPA, PSPA President; Paul J. Cannataro, CPA, Treasurer; Gerald L. Brenneman, CPA, Secretary.

In this Issue....

THE PENNSYLVANIA ACCOUNTANT

HIGHLIGHTS OF 2002-2003 BUDGET PACKAGE

By Sharon R. Paxton, Law Offices of McNees Wallace & Nurick

House Bill 1849, Act No. 89 of 2002 was recently signed into law by Governor Schweiker for fiscal year 2002-2003. The following pages will highlight the Pennsylvania tax changes passed with Act 89 of 2002.

CAPITAL STOCK/FRANCHISE TAX

Tax Rate Increased/Phase-out Deferred - For tax years beginning in 2002, the tax rate is increased to 7.24 mills. The rate had previously been set at 6.49 mills, a reduction of 1.0 mill from the 2001 rate. Rates for subsequent years are also increased: 2003 (5.49 to 6.99), 2004 (4.49 to 5.99), 2005 (3.49 to 4.99), 2006 (2.49 to 3.99), 2007 (1.49 to 2.99), 2008 (0.49 to 1.99), 2009 (0 to 0.99). The tax is now slated to be fully phased-out by 2010, rather than 2009 as under prior law.

Interests in Unincorporated Entities - A "corporation" owning an interest in a general or limited partnership, or in another unincorporated entity which is not also a "corporation" for CSFT purposes, is considered to own directly a proportionate share of the unincorporated entity's assets.

1st Class Corps. Taxable - Corporations of the First Class (an old type of stock, non-profit corporation) are no longer excluded from tax.

CORPORATE NET INCOME TAX

Decoupling from Federal Bonus Depreciation - Federal Bonus Depreciation has been disallowed for CNI purposes. Depreciation must be computed under prior IRC rules, except that if the property is sold before fully depreciated, depreciation in year-of-sale is recomputed to deduct the portion of Federal Bonus Depreciation not already recovered through higher annual depreciation deductions.

NOL Carryforward Extended - Net losses from 1998 and subsequent tax years may be carried forward 20 taxable years. The previous maximum 10-year carryforward period continues to apply to losses from 1995-1997; the $2 million dollar cap on losses deductible in any tax year continues to apply to all tax years.

Interests in Unincorporated Entities - A "corporation" owning an interest in a general or limited partnership or an LLC treated as a partnership for federal purposes, or another unincorporated entity which is not also a "corporation" for CNI purposes, is considered to own directly a proportionate share of the unincorporated entity's assets.

R&D TAX CREDITS

R&D Credits Extended - The final year for expenditures qualifying for the R&D Credit has been extended from 2004 to 2006.

PHILADELPHIA BUSINESS PRIVILEGE TAX

Philadelphia BPT Decoupled - Philadelphia's Business Privilege Tax has been decoupled from the Federal Bonus Depreciation rules.

PERSONAL INCOME TAX

Method of Accounting - The Department of Revenue is authorized to determine the appropriate method of accounting where (a) the taxpayer has not regularly used a particular method, or (b) the method used by the taxpayer does not clearly reflect income.

Depreciation Method/Tax Benefit - Statutory provisions have been added regarding appropriate depreciation methods. Generally, a taxpayer may use the same depreciation method used for federal tax purposes, or a method prescribed by the Department of Revenue. Basis shall be reduced by the greater of (a) the depreciation taken on the return, to the extent it reduces taxable income, or (b) the straight-line amount.

Decoupling from Federal Bonus Depreciation - Federal Bonus Depreciation rules do not apply. In addition, Section 179 property may be treated as a deductible expense only to the extent allowable under the version of Section 179 in effect when the property was placed in service or under Section 179 of the Internal Revenue Code of 1986, whichever is earlier.

Poverty Exemption - The Tax Forgiveness provisions are expanded by increasing the dependent allowance from $8,500 to $9,000. A family of four earning up to $31,000 will owe no tax.

Bulk Sales - The PIT bulk sale provisions are consolidated with the corporate tax bulk sale provisions; purchasers who fail to obtain a clearance certificate are responsible for the seller's unpaid withholding taxes and generally cannot challenge the merits of the liability after the seller's appeal period has expired.

SALES & USE TAX

Mobile Telecommunications - The provisions for determining which services are subject to tax in Pennsylvania have been conformed to the Federal Mobile Telecommunications Sourcing Act, effective for services billed after August 1, 2002. Mobile telecommunications services will be taxable in Pennsylvania if the customer's place of primary use is located within Pennsylvania, regardless of where the call originates, terminates or passes through. To effect this change, mobile

Continued on page 5

telecommunications service has been excluded from the definition of "telecommunications service."

Tax Collection by Out-of-State Delivery Companies - Persons delivering tangible personal property into Pennsylvania are now required to collect Pennsylvania sales tax on property which they unpack, position, place or assemble, to the extent they are also responsible for collecting any portion of the purchase price on behalf of the vendor. This collection obligation is enforceable through new provisions authorizing immediate assessments and the detention of personal property under certain circumstances.

Construction Contractors - The definitions of "construction contract" and "real estate structure," as enacted by Act 45 of 1998, have been amended. Under the amendments, provisions treating "building machinery and equipment" as real estate apply only to construction contracts with tax-exempt entities.

Farming Exclusion - The tax exclusion for property used directly in farming, dairying or agriculture has been explicitly extended to contractors who perform services for a business enterprise engaged in the production of food. The Act states that this is a clarification of existing law.

Inclusion of Tax in Advertised Price - Effective July 1, 2002, sales tax may be included in the advertised price for prepaid telecommunications services and prepaid mobile telecommunications services.

Bulk Sales - The sales tax bulk sale provisions have been consolidated with the corporate tax bulk sale provisions. Purchasers who fail to obtain a bulk sale clearance certificate from the seller will be responsible for the seller's unpaid sales and use taxes and will generally be unable to challenge the merits of the liability after the seller's appeal period has expired.

UCC Filing Fees - Effective July 1, 2002, separately-stated Uniform Commercial Code filing fees are exempt from Sales and Use Tax.

Penalty for Selling without License - Effective August 30, 2002, the minimum fine for making taxable sales in Pennsylvania without a license has been increased from $100 to $300; the maximum fine has been increased from $1,000 to $1,500.

INHERITANCE & ESTATE TAX

Estate Tax Decoupled - Pennsylvania's Estate Tax is decoupled from the 2001 amendments to the Federal Estate Tax, and a return filing obligation is imposed to facilitate determination of the decoupled tax.

Sole Use Trusts - A transfer to a trust over which the decedent's spouse holds a general power of appointment does not qualify for tax exemption as a "transfer of property for the sole use" of the decedent's spouse. This provision overturns a court decision to the contrary.

PUBLIC UTILITY TAXES

Gross Receipts Tax Surcharge - If the total amount of Public Utility Realty Tax ("PURTA") refunds (reductions granted pursuant to tax appeals) during any fiscal year exceeds $5,000,000, a surcharge will be imposed on taxpayers subject to the Utilities Gross Receipts Tax for the following calendar year. The surcharge rate will be calculated by dividing the total reduction in PURTA taxes for the fiscal year by the total amount of taxable gross receipts for the prior calendar year.

Utilities Gross Receipts Tax - The revenue neutral reconciliation rate has been permanently set at 15 mills for 2003 and thereafter.

CIGARETTE TAX

Tax Rate - The state tax rate on cigarettes has been increased from 31 cents per pack to $1.00 per pack, effective July 15, 2002. This increase is expected to raise about $591,000,000 during fiscal year 2002-03.

Penalties - Penalties for dealers who fail to file reports or pay cigarette taxes have been expanded. Effective July 15, 2002, the Department may impose an administrative penalty equal to the amount of tax evaded or not paid or suspend or revoke the dealer s license. Willful violations will constitute a misdemeanor with a fine of $2,500 to $5,000 and/or imprisonment for up to thirty days.

Appeals - The Cigarette Licensing, Marketing and Control Board in the Department of Revenue has been eliminated. All department actions and complaints regarding cigarette licensing and marketing will be reviewed by the Board of Appeals.

PROCEDURAL CHANGES

Immediate Assessments/Settlements - Effective July 1, 2002, the Department is authorized to make an immediate assessment or settlement of Sales and Use Tax, Corporate Net Income Tax or Capital Stock/Franchise Tax (including interest and penalty), if it determines that a liability is in jeopardy of not being collected. The Department is also authorized to compel security for the payment of such liability, including the detention of tangible personal property. The detention of tangible personal property is, however, prohibited if the taxpayer presents a valid Pennsylvania sales tax license, posts a bond in an amount determined by the Department or pays the tax, interest and penalty due.

Refund Rights Abrogated - The extended statute of limitations for refund claims involving taxes struck down by the courts has been repealed, effective July 1, 2002. Under the repealed provision, a refund petition could have been filed within three years of the later of (a) the date of payment or (b) the date of settlement, assessment, etc. Now, such claims will have to be filed (a) within three years from the date of voluntary payment or (b) within six months from the date of settlement or assessment.

Sharon R. Paxton is a member of McNees Wallace & Nurick's State and Local Tax Group. Additional Pennsylvania tax information may be obtained at the firm's "Pennsylvania Tax Page" on the Internet at: www.mwn.com/public/patax.html.

There's Value in Membership...
RENEW TODAY!

The PSPA specializes in providing sole practitioners and smaller accounting firms with the tools necessary to compete in today's accounting profession. Our staunch commitment to preserving the practice rights of small firms has earned us the support of many accounting professionals throughout the Commonwealth and in neighboring states. There's no better value than a PSPA membership…RENEW TODAY!

Quality, Low Cost CPE - All CPE programs offered by the PSPA are tailored to meet the educational needs of sole practitioners and small accounting firms. PSPA members enjoy quality CPE at about half of what larger organizations charge. Our Gear Up programs are very popular and we conveniently offer them at multiple times and locations throughout the state.

Voice of the Independent Practitioner - With the never-ending regulatory and legislative changes in the accounting professions, it is important to have an organization on *your* side. In other accounting organizations the interests of small firms are often overshadowed by the demands of larger, wealthier accounting firms...this just doesn't happen at the PSPA. YOU are our number one priority, and your interests and those of your small business clients are well represented in Harrisburg.

Exclusive Member Publications - The PA Accountant and the PSPAeUpdate are designed to help members stay abreast of the latest state and national professional and technical issues.

Discount Programs - Discounts on a wide array of practice enhancing products including the most popular Commerce Clearing House Guidebooks, Quickfinder Handbooks, Professional Liability Insurance, Disability, life, homeowners and auto insurance, United Parcel Service, Disney Club and many others.

Spread the Word to Other Accounting Professionals and Earn Big Rewards!!!

If you are pleased with your PSPA membership share the news with fellow accountants. The PSPA membership committee will issue you a $25.00 "*PSPA Money*" voucher and a PSPA logo coffee mug for each new, active member you recruit into the membership. Simply sign the membership application on the "sponsor" line. Once we receive the application we'll send you the voucher. *"PSPA Money"* can be used for any PSPA sponsored event, seminar, or toward your annual membership dues. PSPA membership applications can be obtained online at www.pspa-state.org or by contacting the PSPA Executive Office at 1-800-270-3352.

Joint & Several Liability Doctrine Abrogated, in part, by Pennsylvania General Assembly

By Robert A. Mills, Esq., McNees, Wallace & Nurick

On June 19, Governor Schweiker signed Senate Bill No., 1089 into law. New Act 2002-57 amends Title 42 (Judiciary and Judicial Procedure), "The Judicial Code," by adding language to Section 7102 thereof altering, in a material way, the doctrine of joint and several liability in the Commonwealth. When effective, defendants in a lawsuit now will be held financially accountable for money damages only for their percentage of liability determined by a judge or jury (with certain exceptions as noted below). The joint and several liability change is effective 60 days from June 19, 2002, or on or about August 19.

The doctrine of joint and several liability is a 19th Century common law rule. It holds that, in the case of multiple defendants, every defendant found liable is responsible for the full amount of a verdict. Thus, liability is "joint" because all the defendants are liable together and "several" in that any defendant only minimally at fault may be held liable for the entire dollar amount of a verdict entered against multiple defendants.

The effect of this rule is demonstrated in the following example. Assume that three defendants are sued by a plaintiff who was injured by a product. Defendant No. 1 manufactured the product; Defendant No. 2 was a supplier of the product who marketed it to Defendant No. 3, the retailer who sold the product to the consumer. Assume also that Defendant No. 1 was negligent or otherwise materially at fault in manufacturing this product. Assume also that Defendant No. 2 had "heard some rumors" about a manufacturing defect but did not inquire further, and finally, assume that Defendant No. 3 possibly should have known by investigation that there was a problem with the product.

Following a trial, it is determined that the manufacturer (Defendant No. 1) was 80% responsible for the plaintiffs' injuries; the supplier (Defendant No. 2) was 15% responsible and the retailer (Defendant No. 3) was 5% responsible.

Fairness under our judicial system would impose responsibility for paying the amount of the verdict by each defendant in those foregoing percentages. But as occasionally occurs, one of the defendants may be unreachable, impecunious, in bankruptcy, out of business, or otherwise unable to pay. When that is the defendant which has been determined to be the most responsible (the manufacturer in our example) unfairness results.

The arguments about joint and several liability are a classic example of how the judicial system reacts to unfairness. Should the result of unfairness be visited upon someone other than the plaintiff? That is, should our judicial system compensate that plaintiff at 100%, even though it will require relatively non-at-fault defendants to pay more than their fair share? This is what the plaintiff or trial bar argues the result should be.

Business and professional groups, however, point out that, having determined the percentage of fault in the court case, fairness should dictate that this percentage should equate with financial responsibility for payment. That is, if a relatively non-at-fault retailer has been determined to be 5% at fault, then the retailer should pay only 5% of the amount of the verdict. If not all defendants can pay, then the unfairness falls on the plaintiff who will collect less than the full amount of the verdict.

Many deep pocket defendants, including the Commonwealth of Pennsylvania, have argued that they are drawn into a court case in the hopes that they will be found at least minimally responsible, and that the focus, thereafter, turns on forcing those defendants to pay the entire award. It is then up to those defendants to sue their co-defendants if they want reimbursement. Examples abound in the toxic tort and asbestos cases, where many businesses over the years have gone bankrupt and where only a few of the more solid companies have ended up paying entire awards even though minimally responsible.

With the recent legislative action resulting in the passage of Act No. 2002-57, Pennsylvania has now joined some 35 other states that have modified or repealed this doctrine. Although the general rule now will be that defendants are financially accountable only for their percentage of liability, the legislature added several important exceptions; thus, the preexisting joint and several liability doctrine will apply in those instances.

The most important exception is that the change in the law does not apply in a case where a defendant is found to be more than 60% liable. The effect of this exemption is demonstrated by our example. If Defendants No. 2 and 3 are impecunious, Defendant No. 1, judged to be 80% at fault, would be required to pay 100% of the verdict. On the other hand, if Defendant No. 1 were impecunious, then Defendants No. 2 & 3 would only be required to pay 15% and 5%, respectively, of the amount of the verdict.

There are several other exceptions to the abrogation of the doctrine. A defendant may still be held liable for 100% of the damages if the defendant intentionally misrepresented itself, intentionally injured the plaintiff, sold alcohol to drunken patrons, or is involved in a suit arising from a hazardous chemical release.

As is true with many statutes which make a major change to judicial law, it will be some time before the actually effect of this statute becomes known. Nonetheless, it is anticipated that, generally speaking, business and professional groups will benefit from the abrogation of the joint and several liability doctrine.

Robert A. Mills is an attorney with the Harrisburg, PA office of McNees Wallace & Nurick LLC. Mr. Mills has represented numerous trade associations, including the Pennsylvania Society of Public Accountants, in Pennsylvania for many years. He may be reached at rmills@mwn.com.

Chapter Meeting Dates

Buxmont Chapter

All meetings are held on the fourth Tuesday of the month at Williamson's Restaurant, Route 611 & Blair Mill Road, Horsham unless otherwise noted.

Visit www.pspabuxmont.org for more information on chapter meetings and seminars.

September 12, 2002
Legislator Appreciation Night
TIME: 6:00 P.M. Cocktails, 7:00 P.M. Dinner

September 24, 2002
TOPIC: TBA

October 22, 2002
TOPIC: TBA

November 26, 2002
TOPIC: TBA

December 17, 2002
TOPIC: TBA

Central Chapter

ALL UPCOMING MEETINGS TO BE ANNOUNCED

Lehigh Valley Chapter

All chapter meetings are held on the third Tuesday of the month at the Holiday Inn east, Bethlehem unless otherwise noted.

August 20, 2002
Legislator Appreciation Night Clam Bake

September 17, 2002
TOPIC: Single-Owner 401(k) Plans
SPEAKER: Jeff Febbo, CJM Planning

October 15, 2002
TOPIC: Understanding and Partnering with the Small Business Development Center
SPEAKER: Sally M. Handlon, Program Director, Business Education & Training, Lehigh University SBDC

November 19, 2002
TOPIC: PA Tax Update (4 hour session)
SPEAKER: McNees Wallace & Nurick

December 17, 2002
TOPIC: Annual Holiday Party

Northeast Chapter

December 2002
DATE & TOPIC TBA

January 18, 2003
Northeast Chapter Annual Scholarship Dinner
Clarion Hotel, Scranton

Philadelphia Chapter

All chapters meetings are held on the third Monday of the month at Williamson's Restaurant on City Line Avenue (GSB Building) unless otherwise noted.

August 19, 2002
TOPIC: Practice Management
SPEAKERS: Marvin R. Huttman, CPA
Timothy J. Sundstrom, CPA
TIME: 5:30-9:00 P.M.
CPE: 2 Hours Other

October 21, 2002 - Mini Seminar
TOPIC: Inheritance Tax
SPEAKER: J. Paul Dibert, Director of PA Inheritance Tax & New Jersey Inheritance Tax Representative
TIME: 3:30 - 9:15 P.M.
CPE: 5 Hours Tax

November 18, 2002
TOPIC: Annual Meeting with IRS
SPEAKER: IRS Representatives
TIME: 5:30-9:00 P.M.
CPE: 2 Hours Tax

December 16, 2002 - Mini Seminar
TOPIC: Mini Accounting Seminar
SPEAKER: TBA
CPE: 5 Hours A&A

January 13, 2003
TOPIC: Philadelphia Tax Update
SPEAKER: Tom Kramer, Philadelphia Assitant Revenue Commissioner
CPE: 2 Hours Tax

February 3, 2003
TOPIC: Federal & State Tax Potpourri
SPEAKER: David L. Zalles
TIME: 3:30-9:15 P.M.
CPE: 5 Hours Tax

Pittsburgh Chapter

September 18, 2002
Edgewood Country Club
TOPIC: TBA

October 16, 2002
Edgewood Country Club
TOPIC: TBA

November 20, 2002
Edgewood Country Club
TOPIC: TBA

January 15, 2003
Edgewood Country Club
TOPIC: TBA

February 19, 2003
Edgewood Country Club
TOPIC: TBA

South Central Chapter

All chapter meetings are held on the third Wednesday of the month at the Mechanicsburg Officer's Club unless otherwise noted. Meetings begin at 1:00 P.M.

September 18, 2002
TOPIC: 990's
SPEAKER: John A. Donnelly, CPA
CPE: 4 Hours Tax

October 16, 2002
TBA

November 13, 2002
TOPIC: VEBAs
SPEAKER: Lance Wallach
CPE: 4 Hours Other

December 4, 2002
Christmas Party

January 22, 2003
Package X Seminar
SPEAKER: Frank Kelly, EA
Offering a morning and afternoon session.'
CPE: 4 Hours Tax

April 23, 2003
Roundtable Discussio

West Central Chapter

September 24, 2002
LOCATION: Hoss's Restaurant, State College
TOPIC: 990 Requirements and Accounting Statements for 990's
SPEAKER: John A. Donnelly, CPA
CPE: 3 Hours A&A

October 22, 2002
LOCATION: Tyrone, PA - Exact Location TBA
TOPIC: Round Table Discussion on Prior and Up-Coming Tax Season, Office Procedures, Computer Software Etc.
CPE: 2 Hours Other

December 10, 2002
LOCATION: Toftrees Resort, State College
TOPIC: Christmas Party

Seminar Dates

Gearing Up Accounting Seminars

September 11 & 12, 2002
Holiday Inn East, Bethlehem
CPE: 16 Hours A&A
Sponsored By: Lehigh Valley Chapter

September 30, 2002
Radisson Hotel, Trevose
CPE: 8 Hours A&A
Sponsored By: Buxmont Chapter

Gear Up Business Entities Seminars

September 18, 2002
Clarion Hotel, Scranton
CPE: 8 Hours Tax
Sponsored By: Northeast Chapter

September 30 & October 1, 2002
Radisson Penn Harris Hotel, Harrisburg
CPE: 16 Hours Tax
Sponsored By: Central/South Central Joint Education Committee

October 17 & 18, 2002
Radisson Hotel, Trevose
CPE: 16 Hours Tax
Sponsored By: Buxmont Chapter

Gear Up Technology Seminars

October 23, 2002
Clarion Hotel, Scranton
CPE: 8 Hours Tax
Sponsored By: Northeast Chapter

Gear Up 1040 Seminars

All Seminars Offer 16 Hours Tax

October 29 & 30, 2002
Holiday Inn East, Bethlehem
Sponsored By: Lehigh Valley Chapter

November 6 & 7, 2002
Woodlands Inn & Resort, Wilkes Barre
Sponsored By: Northeast Chapter

November 12 & 13, 2002
Springfield Country Club, Springfield
Sponsored By: Philadelphia Chapter

November 18 & 19, 2002/ December 9 & 10, 2002
Harrisburg Marriott Hotel, Harrisburg
Sponsored By: Central/South Central Joint Education Committee

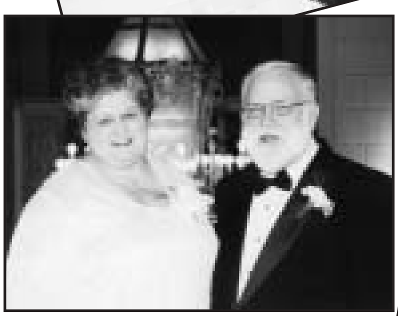
December 4 & 5, 2002
Radisson Hotel, Trevose
Sponsored By: Buxmont Chatper

December 12 & 13, 2002
Radisson Hotel, Monroeville
Sponsored By: Pittsburgh Chapter

Highlights from the 55th Annual Meeting

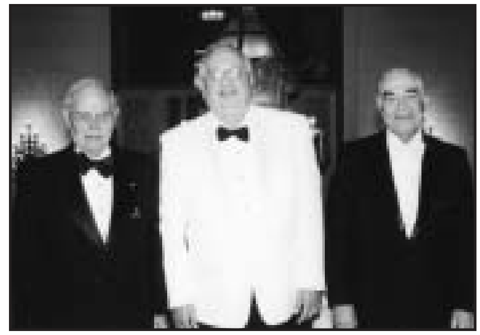
PSPA Secretary Gerald Brenneman presents outgoing president Bernard A. Deverson with his lifetime membership certificate.

Robert T. Zaleski presents Governmental Consultant Fred A. McKillop with an Honorary Membership Certificate for his years of service with PSPA.



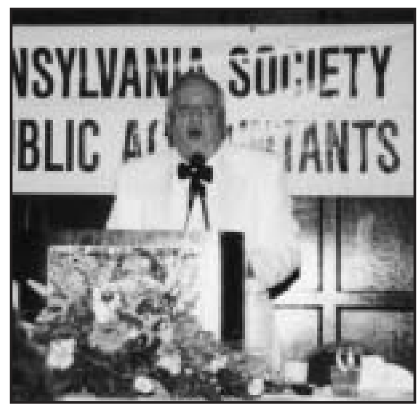
NSA State Director, Margaret Romain-Johnson & NSA Governor District II, Ezra Smith.

Neil Trama (Past President) presents a contribution on behalf of the Northeast Chapter of PSPA Treasurer Paul Cannataro.



55th Annual Meeting Coordinators
Robert P. Skarlis, PA; Anthony P. Theofilis, CPA, Convention Chairman; Malcolm K. Levy, PA.

Left to right: Steven Wickenheiser, Sherry Wickenheiser, Executive Director, Jolly McKillop, Fred McKillop, Governmental Consultant.



Master of Ceremonies and Past President Anthony P. Theofilis addresses the group at the President's Installation Ceremony on Saturday, June 22, 2002.

W. Raymond Bucks, CPA of South Central was installed as PSPA President.

NSA State Director's Message

NSA is giving a special President's Award for Distinguished Service to IRS Commissioner Rossotti. The award will be presented by President Desdier, Taxation Subcommittee Chair Bill Stevenson, and Executive Vice President John G. Ams, on August 1, 2002, 1:30 P.M.

The IRS Oversight Board is asking NSA members for their input on the improvements in the EIN, PPS, Centralized Authorization File, and Offer Compromise (OIC) programs. The IRS also wants comments on its compliance initiatives, such as the K-1 Matching and National Research Programs, and whether tax professionals such as our members have had an opportunity to provide their input into the development of these programs. An email announcement on this will go out shortly.

During the month of June, NSA enrolled 104 new members - a much higher number than in previous months - which makes June the first positive membership growth month this year. Member counts as of July 3, 2002 was 12,061, broken down as follows: 10,027 active members; 925 associate members; 654 retired members; 283 student members; 122 educator members; 27 life members, and 23 international members.

Convention News: The program book for the convention is in production; it will contain a listing of all past and future convention and past presidents. Robert Half/Accountemps has agreed to sponsor the tote bags, in addition to the Scholarship Walk. Thank you, Robert Half! The registration form for the convention on the website has been changed to reflect the price of $489 and $379; the early bird $50 discount expired July 1, 2002.

NSA's 2002 Leadership Networking Conferences are scheduled for September 28 & 29, 2002 in Lt. Louis, MO; October 19-20, 2002, in Albuquerque, NM. The conferences bring together leaders of state professional societies for one and one half days of idea sharing, problem solving, and leadership training. The cost is $175.

Mike Chakarun and Governor Ezra Smith were helping Jodi Muller of the NSA exhibit at the IRS Tax Forum in Atlantic City, July 8-10, 2002. NSA also will be exhibiting at the IRS Tax Forum in New Orleans in early September 2002.

ACAT eliminated its retired status for credential holders, while introducing an inactive status. Credential holders who are inactive and no longer in practice wish to maintain their credentials may pay a $30 fee with no CPE requirements. Benefits will remain the same. ACAT's second billing went out to 3,700 credential holders.

NSA Staff attended an IRS Software Developers Conference-discussion focused on the changes anticipated in electronic filing of individual and business returns.

NSA submitted a grant application seeking $100,000 from the IRS to build, administer, and promote a referral-based taxpayer clinic program targeted at qualified low-income taxpayers seeking assistance to resolve tax controversies. This volunteer program has been discussed for at least two or three years and we are now moving forward with it.

The NSA Scholarship Foundation Board of Trustees on July 8, 2002, awarded forty-two students scholarships by the NSA Scholarship Foundation for the 2002-2003 academic school year. More than 1,000 students applied for the 2002 awards. Applicants were judged on scholastic achievement, demonstrated leadership ability, and financial need. Two were from PA; Ms. Logan Mills, 619 South 5th Street, Duquesne, PA 15110, and Ms. Jessica Hackman, 325 Douglass Drive, Douglassville, PA 19518.

NSA's 57th Annual Convention is in Honolulu, Hawaii, August 20-23, 2002. You can be sure to have a great time. Hope to see you there!

Margaret A. Romain-Johnson
PA State Director, District II

THE PENNSYLVANIA ACCOUNTANT

New Jersey Enacts Sweeping Corporation Business Tax Reforms

By Michael L. Siegel, Esq. (RIA)

WHEN New Jersey Governor James McGreevy signed L. 2002, c. 40, into law on July 2, 2002, he set in motion the most sweeping change in corporate taxation in New Jersey since the establishment of the Savings Institution Tax in 1973. The changes include establishing an alternative minimum assessment procedure to provide additional revenue to the state, revising net operating loss rules, establishing a new credit for certain improvements at Newark International Airport, establishing a Corporation Business Tax Study Commission, repealing the Savings Institution Tax and Corporation Income Tax, and a number of miscellaneous changes. (L. 2002, A2501 (c. 40) eff. 7/2/2002 for privilege periods commencing on or after 1/1/2002, except as stated.)

Alternative minimum assessment. The alternative minimum assessment (AMA) is a new process by which taxpayers must calculate their corporation business tax (CBT) liability against their liability under the AMA and pay the larger of the two. The AMA can be calculated using either gross receipts or gross profits. The taxpayer can choose whether to base the AMA on gross receipts or gross profits for the first privilege period, but the taxpayer must use the same method for the next four privilege periods. After the fifth privilege period, the taxpayer can change to the other method.

The first $2 million in gross receipts and first $1 million in gross profits are exempt under the AMA. For members of affiliated groups or controlled groups, the sum of the untaxed amount for all of the members of an affiliated group or certain controlled groups is capped at $5 million of gross profits or $10 million of gross receipts, or for a group whose members have not all elected the same computation method, the AMA is capped at five times the applicable amount not subject to assessment of the individual members. However, the AMA is not to exceed $5 million per privilege period. If five or more taxpayers are members of an affiliated group, the sum of the AMA for a privilege period cannot exceed $20 million. In that case, a formula is used to calculate the AMA.

The AMA is generally set to expire after June 30, 2006, except for taxpayers exempt from the CBT under the federal P.L. 86-272. Also, the AMA can be suspended beginning after December 31, 2004 if the Director of the Division of Taxation finds that the Corporation Business Tax Study Commission has not provided and published its mandated studies.

Taxes on partnerships: A2501 effectively disregards L. 2001, A3045 (c. 136) subjecting partnerships with nonresident corporate or individual partners to the CBT. Partnerships, including LLCs and limited partnerships, will be required to pay a 6.37% tax on all nonresident noncorporate partners' shares of partnership income apportioned to New Jersey and pay a 9% tax on all nonresident corporate partners' shares of partnership income apportioned to New Jersey under the partnership's apportionment factor. Tax paid by the partnership is credited to the nonresident partners' accounts based on the share of tax paid on each partner's behalf. Qualified investment partnerships and partnerships listed on a US national stock exchange are not subject to the tax.

<u>Throwout rule</u>. New Jersey has modified the sales fraction for allocation purposes. It will now include receipts that are subject to a tax on business presence or business activity in another state in the denominator of the sales fraction in determining the income allocable to New Jersey. However, if receipts were to be assigned to a state, possession or

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territory of the United States or District of Columbia, or to any foreign country in which the taxpayer is not subject to a tax on, or measured by, profits or income, business presence, or business activity, the receipts are excluded from the denominator of the sales fraction.

Net operating loss. Net operating loss suspension: No deduction for any net operating loss carryover is allowed for tax years beginning in 2002 or 2003. Carryover deductions that would have expired in 2002 or 2003 are extended by two years.

Accelerated payments: Taxpayers with gross receipts of $50 million or more are subject to accelerated payment of the CBT for privilege periods beginning on or after January 1, 2003. The payments are to be made in installments, with 25% to be paid on or before April 15, 50% to be paid on or before June 15, and the balance to be paid on or before December 15. Taxpayers with gross receipts of under $50 million are required to make 25% payments on or before April 15, June 15, September 15, and December 15.

Rate changes. Minimum tax: The minimum tax under the CBT is increased to $500 in privilege periods commencing in 2002 from $210 in 2001 and $200 in 2000. Affiliated groups and controlled groups will be required to pay at least $2,000 for privilege periods beginning in and after 2002.

Small business reduction. The statutory rate is reduced from 7.5% to 6.5% for businesses with less than $50,000 in net taxable income, but this reduction does not apply to partnerships or S corporations.

S corporations. The phaseout of the tax on S corporations is frozen at 1.33% for privilege periods commencing July 1, 2001 through June 30, 2006. This rate will drop to .67% from July 1, 2006 through June 30, 2007. After June 30, 2007, the tax rate is 0%. Previously, the tax on S corporations was scheduled to be eliminated in 2003.

New Jobs Investment Tax Credit: For purposes of the New Jobs Investment Tax Credit, the definition of “small business taxpayer” now includes taxpayers with an annual payroll of less than $5 million (formerly, $2 million) and annual gross receipts of less than $10 million (formerly, $6 million). The applicable jobs factor is adjusted to be .01 rather than .005. The jobs factor is capped at .20 (formerly, .10).

Alternative minimum assessment credit: If a taxpayer’s alternative minimum assessment credit exceeds its CBT liability for the tax year, the difference counts as a credit that can be carried forward without limit to reduce the taxpayer’s CBT liability in a future year.

Research and experimental expenditures: No deduction will be allowed for research and experimental expenditures to the extent that those expenditures are qualified research expenses or basic research payments for which a credit is claimed under N.J. Rev. Stat., § 44:10A-5.24 unless those research and experimental expenditures are used to compute a federal credit claimed under Internal Revenue Code Sec. 41.

Consolidated returns. The Director is authorized to require consolidated returns from certain taxpayers to determine the entire net income of the taxpayer and of the other members of its affiliated group or controlled group if the taxpayer is unable to show by clear and convincing evidence that the taxpayer has disclosed the taxpayer’s true earnings on its business within New Jersey. Consolidated returns must be filed within 60 days of the Director’s request.

Corporation Business Tax Study Commission established. Effective July 2, 2002, a nine-member Corporation Business Tax Study Commission is created to study and evaluate the corporate tax law reforms enacted by L. 2002, c. 40. The Commission will look at the following issues: the fair and equitable tax distribution among corporations subject to the tax; the use of tax avoidance or minimization techniques by corporations; whether the tax burden can be more fairly and equitably borne and distributed; whether the revenue goals and projections have been met; and whether New Jersey and its corporation business taxpayers would benefit from the use of a combined taxation under the unitary business concept.

Repealed taxes. The Savings Institution Tax and the Corporation Income tax are repealed, effective for taxable periods after January 1, 2002. Savings banks, building and loan associations, and savings and loan institutions subject to the Savings Institution Tax will be subject to the CBT. Depositary and credit institutions are already subject to the CBT.

Miscellaneous provisions. Provisions concerning underpayments of tax are adjusted, and issues concerning the taxation of partnerships and the types of taxpayers who are liable for paying an annual franchise tax are addressed. Partnerships, professional corporations, securities dealers, and investment companies will all be treated under the CBT.

Odds & Ends

SEC - Financial Reporting Release No. 60

The SEC has issued Financial Reporting Release No. 60 "Cautionary Advice Regarding Disclosure About Critical Accounting Policies." It advised public companies to consult with the SEC's accounting staff if the management, audit committee or independent auditor are uncertain about the use of specific generally accepted accounting principles that relate to significant accounting policies utilized by the firm.

AICPA - Statement on Standards for Attest Engagements No. 11

The AICPA has issued Statement on Standards for Attest Engagements No. 11. "Attest Documentation." The Statement amends SSAE No. 1l and reflects concepts and terminology used in Statement on Auditing Standards No. 96 which provides general guidance on the nature and extent of documentation necessary to support an auditor's report, and also provides retention guidelines. SSAE No. 11 is effective for attest engagements when the subject matter or assertion is as of, or for a period ending on or about December 15, 2002.

FASB Voting Procedures

The Financial Accounting Standard Board's voting procedures have been changed by the Financial Accounting Foundation which oversees the FASB and selects its members. Under new rules, instead of a 5-2 super majority, a simple 4-3 majority is now required with respect to FASB decisions. The change is intended to enhance the efficiency of the FASB i.e. to speed up the process of developing "generally accepted accounting standards."

Study Shows: CPAs Still Trusted

Despite the adverse publicity about significant audit failures by major CPA firms, small business owners continue to have high regard for the expertise and integrity of the independent CPA according to a just completed survey by Nationwide Financial, a distributor of retirement planning products. It found that 52% of small business owners chose their accountant over other financial professionals to deal with business financial matters. In contrast, the percentages of other professionals chosen with respect to business financial matters were

• Bankers	12%
• Attorneys	8%
• Chartered or Certified Financial Planners	7%
• Miscellaneous	21%

These results were corroborated by Towers Group, a public relations firm, and by Opinion Research Corporation which found that despite the Enron and World Com debacles, individuals gave accounting firms high grades for honesty and integrity.

Occupational Fraud

According to the Association of Certified Fraud Examiners, occupational fraud will cost U.S. companies $600 billion in lost revenue this year. Principal areas of fraud activity include:

Asset Misappropriation - revenue skimming, inventory theft, payroll fraud, ect.
Corruption schemes -kickbacks, check fraud, overstatement of expense reimbursement, submission of inflated or duplicate invoices, etc.
Fraudulent financial reporting - overstatement of revenue, understatement of liabilities and expenses, etc.

Typical fraud losses bear an indirect relationship to the frequency with which they are perpetrated and the level of the employee who is committing the fraud. For example: whereas asset misappropriations were most , representing over 85% of the cases reported, the median loss was about $80,000. Corruption schemes, frequently perpetrated by managers, represented 12.8% of the reported cases but resulted in $530,000 of median losses. However, fraudulent financial reporting, while only 5.1% of reported cases was frequently carried out by business owners and resulted in median losses of $4,250,000. It's also interesting to note that while 64% of frauds were committed by employees, those committed by managers and executives were three-and-a-half times more costly than when a lower level employee was responsible. Fortunately, the use of sound internal controls and of recurring internal and/or independent audits can be effective deterrents in most cases. However, business managers must be alert to the fact that there is no foolproof system of fraud prevention.

Small Business Going Online

According to latest data, at the end of last year 78% of all small businesses were connected to the Internet, and 58% of small firms were engaged in some form of e-commerce. By the end of this year, 82% of small firms will be on the Internet and 72% are estimated to be engaged in e-commerce activities. Much of the change is being driven by customers who require that vendors they deal with have Internet access.

National Tobacco Settlement Trust Money Must be Reported as Income

The IRS says that landowners, producers, and tobacco quota owners who receive money from the National Tobacco Settlement Trust are required to report these payments as income each year. Tobacco growers in 14 states are receiving payments over a period of 12 years that began in 1999 in order to compensate them for lost revenue because of the decreased demand for tobacco. The IRS says that the payments are considered gross income for Federal tax purposes and are taxed as ordinary income.

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Reasons for Choosing an Accounting Firm

Although one might think otherwise, "cost of service" is not the most significant consideration when it comes to engaging or retaining a CPA firm. According to a survey of 1,224 small businesses that were clients of the same full service local accounting firm on the West Coast, the primary factors in engagement and retention of the CPA firm were, in order of importance, as follows:

- Quality of the technical expertise of the firm.
- Personal relationships established between the CPA firm's key people and the clients' management.
- Industry expertise of the CPA firm.
- CPA firm's proposed fees.
- Range of services available.
- Quality of the oral presentation made by the CPA firm.
- Location of the CPA firm.
- Recommendation from a highly regarded source within or outside the firm.
- Quality of the written proposal submitted by the CPA firm.

The Survey also revealed that insufficient proactivity, lack of responsiveness to company problems, failure to provide ideas to help the company, inadequate communications and personnel changes were the key drivers leading to a switch in accountants.

Employers Moving to Written E-mail Policies

Do you have a written E-mail policy? An increasing number of employers are putting their policies into writing and including them as part of their employee handbook. The purpose of the E-mail policy is to establish company-wide rules for acceptable Internet and E-mail use. Key features should include:

- Employer's right to read messages that are on its computers.
- Employer's intention to monitor and review employee's E-mail at any time.
- Employer's right to restrict access to and distribution of E-mail.
- Prohibitions on distribution of E-mail that could violate equal opportunity and other Federal laws.
- Restrictions on use of company computers for personal commercial use.
- Prohibitions on use of E-mail to send chain letters, perpetrate pyramid schemes or conduct gambling activities.
- Prohibition against dissemination of confidential company information.
- Cautionary notice never to open E-mail attachments without virus protection.

While most companies do not totally prohibit E-mail use for personal purposes, they usually indicate that such use, like personal phone calls, should only be occasional.

Stepping Up Security on US Passports

In order to prevent immigrants and terrorists from utilizing stolen passports to enter the United States illegally, the State Department is in the process of incorporating special security features into new U.S. passports. While the Agency is secretive about most of the new features, it has revealed that the passports will contain a high-security digital picture of the owner that will be imbedded in the structure of the paper itself rather than printed on it or laminated into the passport, as is currently being done. One result is that passports will no longer be issued outside the United States by U.S. embassies or consulates except when a limited-validity passport is required for urgent travel.

IRS Uses Patriot Act to Access Information from Credit Card Companies

The IRS is using powers granted under the Patriot Act to obtain credit card transaction records and catch Americans who may by evading taxes by opening offshore bank accounts. It has asked Visa International, MasterCard International, and AmEx to turn over 1998 and 1999 records for U.S. cardholders with accounts at banks in Antigua, Bermuda, the Bahamas, the Cayman Islands, Hong Kong, Singapore, Latvia, Liechtenstein, Luxembourg, Switzerland and the Netherlands. The Agency wants the names, addresses, social security numbers and telephone numbers of cardholders and claims that there may be up to 2 million U.S. citizens who have avoided income taxes by establishing bank accounts at these tax havens and then utilizing the offshore bank's credit cards to pay for their everyday expenses. The credit card companies indicate that they are cooperating with the IRS requests for information even though they may be compromising the cardholders privacy.

SEC Retains Power to Sue

The Supreme Court has upheld the Securities and Exchange Commission's power to sue brokers to recover investors' funds when the broker sells their clients' stock for the brokers' personal gain. The high court's ruling overturned a lower court decision which would have severely curtailed the Agency's ability to protect investors against fraudulent actions by their stockbrokers.

ADA

The Supreme Court has ruled that a company may refuse to hire a person with a medical condition for a job that could exacerbate the problem. According to the Court, the Americans with Disabilities Act would not be violated in circumstances where the decision not to hire was because the job posed a direct threat to the worker's health. In effect, company may use health and safety considerations in making hiring decisions.

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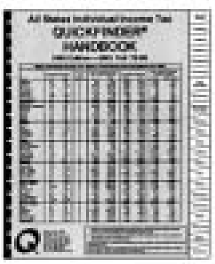

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Odds & Ends

Postal Rate Increases

Postal rate increases went into effect on June 30, and impact both individuals and business mailers. Examples of principle changes are:

	New	Old
First class letter (1st ounce)	$ .37	$ .34
Post Card	$ .23	$ .21
Priority mail (1lb.)	$ 3.85	$ 3.50
Express Mail (1/2 lb., next day/2nd day)	$13.65	$12.45
Certified mail	$ 2.30	$ 2.10
Priority mail delivery confirmation	$ .45	$ .40
Insurance up to $50	$ 2.30	$ 2.10
Return receipt	$ 2.75	$ 1.50
Post Office box (group 6/size 1 semi-annual fee)	$12.00	$ 10.00

Tenancy by the Entirety Further Defined

In a 6-3 decision, the Supreme Court has eliminated a form of protection for certain married couples that barred the IRS from putting liens on their property when one of the spouses was delinquent in paying taxes. The Court said that a form of joint ownership of property known as "tenancy by the entirety" doesn't provide protection against IRS liens. In a "tenancy by the entirety" a married couple that jointly owns a property is considered a single person under state laws in about 16 jurisdictions against IRS liens. Therefore, joint property owners in such states have argued that the IRS could not put a lien on half the property to satisfy a debt owned by only one of the parties because the property could not be divided. In siding with the IRS, the Supreme Court held that "each tenant possesses individual rights in the estate sufficient to constitute property, or rights to property for the purpose of the lien." Among such rights is the right to use the property to receive income produced from the land and to exclude others from it.

Workers' Comp Benefit Payments Decline

The National Academy of Social Insurance claims that workers' compensation benefit payments and costs declined as a percentage of wages in 2000. Strong wage growth and a decline in reported accidents are given as the principle reasons for this favorable result. This is corroborated by the Department of Labor which reports that the workplace accidents that result in lost workers declined from 3.0 per hundred workers to 1.8 per 100 workers during the decade of the 1990's. While benefits paid per worker were actually lower, the total benefit cost rose nationwide to $45.9 billion from $43.2 billion during the decade because the total number of workers grew. Unfortunately, the favorable results have not been translated in lower costs for most employers so that it is important to monitor claims carefully as well as to review audits for proper work classification to contain overall costs.

Medical Malpractice on the Rise

Physicians can expect to pay 30% more on average for medical malpractice insurance this year. Largest increases will be for specialties such as neurosurgery and obstetrics, and for those who practice in Florida, Texas, Pennsylvania, Ohio and New York. Insurers are blaming the higher premiums or high payouts awarded by juries which make medical malpractice insurance only marginally profitable for insurers.

Reducing Employee Benefits

In the effort to downsize and cut costs many employers are reducing or eliminating employee benefits. According to the Society of Human Resources, the most endangered benefits include:

Educational assistance programs
Mental health insurance coverage
On-site vaccination programs
Retiree health care coverage
Career counseling services

Overall, there has been about a 5% decline in the number of firms offering these types of benefits over the past 3 years.

401(k) Plans

401(K) plans continue to be a key benefit for attracting and retaining employees, according to a recent survey by a major accounting firm. However, the kinds of benefits being offered and choice of offerings continue to evolve.

More plans now provide employees with the option to check balances, modify deferral percentages, transfer funds, etc. via the Internet

- The number of investment options keeps increasing and is averaging 12.9 compared to 9.6 just one year earlier.
- Mutual funds are the primary investment option at 90% of the plans.

Incidentally, 85% of workers indicated that the 401(k) plan was an effective recruiting tool and 77% thought it was also significant in worker retention.

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Encouraging Workplace Attendance

According to CCH, absenteeism cost firms $775 per employee last year, and 68% of the absenteeism was not illness related but for personal reasons. Clearly, it's to every employer's advantage to maximize worker attendance. One way of curbing absenteeism and enhancing productivity is to provide rewards for outstanding attendance. Consider giving employees who have had perfect attendance over a specified period, a number of units (a bookkeeping figment), and allow them to accumulate units earned and use them for employer paid timeoff, for gift items from a catalog, or trade them in for cash. Most plans exclude jury duty, vacation time and attendance at funerals or weddings from the definition of unscheduled absences. Other ways of improving attendance include providing alternative work arrangements such as flexible hours, allowing telecommuting to enable workers to handle childcare or elder care responsibilities, and in large organizations, to provide satellite work locations.

Required Minimum Distributions

The IRS has issued final regulations governing the required minimum distributions from IRAs and other qualified plans that participants must take by April 1 of the year after they reach age 70 1/2. The fiscal rules contain a life expectancy table that is even more generous than that contained in prior proposed regulations and reflect the fact that people are living longer. In turn, minimum distribution can be decreased because they are spread over a greater number of years. For example, a 75-year old with a $500,000 account balance would be required to take a distribution of $21,834 in 2002 compared to $22,936 under the earliest tables. Use of the latest table is optional for 2002, but is required for 2003. Pension plan trustees will also be required to provide IRA owners with a report about the minimum distribution requirement by January 31, 2003, and will also be required to report to the IRS on Form 5498, beginning in 2004, to enable the Agency to cross-check whether an individual taking a distribution is also reporting it on his or her tax return. The regulations also require qualified retirement plans to be amended by the end of the first plan year starting on or after January 1, 2003 to comply with the new regulations. The final regulations simplify rules for when an account of an IRA owner or employee is divided into separate accounts to accommodate multiple designated beneficiaries. They also provide rules with respect to the calculation of each year's required minimum distribution from an IRA or a separate account under a qualified plan, and extend the 50% penalty for people who fail to take their required distributions to cover people who inherit Roth IRA's. Finally, the regulations establish September 30 of the year following the year of an account owners' death the date for determining the designated beneficiary of the account for required minimum distribution purposes.

IRS Cautions Taxpayers of a New Scam

The IRS is cautioning taxpayers that a new type of scam is tricking many taxpayers to reveal personal and banking data to crooks seeking to perpetrate financial and identity theft. The way it works is that an individual receives a letter, purportedly from his or her bank, stating that the bank wants to "update" its records to exempt the taxpayer from reporting interest or tax withholding, the letter is accompanied by a phony IRS Form (nonexistent "Form W-9095, Form W-888, and Form W-8BEN are form numbers that have been used) seeking personal and financial data. Recipients are advised that the forms should be completed and faxed to the sender within seven days to avoid losing their reporting and withholding exemption. If any of your clients receive correspondence of this sort, advise them to immediately contact their bank to determine whether they sent it. If the bank did not send the correspondence, advise the IRS, but under no circumstances, should the form be faxed.

Say No to Post-Dated Checks

If a customer offers you a post-dated check, you should not accept the instrument because you will forfeit all bad check rights. For example, if a regular check bounces, you can sue for check fraud and other bad check charges, but with a post-dated check you've been put on notice that there is insufficient money in the account, so you cannot claim check fraud in going after the debtor. Of course, there may be the unusual situation where an old and trusted customer pleads with you to take a post-dated check so payment may be delayed. In these circumstances, to lower the risk and help out the customer, ask for permission to call the customer's bank and verify whether and when the cash to cover the instrument will be credited to the account. You won't be violating financial disclosure laws, and you'll have some assurance that you'll be paid.

Distributions from an IRA and from a Keogh Plan Cannot be Combined

In a Private Letter Ruling, the IRS has indicated that distributions from an IRA and from a Keogh plan cannot be combined. In effect separate distribution must be made from each account. This differs from a situation where someone has multiple IRA accounts and decides to take the total required distribution from only one of the IRAs he or she elects.

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GUST Compliance

The IRS has provided plan sponsors with new guidelines for failing to make timely remedial amendments for GUST compliance. To take advantage of the new procedure, sponsors have to apply for determination letters before September 3, 2002, and pay an additional fee of $1,000 if there are 1-100 participants; $3,000 for 101-1000 participants, and $10,000 for more than 1,000 participant plans. Firms that follow the procedure would avoid disqualification even though they failed to make timely amendments.

Estate Audits

The larger the estate, the more likely that it will be audited. IRS data for 2000 reveals that about 6% of the 123,500 estate tax returns were audited. But when the figures are broken down, only 3% of the returns (1,623) with assets under $1 million were audited while 29% of those returns (1,588) with estates valued at over $5 million were examined.

Retirement Preparedness

Although 70% of U.S. workers in a recent survey indicated confidence that they would have enough money to live comfortably in retirement, fewer than 20% had probably set aside sufficient funds to supplement social security and other resources for retirement according to the Employee Benefits Institute. It found that the amounts accumulated for retirement were:

Nothing	15%	Under $10,000	12%
$ 10,000 - $ 25,000	11%	$ 25,000 - $ 50,000	9%
$ 50,000 - $ 75,000	8%	$ 75,000 - $100,000	5%
$100,000 - $150,000	6%	$150,000 - $250,000	6%
Over $250,000	6%		

23% of participants either claimed they did not know what they had set aside for retirement or refused to provide the information.

Small Employers Must Transfer Contributions Timely or be Penalized

The Department of Labor is keeping an eye on 401(k) plans of small employers who take and excessive time to transfer workers' contributions in the designated investment funds. It claims that one week is sufficient time to make the transfers and will penalize companies that delay longer. It claims that some small employers delay up to two months to use the transfer funds.

Small Business Statistics

Did you know that there are about 22.4 million small businesses in the United States? The Small Business Administration defines these as firms with fewer than 500 employees. These businesses represent 99% of all employers, and provide somewhere between 66%and 75% of all new jobs. Just over half are home-bases businesses, and just over 3 million are minority owned. Typically, small businesses obtain their financing from savings accumulated by the owner, from loans by family and friends and from business loans provided by financial institutions. Survival among small businesses is precarious with about 66% surviving for at least two years, 49% surviving for up to 6 years, and only 39.5% making it beyond six years.

Saver's Credit

The new tax law included a "Saver's Credit" to help low and middle income people offset the cost of the first $2,000 they contribute to an IRA, 401 (k) or similar plan, and, in effect, have the government match the individual's contribution on top of the exclusion or deduction provided by their contribution to the retirement plan. The maximum credit is $1,000 for a single person or $2,000 for a couple filing a joint return, and the credit can be as much as 50% of the taxpayer's contribution depending on the taxpayer's adjusted gross income. The credit is limited to singles with adjusted gross income under $25,000, heads of household with adjusted gross income of less than $37,500 and couples with adjusted gross income under $50,000.

IRS Monitors Car Donations made to Charitable Organizations

The IRS is cautioning taxpayers who make car donations to a charitable organization and intend to deduct the "Blue Book" value of their car, that the deduction cannot exceed what the car is worth. Therefore, you can deduct the fair market value of the car, but not the price quoted in a used car price guide. Check the classified ads in the newspaper for a similar vehicle to obtain an estimate of the amount that you may deduct. Also, make sure that if the deduction exceeds $250, that you get a receipt from the charity. If the amount exceeds $500, you need to include a Form 8283 with your tax return, and if the amount exceeds $5,000, an independent appraisal is required. The IRS is monitoring both charitable organizations that accept car donations and taxpayers claiming deductions to determine that the deductions taken are appropriate.

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Odds & Ends

"First Time" Homebuyers

IRA owners can withdraw up to $10,000 from an IRA penalty-free for the "first time" purchase or construction of a home for themselves, or a child or grandchild, provided the funds are spent within 120 days after withdrawal. Now, the IRS says that people who had owned a house earlier are also entitled to this break as long as they or their spouses did not own a home in the preceding two years.

IRS Plans Website Improvements

The IRS has announced expansion of its web site to include a feature enabling taxpayers to confirm receipt of their return by the Agency, and to track the status of their tax refund. There will also be an interactive E-mail system allowing taxpayers to submit questions to the IRS and obtain personal answers. Finally, the site also has a page "Tax Fraud Alerts," designed to raise taxpayers awareness of recent tax scams, and inform them of investigations and recent civil and criminal actions against scam artists, abusive return preparers and others who help to perpetrate tax fraud.

More Now Quality to Deduct Student Loan Interest

More taxpayers are eligible to deduct student loan interest paid after December 31, 2001 because the 2001 Tax Relief Act repealed the 60-month deduction limit with respect to these payments. Now, qualifying taxpayers can claim student loan interest deductions for the entire repayment period of the loan. The legislation also repeals restrictions on deductions for voluntary interest payments and, effective with 2002, increases the phaseout ranges for eligibility for the student loan interest deduction to $50,000 - $60,000 for singles and $100,000 - $130,000 for married joint filers. The phaseout ranges will be adjusted annually for inflation after this year.

1099 Reporting Requirements to Attorneys

The IRS has eased the rules governing Form 1099 reporting requirements to attorneys. It now says that payers won't have to file Forms 1099 for an attorney when the check made payable solely to a client is delivered to the attorney. However, Form 1099 will be required if the check is made payable to the attorney or the law firm and if the payments exceed $600 for the year.

Statistics of Income Bulletin

As part of its latest "Statistics of Income Bulletin" the IRS has provided data on average itemized deductions taken by taxpayers for 2000 based on income. Here are the highlights:

Adjusted Gross Income	Medical	Taxes	Interest	Donations
$ 15,000 - $ 30,000	$ 5,340	$ 2,175	$ 6,024	$ 1,684
$ 30,000 - $ 50,000	$ 4,707	$ 3,025	$ 6,422	$ 1,895
$ 50,000 - $1000,000	$ 6,156	$ 4,889	$ 7,828	$ 2,349
$100,000 - $2000,000	$ 12,122	$ 9,283	$ 11,161	$ 3,761
Over $200,000	$ 34,436	$ 38,200	$ 22,598	$ 19,559

Please keep in mind that these are statistical averages that may vary greatly from their specific itemized deduction.

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Odds & Ends

Charitable Contribution Substantiation Requirements

New IRS guidelines on charitable contribution substantiation requirements provide a convenient alternative for taxpayers trying to obtain a timely acknowledgement of a charitable gift of $250 or more. The Agency says it will now accept an E-mail as a "contemporaneous acknowledgement," providing adequate evidence of substantiation. A contemporaneous acknowledgement is one obtained on or before the earlier of the date the taxpayer files his or her return for the year, or the date, including extensions, when the return is due. The latter date would be October 15 for a calendar year taxpayer. The IRS has decided to relax its rules in an effort to help charities deal with the overload of donation of $250 or more they received as a result of the September 11, tragedy after September 10 and before January 1, 2002.

IRS Random Audits

The IRS is resurrecting its feared random audits which require taxpayers to make line by line substantiations of the revenue and expenses reflected on their tax returns. The Agency has announced that in 2002 it will select up to 50,000 random audit returns. These will be stratified so that:

2,000 will be selected for line-by-line audits
30,000 will be subject to limited scope (face to face) audits
9,000 will be subjected to correspondence audits asking for a reply to a written questions via the mail
8,000 will be selected for no taxpayer contact audits

The IRS has been auditing fewer and fewer returns and needs to obtain more information to determine areas where non-compliance with tax laws is prevalent in an overall effort to increase tax compliance and revenue flows for the government. Incidentally, corporations will also be singled out for random compliance audits beginning in 2004.

CHANGED YOUR ADDRESS or EMAIL ADDRESS?

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