JUNE 2003

THE PENNSYLVANIA ACCOUNTANT

The Newsletter Of The Pennsylvania Society Of Public Accountants

Visit us at www.pspa-state.org

A Message From The President

If you are reading this message, you made it; if your practice is anything like mine, you had a very interesting and tiring tax season.

As you know, this is my last newsletter as the President of PSPA, a post that I am very proud to have served. I want to thank all the chapter leaders and members alike who afforded me the opportunity to attend your various activities throughout the past year. Chapter visitations are perhaps the part of the job that I will miss the most. It was truly gratifying for me to meet PSPA members across the state sharing a common interest and knowing that the work done by our fine organization is a valuable resource in the practices of its members. Susan also wishes to thank the many members and spouses who made her feel very welcomed when she attended the various holiday functions around the State.

I would like to greet and welcome all of our new members who are receiving their first newsletter. I personally believe that your decision to align yourself with other small practitioners was a wise one. I, as well as my successors to the presidency and the entire Board of Directors, are dedicated to preserving your right to practice without undo distress from regulators and attacks from larger firms and their related organizations.

I do want to apologize to all of you who were looking for the PSPA sponsored long-term care insurance plan as I described it during my visits around the State. Unfortunately, just as we began the implementation of the program, the CNA insurance company pulled their long term care product off of the market. I have appointed a committee headed by our incoming president, Mr. Timothy Sundstrom, to prepare a report for the upcoming Board of Directors meeting at the Annual Meeting in June. Additionally, we are very committed to presenting a hospitalization insurance program, however statistical information is needed before we can proceed. The survey that was enclosed with your dues renewal form will enable us to pursue a program that is a true value-added membership benefit for PSPA members and their families.

Have you registered for the Annual Meeting in June? Join us in Gettysburg as we prepare for our largest attended event ever. PSPA members received a convention packet last Janaury. Registration material is also available on our website at http://www.pspa-state.org. We have a very exciting and family friendly event planned.

I want to sincerely thank PSPA Executive Director Sherry DeAgostino for her hard work and assistance throughout the year. I know that every President says this but I couldn't have accomplished much without her help. I want to congratulate she and Steve on their new addition to the PSPA family.

I also want to welcome Bonnie Hackman, our new administrative assistant in the executive office. We went through a very time consuming and thorough hiring process that paid off in the end.

Our Executive Office is relocating to the other shore of the Susquehanna River, only minutes away from our current location. Specific information regarding the move can be found on the adjacent page of this newsletter. An open house, which may be combined with a capitol hill visitation day is being planned for the fall 2003.

Again, thank you to the membership, the Board of Directors and my fellow officers for your support during my term as president.

Respectfully Submitted,
W. Raymond Bucks, CPA
PSPA President

THE PENNSYLVANIA ACCOUNTANT

PSPA Executive Offices Have Moved

NEW ADDRESS:
20 Erford Road
Suite 200A
Lemoyne, PA 17043

TELEPHONE NUMBERS WILL REMAIN THE SAME:
1-800-270-3352 • (717) 234-4129
FAX: 717-234-9556
info@pspa-state.org • http://www.pspa-state.org

ON The MOVE

PSPA Scholarship Nears Deadline

The PSPA will offer three $1,000 scholarships to deserving accounting students for the 2002-2003 academic school year. The deadline for application is June 30, 2003. Complete scholarship packets are available on the PSPA website at http://www.pspa-state.org or can be obtained by contacting the Executive Office at 1-800-270-3352.

RENEW YOUR MEMBERSHIP TODAY!

PSPA dues renewals are due by June 30, 2003. Dues renewal notices were mailed to the PSPA membership in early May. Please help us to avoid the costly process of having to send second and third renewal notices for delinquent dues payments by paying your dues on time.

DUES RATES FOR THE 2003-2004 FISCAL YEAR ARE AS FOLLOWS:

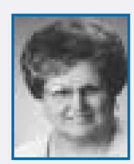
Membership Status	Dues Required	Membership Status	Dues Required
Active	$155.	Retired	$35.
Associate	$140.	Student	$25.

PSPA members who joined the PSPA after July 1, 2002 will pay a prorated dues amount based on the date joined.

Health Insurance Survey

A health insurance survey was mailed to the membership in conjunction with the dues renewal notices. Various demographic information is needed in order to obtain a quality health insurance program for PSPA members and their families. Please complete the survey and either fax or mail it to the PSPA Executive Office at your earliest convenience.

In this Issue....



Career Opportunity

Select Medical Corporation

Select Medical Corporation owns and operates a national network of healthcare facilities specializing in innovative solutions for patients who are critically ill, catastrophically injured or medically complex. Current operations include 72 specialty hospitals in 24 states as well as over 737 outpatient rehabilitation clinics. With corporate offices in Mechanicsburg, PA, Select offers nationwide career opportunities and an excellent compensation and benefits package, including group medical, dental, vision, and prescription benefits, life and disability insurance, tuition reimbursement, generous Paid Time Off and a company-matched 401(k) plan.

At Select Medical Corporation, the environment is dynamic, the work is vital, and the career rewards are all you dreamed they would be.

Staff Accountant

The Staff Accountant will be responsible for the maintenance and accuracy of multiple general ledgers. The position assures the reliability of revenue, expense and all balance sheet accounts and creates formal month-end statements. The right candidate will be detail oriented, have proficient PC and spreadsheet experience with strong communication and analytical skills. BS/BA in Accounting, Business Finance or related field is preferred with 2 years of applicable experience, preferably in the healthcare industry.

Please forward resumes to HR Recruitment, Select Medical Corporation at:

Select®
Medical Corporation

Anne Franklin
Recruitment Specialist
Select Medical Corporation
4716 Old Gettysburg Road
Mechanicsburg, PA 17055
Tel: 717/975-4776
Fax: 717-763-8694
Afranklin@selectmedicalcorp.com

IRS WARNS OF NEW TAX SCAMS

IRS warns practitioners and taxpayers of two new tax scams that have surfaced since the end of the filing season. The new schemes target families of those serving in the Armed Forces and e-mail users. In both schemes, people represent themselves as being representatives of the IRS.

The IRS has seen isolated instances of the scam that targets the families of those serving in the Armed Forces.

The IRS warns consumers to beware of any variation of a scenario in which a telephone caller posing as an IRS employee tells a family member that he is entitled to a $4,000 refund because his relative is in the Armed Forces and then requests a credit card number to cover a $42 fee for postage. The scammer provides an actual IRS toll-free number as the call back number in order to make the call seem legitimate. However, the scammer then makes numerous unauthorized purchases with the victim's credit card number.

Genuine IRS employees who call taxpayers do not ask for credit card numbers or request fees for payment of a refund.

In another scheme, victims receive an e-mail that appears to be from the IRS. The e-mail contains links to a non-IRS Internet Web page that asks for personal and financial information. Such information could be used to steal the respondent's identity and get access to sensitive financial data or accounts.

Identity thieves can use someone's personal data to:

- take over his or her financial accounts,
- run up charges on the victim's existing credit cards,
- apply for loans, credit cards, services or benefits in the victim's name, or
- file fraudulent tax returns.

Again the IRS reminds taxpayers that they do not request sensitive personal or financial data by e-mail.

Both of these schemes are being reviewed by the Treasury Inspector General for Tax Administration, which is authorized to investigate the misuse of the IRS name, insignia, seals and symbols.

Taxpayers who are on the receiving end of one of these scams should contact TIGTA by calling the toll-free fraud referral hotline at 1-800-366-4484, faxing a complaint to 202-927-7018 or writing to the TIGTA Hotline, P.O. Box 589, Ben Franklin Station, Washington, D.C. 20044-0589. TIGTA's Web site is located at www.ustreas.gov/tigta.

Offshore Voluntary Compliance Initiative - Early IRS Data Show Strong Response

The Internal Revenue Service has recently announced that the Offshore Voluntary Compliance Initiative led to more than 1,200 people stepping forward to participate. A partial analysis of some of the cases has already identified more than $50 million in uncollected taxes and 80 new offshore promoters.

The deadline to apply for the Offshore Voluntary Compliance Initiative (OVCI) was April 15. The initiative was aimed at bringing taxpayers who used offshore payment cards or other offshore financial arrangements to hide income back into compliance with the tax laws. The OVCI deadline brought a flurry of last-minute filings. The agency has had a chance to review only a portion of the filings so far, but the preliminary analysis reflects the program's success:

- In all, 1,253 taxpayers from 46 states and 48 countries applied for OVCI. Florida led with 141 applicants, followed by California with 115, Texas with 71 and New York with 47. The applications covered more than 3,500 tax years.
- After reviewing some of the initial cases, at least $50 million in uncollected tax has been identified. When the rest of the cases and related amended tax returns are factored in, the IRS expects the amount of tax to surpass $100 million. A number of the cases involve taxes exceeding seven figures.
- In the first 229 OVCI cases reviewed, taxpayers identified 107 different offshore promoters. Of these, the IRS identified 80 new promoter cases, which carry significant potential for future agency efforts to track down offshore tax evaders.

Information obtained from the program will be utilized by IRS to build and expand its offshore investigations. Applicants to OVCI had to provide full details on the person or persons who promoted the offshore arrangements. Eligible taxpayers could avoid criminal prosecution and certain penalties but would still have to pay back taxes, interest and some penalties.

People from all walks of life applied for the program, including lawyers, dentists, business executives, estate heirs and numerous other occupations. The applicants for the program included people filing returns as individuals, domestic and foreign corporations and trusts and estates.

About 240 applicants claimed the offshore promoters scammed them out of their money. The IRS believes the increased awareness on offshore issues and the agency's continuing emphasis on this area will help encourage people to avoid these transactions in the future.

Now, the IRS moves into the next phase of OVCI. The agency will review the applicants to determine if they are eligible for the program. These taxpayers will have 150 days from the date they are notified of eligibility to file correct returns, pay or arrange to pay balances due and submit other required paperwork.

Additional information on the offshore program and other efforts to combat tax evasion is available on IRS.gov under "The Newsroom."

NSA State Director's Message

ACAT has filed to trademark the term "Elder Care Specialist" for its new credential.

The Leadership Networking Conference will be held at the Hilton Executive Park Hotel in Charlotte, NC on September 20-21, 2003.

NSA established a partnership with Amazon.com for the purchase of tax and accounting books. They also signed a one-year agreement with Surgent to offer a 10% discount on self-study CPE courses.

Bernie Phillips was the only representative of an accounting organization involved in selecting the Small Business Administration financial advocate of the year. The three-person panel chose from ten applications that had been pre-screened by the SBA.

Bernie Phillips participated in an IRS Committee Meeting - TY 2003 and Beyond Products and Services for Practitioners. He is working on the task of revitalizing/updating Publication 589 (S-Corporation) which has not been published for eight years.

NSA has raised $97,000 of a goal of $100,000 for "The NSA Educational Tree." There is still time to make your donation for a satin brass leaf, bronze, or wood stone.

Mike Chakarun attended a meeting of the Council for Electronic Revenue Communication Advancement (CERCA) on April 30. IRS presenters discussed the rollout of new electronic services for tax practitioners, future enhancement of the IRS website and electronic filing of Form 1120 scheduled to begin in January 2004.

NSA's 58th Annual Convention will be in Salt Lake City, Utah, August 20-23, 2003. They have a great program planned for everyone to have an enjoyable time. Hope to see you there.

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

PENNSYLVANIA TAX UPDATE

By Sharon R. Paxton

GOVERNOR PROPOSES SWEEPING CHANGES TO PENNSYLVANIA'S CORPORATE NET INCOME TAX STRUCTURE

On March 23, 2003, Governor Rendell unveiled his "Plan for a New Pennsylvania," which proposes substantial new expenditures for education and economic development, as well as a $1.5 billion shift in the burden for public education funding from local communities to the state. The proposed educational tax shift would be accomplished through a reduction in local property taxes, except in Philadelphia, where the wage tax would be reduced instead. In addition to other revenue enhancements discussed below, the Governor has proposed Corporate Net Income Tax changes that are intended to close certain perceived "loopholes" in the current tax structure.

Under current law, companies can effectively move income out of Pennsylvania and into states that do not tax the income by allocating income from intangible property to certain other states. For example, many corporations have established Delaware holding companies to own intangible assets, such as patents and trademarks. Since Delaware does not generally impose tax on income derived from intangible property by a holding company, and the related corporation doing business in Pennsylvania can deduct amounts paid to the holding company for use of the intangibles, this type of arrangement can substantially reduce a corporation's income tax liability.

Draft legislation released by the Governor's office, and subsequently introduced in the General Assembly as HB 1305, would place substantial restrictions on the deductibility of related party intangible and interest expenses. First, the proposed legislation would disallow a corporation's deduction for interest and intangible expenses and costs (royalties, license fees, etc.) paid to related entities unless the corporation proves by "clear and cogent evidence" that the transaction(s) giving rise to the expenses and costs "did not have as a principal purpose the avoidance of any tax due. . ." Under the proposed legislation, such proof, which is to be submitted with a corporation's annual tax report, must consist of proof that the transactions had "a substantial business purpose" and

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Now that you have your "Tax Season" nest egg...

...isn't it time to write that check...

and invest in that "*put-off*" malpractice insurance policy?

Just do the math...

A $100,000/200,000 policy =

<u>$500.00 in first year costs</u> !

Divided by the ____ "1040" tax return clients your office has = a cost of only $____ per return!

How can you "put-off" that *<u>investment</u>* any longer?

1.Name of Firm:______________________ Est.:__________
(or simply attach your business card for 1 - 3 below)

2.Business Address:____________________________________

____

3.Business Phone:(   )___________Fax(   )___________

Please Contact: ______________________________________

4.Do you have Accountants Professional Liability? Yes ___, No ___

Name of Carrier: ________________ Renewal Date:_________

Deductible:_________ Limits:______________ Cost:_________

5.What is your current prior acts (retro) date: _________________

6.Had a financial institution client since 1991?Yes ____, No ____

7.Do you perform S.E.C. work: Yes_____, No ____

8. Number of: CPAs _____ PAs _____

Staff Accountants_____, Bookkeepers_____, Per diems_____

9.Gross Billings: Last year $__________

Anticipated this year $__________

10. Had any claims or potential claims ? Yes ___ No ___

11. Areas of Practice (%):

Audit - Other:	___%	Trustee Activity:	___%
Audit- Public Cos.	___%	Securities Activity	___%
Taxes- Personal	___%	M.A.S.	___%
Taxes-Business	___%	Bookkeeping	___%
Compilation	___%	Other (________)	___%

CUSTOM BROKERS INSURANCE

3659 Green Road, Suite 209 Beachwood, Oh 44122

(800) 969-7475 or (216) 831-0333 Fax (216) 831-6819

Chapter Meeting Dates

Buxmont Chapter

All meetings are held at Williamson's Restaurant, Route 611 & Blair Mill Road, Horsham unless otherwise noted. Go to: www.buxmontpspa.org to register for upcoming events

June 24, 2003
TOPIC: Marketing Your Practice
SPEAKER: Leslie Wolfe
CPE: 2 Hours Other

September 23, 2003
TOPIC: TBD

October 28, 2003
TOPIC: TBD

December 16, 2003
TOPIC: TBD

January 27, 2004
TOPIC: TBD

Lehigh Valley Chapter

Chapter meetings are held on the third Tuesday of the month at the Holiday Inn Bethlehem unless otherwise noted. Go to: www.lehighvalley.org to register for an upcoming chapter meeting.

June 17, 2003
TOPIC: Passage of Act 166

July 15, 2003
TOPIC: TBD

August 19, 2003
TOPIC: Legislator Appreciation Night

September 16, 2003
TOPIC: TBD

Philadelphia Chapter

June 9, 2003
TOPIC: Medicare/Medicaid update
SPEAKER: Dana Breslin
Williamson's Restaurant • 6:00-9:00pm
CPE: 2 Hours

DATE CHANGE DUE TO PSPA CONVENTION

July 21, 2003
TOPIC: Accounting Fraud
SPEAKER: TBA
Williamson's Restaurant • 6:00-9:00pm
CPE: 2 Hours

Philadelphia Chapter continued...

August 18, 2003
Practice Management Round Table Discussion
Williamson's Restaurant • 6:00-9:00 pm
CPE: 2 Hours

September 22, 2003
Eldercare and Estate Planning Mini-Seminar
Springfield Country Club • 3:30-9:00 pm
CPE: 5 Hours

October 20, 2003
TOPIC: IRS/Tax Law Changes MINI-Seminar
Springfield Country Club • 3:30-9:00 pm
CPE: 5 Hours

November 10, 2003
TOPIC: Pa. Dept. of Revenue
SPEAKER: Paul Dibert
Williamson's Restaurant • 6:00-9:00 pm
CPE: 2 Hours

January 12, 2004
TOPIC: City of Philadelphia
Multiple Speakers from
Philadelphia Revenue Department
Williamson's Revenue • 6:00-9:00 pm
CPE: 2 Hours

February 2, 2004
Annual Potpourri Mini Seminar
with our own Dave Zalles
Springfield Country Club • 3:30-9:00pm
CPE: 5 Hours

May 10, 2004
TOPIC: Retirement Planning for Small Business
Williamson's Restaurant • 6:00-9:00pm
CPE: 2 Hours

June 7, 2004
TOPIC: Real Estate and Related Tax Issues
Williamson's Restaurant • 6:00-9:00 pm
CPE: 2 Hours

South Central Chapter

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

June 11, 2003
After Tax Season Social
Allenberry Playhouse - Steel Magnolias

Seminar Dates

Gear Up Accounting Seminars

June 13, 2003
Radisson Hotel, Monroeville
CPE: 8 Hours Accounting
Sponsored By: Pittsburgh Chapter

June 16 & 17, 2003
Willow Valley Resort & Conference Center, Willow Street
CPE: 16 Hours Accounting
Sponsored By: Central/South Central
Joint Education Committee

June 10, 2003
Clarion Hotel, Scranton
CPE: 8 Hours Accounting
Sponsored By: Northeast Chapter

September 12, 2003
Holiday Inn East, Bethlehem
CPE: 8 Hours Accounting
Sponsored By: Lehigh Valley Chapter

September 24 & 25
Radisson Hotel, Trevose
CPE: 8 Hours Accounting
Sponsored By: Buxmont Chapter

December 8, 2003
Springfield Country Club, Springfield
CPE: 8 Hours Accounting
Sponsored By: Philadelphia & Southeast Chapters

Gear Up Business Entities Seminars

September 11, 2003
Holiday Inn East, Bethlehem
CPE: 8 Hours Tax
Sponsored By: Lehigh Valley Chapter

September 17, 2003
Clarion Hotel, Scranton
CPE: 8 Hours Tax
Sponsored By: Northeast Chapter

September 22 & 23, 2003
Radisson Penn Harris Hotel, Camp Hill
CPE: 16 Hours Tax
Sponsored By: Central/South Central
Joint Education Committee

October 16 & 17, 2003
Radisson Hotel, Trevose
CPE: 16 Hours Tax
Sponsored By: Buxmont Chapter

October 20, 2003
Radisson Hotel, Monroeville
CPE: 8 Hours Tax
Sponsored By: Pittsburgh Chapter

Gear Up 1041 Tax Seminanr

October 8, 2003
Clarion Hotel, Scranton
CPE: 8 Hours Tax
Sponsored By: Northeast Chapter

Gear Up 1040 Tax Seminar

November 5 & 6, 2003
Clarion Hotel, Scranton
CPE: 16 Hours Tax
Sponosored By: Northeast Chapter

November 13 & 14, 2003
Holiday Inn East, Bethlehem
CPE: 16 Hours Tax
Sponsored By: Lehigh Valley Chapter
Education Committee

November 18 & 19, 2003
Springfield Country Club, Springfield
CPE: 16 Hours Tax
Sponsored By: Philadelphia Chapter &
Southeast Chapters

November 24 & 25, 2003
Harrisburg Marriot Hotel, Harrisburg
CPE: 16 Hours Tax
Sponsored By: Central/South Central
Joint Education Committee

December 11 & 12, 2003
Radissson Hotel, Trevose
CPE: 16 Hours Tax
Sponsored By: Buxmont Chapter

December 15 & 16, 2003
Harrisburg Marriot Hotel, Harrisburg
CPE: 16 Hours Tax
Sponsored By: Central/South Central Join

December 15 & 16, 2003
Radisson Hotel, Monroeville
CPE: 16 Hours Tax
Sponsored By: Pittsburgh Chapter

Odds & Ends

FASB Statement No. 149

The Financial Accounting Standards Board has issued Statement No. 149, *"Accounting for Certain Financial Instruments with Characteristics of Liabilities and Equity."* It establishes standards for the issuer's classification as liabilities in the Statement of Financial Position of financial instruments that have characteristics of both liabilities and equity. The Statement will generally be effective at the beginning of the first interim period beginning after June 15, 2003, and it also provides a special rule for non-public companies.

Agribusiness

The IRS has provided some good news for farmers who are receiving assistance payments because their land can't hold soil or water. The Agency says that Soil and Water Conservation Assistance payments are not taxable. Under the program, farmers and ranchers who use special conservation practices may receive up to $50,000. Incidentally, the Agency also says that payments received under the Agricultural Management Assistance Program which are intended to provide a conservation incentive are also tax-free.

Federal Regulations

The IRS has announced that businesses that issue or redeem money orders or traveler's checks are now required to use a new Form TD F 90-22.56 to report suspicious activity that could indicate money laundering. There are an estimated 200,000 non-bank money service businesses including convenience stores, grocery stores, service stations, drug stores and liquor stores that will have to file the suspicious activity reports when they engage in a money service transaction that is both suspicious and for an amount of $2,000 or more. Transactions that must be reported are those that the money service business knows or suspects:

- Involve funds derived from illegal activity;
- Are intended to hide or disguise funds or assets derived from illegal activity;
- Are intended to evade the requirements of the Bank Secrecy Act, or
- Serve no business or apparent lawful purpose.

The new requirements were announced in IRS News Release IR-2003-26.

Health Information Survey

Final regulations governing rules for securing electronic health-care information became effective on April 21. They require health-care companies to develop, implement and document the measures they take under the Health Insurance Portability and Accountability Act to insure that health information remains secure. The regulation set a deadline of April 2005 for large health-care associations to comply while smaller ones must comply by April 2006.

Department of Labor Back Pay Recovery

The Department of Labor has announced that in 2002, it recovered $175 million in back pay for 263,593 workers. The is the greatest recovery of back wages the Department has made in the past 10 years. The reasons are more aggressive activity by the Labor Department, an increase in the enforcement hours by Wage & Hour investigators, and an increase in complaints by whistle blowers. While any company can be targeted for investigation, the focus is primarily on low-wage industries such as garment manufacturing, agriculture and health care. Principle problem areas are violations of the Fair Labor Standards Act and violations of child labor laws.

Larger Health Insurance Deduction for 2003

Self-employed individuals and more than 2% S corporation owners will be able to deduct a larger amount of health insurance premiums in 2003. Whereas the deduction was limited to just 70% of the premiums for 2002, in 2003, 100% of the premiums will qualify for tax deduction. However, self-employed individuals who are eligible for coverage through an employer-based plan, such as a spouse's plan at work, are not eligible for the deduction. Also, the deduction taken by a self-employed individual may not exceed the earned income from self-employment.

Increased Long Term Care Deductions

More long-term care insurance premiums are deductible in 2003 than last year. Here are the deduction limits:

Age 40 or younger	$ 250
Ages 41 to 50	$ 470
Ages 51 to 60	$ 949
Ages 61 to 70	$2510
Age 71 and older	$3130

The limitation for distribution on long-term care policies was also increased to $220 per day for 2003.

Medical Reimbursement Plans

Although medical expense reimbursement from an employer or self-employed medical reimbursement plan is tax free, this exclusion does not apply to reimbursement of expenses that were incurred prior to the establishment of the medical reimbursement plan, according to the IRS. The issue came up with respect to a self-insured medical reimbursement plan that was established on December 1, 2002, but that was retroactively effective to January 1, 2002. According to the IRS, if an employee submits a claim for expenses incurred prior to December 1, 2002, the reimbursement would be taxable. Although the Internal Revenue Code does not specifically deny tax-free treatment for retroactive reimbursements, the IRS used Federal District Court rulings to support its position that these reimbursements are taxable.

Continued on page 12

Odds & Ends

Tax-Free Transit Passes

Here is a reminder that although the ceiling for tax-free transit passes provided by employers was unchanged at $100 for 2003, there has been a slight increase in the amount an employer can pay tax-free for parking expenses of employees. For 2003, the limit is $190 per month.

IRA and Roth IRA's

New IRS regulations permit employer plans to establish IRA's and Roth IRA's inside their employee benefit plans and to receive employee contributions into them via payroll deduction. Employers who want to provide this option can use model amendments furnished by the IRS to set up these accounts. The new regulations are intended to facilitate worker's ability to save for retirement.

More Audits of Retirement Plans

The IRS indicates that more retirement plans are going to be audited this year. It intends to conduct about 8,000 examinations of companies in different industries to look for trouble spots. It also plans to concentrate 50% of its audits on firms in the banking, construction, health care, manufacturing, insurance, and professional service industries, where non-compliance with regulations has been a problem. This will enable the Agency to target its audit capabilities in future years to areas where non-compliance is most likely.

Loans to Continuing Care Communities

The inflation adjusted amount that a taxpayer can lend to a qualified continuing care facility at a below market interest rate without the IRS imputing interest on the loan was increased this year to $151,000, up from $148,000 last year. This pertains to loans made by a person who is 65 or older to a qualified continuing care facility for lifetime care provided by the principal amount of total loans made by the lender or the lender's spouse does not exceed the inflation adjusted amount.

Pension Benefit Guaranty Corporation

The Pension Benefit Guaranty Corporation reports that significant pension plan terminations in the steel and airline industries have used up the surplus in its insurance funds. As a result it will be forced to increase premiums to an as yet undetermined amount. Currently, defined benefit plans are required to pay $19 per participant, and financially strapped plans are also required to pay $9 per $1,000 of underfunding. The Agency also announced that the maximum guaranteed annual pension amount for plans terminating in 2003 is $43,977.24.

New Cash Balance Plan

The IRS has approved a new type of cash balance plan that is a hybrid of a pension plan and a profit sharing plan and provides a pension-like benefit that's funded by contributions to employee accounts. Here, pension plan contributions are lowered, and benefits accrue faster for younger workers than in a traditional pension plan. If a plan converts the new plans also provide that older workers can't get less of a pension than they had in the former plan, although the amount placed into the cash balance plan in their behalf may be a lesser amount than that sum. It may also take a number of years before older workers obtain a greater benefit under the cash balance plan arrangement. Recently issued IRS regulations also indicate that cash-balance conversions don't violate age discrimination laws, despite the fact that older workers may have to work longer under the new plan before their benefits will exceed those under the former plan.

Alimony Payments

The Internal Revenue Code (Section 215) provides that alimony payments, to be deductible by the payor, must be includable in the income of the recipient. Nevertheless, the IRS has just held that a taxpayer may deduct alimony paid to a foreign recipient even though the payment is exempt from U.S. income tax because of a tax treaty that provides for an exclusion from the foreign resident's income. The IRS says that this is consistent with the rules when there is a statutory exclusion. For example, the Agency has allowed a deduction for alimony paid to a citizen and resident of Puerto Rico even though the payments were excludable from the recipient's income under the Internal Revenue Code (Section 933).

Donations of Automobiles to Charity

The IRS has clarified its regulations governing donations of automobiles to charity. Thus:

- A donor's transfer of a car to a charity's authorized agent may be treated as a transfer to the charity, and the agent may provide the contemporaneous written acknowledgement.
- The donor may use an established used car pricing guide to determine the fair market value of a single donated car, provided the guide lists a sales price for a car that is the same make, model and year sold in the same area, and in the same condition as the donated car.

Since the IRS has been cracking down on abuses by so-called charities and by taxpayers in connection with used car donations, we recommend that readers make sure about the legitimacy and charitable status of any organization to which they donate a vehicle.

Odds & Ends

IRS Audit Priorities

The IRS has published the Summer issue of its "Statistics of Income Bulletin" which provides an analysis of individual income tax returns. The report indicates that the adjusted gross income reported by the top 1% of taxpayers increased for the sixth consecutive year, by 19.5%, to $313,400. This group of taxpayers accounted for 37% of all personal income taxes paid, compared to 36.7% for the prior year. Despite these statistics, the IRS has announced a major shift in audit priorities which are being targeted at high-income groups of taxpayers. It will concentrate its resources on:

- Offshore credit card abuse;
- High-risk, high-income taxpayers;
- Abusive schemes and promoter investigations, and
- Non-filing by high income taxpayers.

The objective is to identify and terminate these areas of non-compliance, according to the Agency.

Estimated Tax Payments

Rules governing payment of estimated taxes have changed once again for 2003. Taxpayers who had adjusted gross income over $150,000 in 2002 have to prepay at least 110% of 2002 tax liability or 90% of this year's tax liability to avoid a tax penalty. Individuals with incomes of $150,00 or less in 2002 must prepay either 100% of their 2002 tax or 90% of the tax for 2003 to avoid a penalty. Taxpayers whose income is uncertain and who want to closely match estimated taxes with their income can also use an "annualized" method of calculating estimated taxes.

Day Care Services

The IRS says that taxpayers who provide day care services in their home may use standard rates to calculate their deductions for meals and snacks they provide to children under their care, rather than trying to determine the actual cost. The standard rates may be used for breakfast; lunch; dinner and three snacks. For 2003, the rates per child are:

Breakfast: 98¢ Lunch: $1.80 Dinner: $1.80 Snacks: 53¢

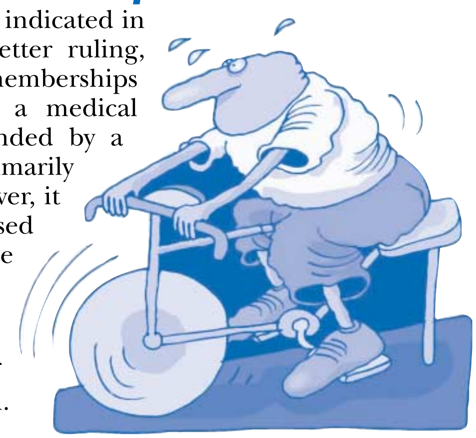
Care providers who decide to use the standard rates must use them for the entire year, but they can elect to switch from standard rates to actual cost in the next year. They must also record the type and quantity of each meal and snack served to eligible children.

Sales Tax for Merchandise Sold Online

Pressured by states that are experiencing severe budget problems, a number of major retailers agreed recently, to start collecting sales taxes for merchandise sold online. The retailers include Walmart, Toys "R" Us, Target, Marshal Field's, Mervyn's and 5 other chains. In return, 38 states and the District of Columbia won't hold the retailers liable for uncollected Web taxes. The states are in the process of creating a centralized system for collecting the roughly $200 million in sales taxes they estimate losing annually on Internet sales. Web shoppers will find that their purchases will become more expensive as a result of the agreement reached with the retailers.

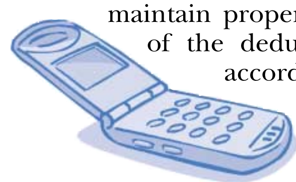
Health Club Memberships - Medical Expense

Last year, the IRS had indicated in a highly publicized letter ruling, that health club memberships could be treated as a medical expense if recommended by a physician and done primarily to treat obesity. However, it subsequently reversed itself, and now takes the position that these costs to join a health club are never medical expenses, not even if ordered by a physician.



Using Cell Phones for Business

The IRS is cautioning taxpayers who use cell phones for business that they must keep detailed records of business use of the phones just the same as records must be maintained for business use of automobiles and computers. Failure to maintain proper records will lead to disallowance of the deductions for lack of substantiation, according to the Agency.



Average Itemized Deductions

The IRS has released data covering 2000, showing the average amount of itemized deductions claimed on individual tax returns based on taxpayer adjusted gross income. Here is a brief summary:

Adjusted Gross Income	Medical Expenses	Charitable Contributions	Taxes/Interest	Expense
$50,000 - $100,000	$ 6,163	$ 4,922	$2,352	$ 7,899
$100,000-$200,000	$12,072	$ 9,263	$3,756	$11,301
$200,000-$500,000	$31,673	$20,523	$8,246	$18,319

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"economic substance," as well as "arm's length" terms and conditions. However, even if a corporation can prove that a transaction has "economic substance" and "a substantial business purpose," it will nevertheless fail to meet the new standard for deductibility of expenses unless it can also prove that the other party to the transaction reported the corresponding income on an income tax return filed with Pennsylvania or another state. Significantly, this income reporting test would not be met "when the corresponding income item is offset or eliminated in a combined or consolidated return or report that includes the Corporation."

In addition, the draft legislation would disallow net operating loss carryovers to the extent such carryovers were generated through transactions for which deductions would be disallowed under the new deductibility standards.

Finally, the draft legislation would introduce substantially more uncertainty regarding corporate tax obligations by giving the Department of Revenue broad discretionary authority to adjust income and expense deductions where the Department believes a corporation's tax report does not "fairly" reflect taxable income.

Proposed withholding provisions for pass-through entities have also been introduced in the General Assembly, as HB 1304. This legislation would require pass-through entities taxed as partnerships to withhold Corporate Net Income Tax on income allocable to out-of-state corporations that did not file Pennsylvania tax returns for the preceding tax year.

The proposed legislation restricting the deductibility of interest and intangible expenses has been strongly criticized by business groups on the basis that it is overbroad and would penalize many companies that have entered into legitimate business structures.

OTHER PROPOSED REVENUE ENHANCEMENTS

In addition to the proposed Corporate Net Income Tax changes discussed above, the Governor has proposed the following tax law changes and "revenue enhancements" to fund his proposed education and economic development initiatives and to help close the projected budget deficit for fiscal year 2003-2004. At the time of preparation of this summary, it is unclear which provisions will be enacted by the General Assembly.

Personal Income Tax Rate Increase. Effective July 1, 2003, the PIT rate is proposed to increase from 2.8% to 3.75%. Estimated revenue $2.2 billion.

Further Delay in Phase-Out of Capital Stock / Franchise Tax. The proposed tax rates for 2003 and 2004 are 7.24 mills and 6.99 mills, respectively (as compared to 6.99 mills and 5.99 mills under current law). Beginning January 1, 2005, the tax would continue to be phased out through a one mill reduction each year until the tax is eliminated. Estimated revenue: $52.6 million.

Taxation of Telecommunications Companies. Effective January 1, 2004, a proposed expansion of the Utilities Gross Receipts Tax would impose tax on cellular telecommunications companies and on interstate telephone calls. Equipment used to provide cellular service would also be exempted from Sales and Use Tax, effective July 1, 2003. Estimated revenue: $212 million.

Interest Paid by Commonwealth. The administration has proposed that the interest rate paid by the Commonwealth on tax overpayments be changed to match Federal practices. Estimated revenue: $2.3 million.

Abandoned and Unclaimed Property Reporting. Pursuant to a proposed change in the dormancy period for mutual insurance companies, property payable or distributable in the course of a demutualization, rehabilitation or related reorganization of a mutual insurance company would be presumed abandoned or unclaimed five years after the earlier of the date of last contact with the policyholder or the date the property became payable or distributable. Estimated revenue: $90 million.

Revenue Enforcement Measures. The following enforcement enhancements have been proposed: (1) providing citation authority to revenue enforcement collection agents, (2) requiring professional businesses to obtain ta clearance prior to renewal of their business licenses, and (3) granting the Commonwealth parity with local governments regarding wage garnishment for tax liabilities. Estimated revenue: $13.5 million.

Fee Increases. Selected license and fee amounts would be adjusted to take into account inflation since the fee amounts were last increased. Estimated revenue: $29.3 million.

Slot Machines at Racetracks. Estimated revenue: $300 million.

Malt Beverage Tax. The tax on malt beverages would be increased to $0.25 per gallon. Estimated revenue: $50 million.

Reckless Driver Surcharge. Fines for certain motor vehicle violations would be increased. Estimated revenue: $64 million.

DEPARTMENT IMPLEMENTS VENDOR ENFORCEMENT PROGRAM

Pursuant to authority granted by Act 89 of 2002, the

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Department of Revenue has implemented a new Vendor Enforcement Program to level the playing field between in-state and out-of-state vendors. Act 89 authorizes the Department to issue jeopardy assessments to vendors who are not in compliance with Pennsylvania tax laws and to seize property as security for payment of taxes. Similar to the program used by New Jersey for a number of years, the Department will conduct roadside stops at PennDOT weigh stations (with the assistance of the Pennsylvania State Police) to interview truck drivers to determine whether their business activities in Pennsylvania would subject them (or the persons for whom they are acting as agents or representatives) to the payment of Pennsylvania sales, corporate or personal income taxes. Department of Revenue personnel will inspect shipping documents, bills of lading and invoices to determine if taxes are due the Commonwealth. If a jeopardy assessment is issued, the driver may be required to pay the assessment, post a bond or register for a license to avoid seizure of the vehicle and the goods being transported.

The Department has a Voluntary Disclosure Program that is available to companies that voluntarily come forward to resolve unpaid Pennsylvania tax liabilities prior to contact from the Department. Benefits include waiver of penalties and a limitation on the look-back period for which returns must be filed.

PA CASE NOTES

Supreme Court Upholds Sourcing of Dock Sales to Destination State

On April 25, 2003, the *Pennsylvania Supreme Court ruled in Commonwealth v. Gilmour Manufacturing Company* that products picked up by an out-of-state purchaser at a Pennsylvania company's shipping dock, to be transported out-of-state by the purchaser for use out-of-state, are not Pennsylvania sales for purposes of computing the seller's Pennsylvania sales factor under the Corporate Net Income Tax ("CNI") statute. The Court affirmed the Commonwealth Court's en banc majority opinion of May 1, 2000, which adopted a destination test, rather than a delivery test, for determining whether sales are includible in the numerator of the Pennsylvania sales factor.

Based on the Supreme Court's decision in *Gilmour*, companies making substantial sales to out-of-state customers who pick up the property in Pennsylvania should consider filing refund claims if those sales were reported as Pennsylvania sales for CNI apportionment purposes on prior years' tax reports.

Supreme Court Affirms Inclusion of Forgiveness of Indebtedness Income in Corporation's Book Income

On March 19, 2003, the Pennsylvania Supreme Court issued a per curiam order affirming the Commonwealth Court's en banc opinion in *Shawnee Development Corporation, Inc. v. Commonwealth*, which held that forgiveness of indebtedness income was required to be included in a corporation's "book income" for Capital Stock/Franchise Tax ("CSFT") purposes even though the corporation was insolvent before and after the forgiveness.

The Commonwealth Court had ruled that the forgiveness of indebtedness provisions of the Internal Revenue Code are irrelevant to determining book income for CSFT purposes and that Shawnee's forgiveness of indebtedness income was, therefore, properly included by the Department in book income. The Commonwealth Court also refused to grant relief on Due Process grounds, ruling that although the company was insolvent, its stock could still have value, and that Shawnee had failed to establish that the value determined by the Department was so excessive as to violate the Constitution. Nevertheless, in a concurring opinion, Judge Leadbetter suggested that if Shawnee had produced competent expert testimony that the company was actually worthless, the computed Capital Stock Value would have been so excessive as to produce an unconstitutional result.

Since the Commonwealth Court rejected Shawnee's Due Process argument for lack of factual support, the Due Process argument remains open for companies that can establish through a professional appraisal that the computed Capital Stock Value grossly exceeds the actual value of the company.

Gain from Fictional Liquidation was Nonbusiness Income

The Commonwealth Court recently sustained exceptions filed by Canteen Corporation to its February 8, 2002 decision in *Canteen Corporation v. Commonwealth* and ruled that a corporate taxpayer's gain from a fictional liquidation of assets pursuant to an election under IRC § 338(h)(10) by its parent corporation was taxable as nonbusiness income for Corporate Net Income Tax purposes.

A divided three-judge panel of the court had previously determined that a stock sale treated as an asset sale under IRC § 338(h)(10) constituted a transaction in the regular course of business, so that the fictional gain should be included in apportionable income for Corporate Net Income Tax purposes. In the panel's view, the Pennsylvania Supreme Court's decision in *Laurel Pipe Line v. Commonwealth*, which held that liquidation of a separate division constituted nonbusiness income, did not apply because Canteen Corporation was not actually liquidated.

On reconsideration, the court agreed with Canteen Corporation that the gain from the fictional liquidation of assets should be treated the same as that from an actual liquidation, which, at the time in question, was considered nonbusiness income under the rationale of *Laurel Pipe Line* and therefore allocable to Canteen's commercial domicile. The court stated that "[t]his liquidation and distribution, deemed to have occurred as a result of the Section 338(h)(10) election, cannot be recognized by the Commonwealth on the one hand in order to yield a fictitious gain but ignored on the other hand in order to avoid the holding in *Laurel Pipe Line*."

The Commonwealth has filed an appeal with the Pennsylvania Supreme Court.

Contractor with On-Site Construction Trailers, But No Permanent Office, in Taxing Jurisdiction Not Subject to Business Privilege Tax

On December 24, 2002, the Court of Common Pleas of Lackawanna County granted a contractor's Motion for Summary Judgment and ruled in *The School District of the City of Scranton and The City of Scranton v. R.V. Valvano Construction Co., Inc.* that R. V. Valvano Construction Co., Inc. ("Valvano") is not obligated to pay Business Privilege Tax to the School District of the City of Scranton or the City of Scranton (collectively, "Scranton") for construction services performed in those jurisdictions because Valvano maintains its sole, permanent place of business in Dickson City, Pennsylvania. Relying on *Township of Lower Merion v. QED, Inc.*, the court held that Scranton cannot use a Business Privilege Tax to tax individual transactions by an out-of-city contractor. Based on the Commonwealth Court's decision in *Northwood Construction Co., Inc. v. Township of Upper Moreland*, which is currently under review by the Pennsylvania Supreme Court, the court noted that Valvano's on-site construction trailers do not constitute permanent offices which would authorize the taxing jurisdictions to impose a Business Privilege Tax.

Scranton's Business Privilege Tax Regulations specifically state that a "person who engages in a taxable activity in Scranton is subject to. . .tax whether or not he has a permanent place of business in Scranton." However, the court ruled that this regulation transgresses Scranton's taxing authority under the Local Tax Enabling Act, as defined by the courts.

Scranton filed an appeal with the Commonwealth Court. Briefs have been filed, and oral argument has been tentatively scheduled for September 2003.

For-Profit Restaurant and Real Estate Office Operated in Buildings Owned by Community Association Are Tax-Exempt "Common Facilities" under Uniform Planned Community Act

A three judge panel of the Commonwealth Court held in *Saw Creek Estates Community v. County of Pike and the Pike County Board of Assessment Appeals,* that a restaurant and real estate office operated by private business entities in two buildings owned by a community association in a planned community constitute "common facilities" exempt from separate assessment and taxation under Section 5105(b) of the Uniform Planned Community Act ("Act"), 68 Pa.C.S. §5105(b).

Under Section 5105(b) of the Act, "common facilities" are exempt from separate assessment and taxation, and the "common facilities" include any real estate within a planned community which is owned by the association or leased to the association. Based on the plain and unambiguous definition, according to the court, any real properties within a planned community owned by or leased to the association are exempt from separate assessment. The specific use of the facilities is inapposite.

The Pennsylvania Supreme Court has granted a petition for allowance of appeal filed by Pike County.

Void Deed Not Subject to Real Estate Transfer Tax

The Commonwealth Court, sitting en banc, held that where Lester Associates purportedly attempted to transfer certain property to another entity having the same principals, through a non-existent entity having the same principals, the deeds were void ab initio, and the real estate transfer tax was inapplicable.

A majority of the Commonwealth Court held that a deed which purports to convey real estate to a nonexistent corporation has no effect. Since the parties stipulated that the entity named in the first deed had never existed, the deed was void, and there was no transfer. Since there was never a transfer of title, the court concluded that there was no basis for the tax.

Three judges entered a vigorous dissent, indicating that transfer tax is due regardless of the effectiveness of a deed because what is taxed is not the transfer itself, but rather the recording of a document.

The Commonwealth has filed an appeal with the Pennsylvania Supreme Court.

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.

DIRECTOR OF OFFICE OF PROFESSIONAL RESPONSIBILITY MOVES TO CRACK DOWN ON UNAUTHORIZED PRACTICE

The following information was sent to IRS Executives by Brien Downing, IRS Director of the Office of Professional Responsibility. Various practitioner groups have been asked to disseminate the information to their respective memberships. This summary reinforces the various levels of taxpayer representation recognized by the IRS; a topic that has caused confusion in the accounting community.

- Check Those Professional Licenses-We have found instances where representatives submit Powers of Attorney claiming to be CPAs, Enrolled Agents or Attorneys and are in fact none of the above. I asked employees to validate representatives status and gave them public website information for determining the status of CPAs and Attorneys. I also provided them our in-house number to validate the status of someone claiming to be an Enrolled Agent. In the event we have people misrepresenting their status, I provided information on how to refer these individuals. (NSA note: non-CPAs holding themselves out as CPAs could lead to an investigation by the relevant state board of accountancy and result in sanctions such as civil fines and penalties, or worse.)
- Know Your Enrolled Agents- I asked employees dealing with Enrolled Agents to ask to see their card to validate their special status and ensure their level of representational authority. In some instance, former employees are granted "limited" enrollment based on experience in a given function e.g., Collection, and they are not allowed to represent in other areas.
- Know Your Unenrolled Return Preparers-This segment addressed the representational limitations of unenrolled preparers as outlined in Circular 230 Section 10.7 (C) (VIII) and Revenue Procedure 81-38. In essence, representation for this group is limited to examination issues on a return which they prepared and signed as preparing. Collection issues, Appeals etc., are beyond the authority of unenrolled preparers and I asked employees not to entertain representational activities in these areas.
- Check Those Powers of Attorney-In this segment I pointed out that we are seeing instances of Powers of Attorney being submitted by members of a firm, some of which are enrolled to practice (e.g., CPA/Attorney/EA) and some of which are unenrolled preparers. To the extent this is a ploy to allow unenrolled prepared representational access in privileged areas such as Collection issues, it is a violation of Circular 230. I asked employees to reject Powers/Preparers meeting these conditions and asked that they be referred to my office.

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